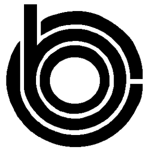

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 25, 2010

H.R. 847
James Zadroga 9/11 Health and Compensation Act of 2010

Title I as ordered reported by the House Committee on Energy and Commerce on May 25, 2010, and

Title II as ordered reported by the House Committee on the Judiciary on July 29, 2009

SUMMARY

H.R. 847 would establish the World Trade Center (WTC) Health Program and extend and expand eligibility for compensation under the September 11th Victim Compensation Fund (VCF) of 2001. Specifically, H.R. 847 would provide:

- Health care benefits for eligible emergency personnel who responded to the September 11, 2001, terrorist attacks (the terrorist attacks) in New York City, the Pentagon, and Shanksville, Pennsylvania, and for workers who participated in recovery and cleanup following the attacks (collectively referred to as responders in this estimate);

- Health care benefits for eligible residents and others present in the area of New York City near the World Trade Center (defined as survivors under the bill); and

- Monetary compensation to individuals eligible under the bill to submit claims for death and physical injury claims resulting from the attacks.

CBO estimates that enacting H.R. 847 would increase direct spending by $7.2 billion over the 2011-2015 period and $10.5 billion over the 2011-2020 period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending.

In addition, we estimate that, subject to appropriation of the necessary amounts, administering the VCF awards process would cost $514 million over the next 10 years. However, assuming appropriation actions consistent with title I of the bill, CBO estimates a $688 million reduction in discretionary outlays over the 2011-2020 period because some spending that is currently funded by annual appropriations would become direct spending under the bill. On balance, CBO estimates that discretionary spending would decrease by $174 million over 10 years.

H.R. 847 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

H.R. 847 would impose a private-sector mandate as defined in UMRA. The bill would impose a mandate on individuals seeking compensatory damages or other relief arising from or related to debris removal from sites of the terrorist attacks by limiting the liability of entities from which individuals might win compensation. CBO cannot determine whether the aggregate cost of complying with that mandate would exceed the threshold established by UMRA for private-sector mandates in 2011 ($141 million in 2010, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 847 is shown in the following table. The costs of this legislation fall within budget functions 550 (health), 570 (Medicare), and 750 (administration of justice).

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 847 will be enacted by the end of fiscal year 2010. H.R. 847 would provide health benefits and compensation to those who qualify based on a combination of factors, including where they were exposed to hazardous conditions following the terrorist attacks, and their current and expected future health conditions. CBO's estimate is based on an analysis of the size of the potentially affected populations, the prevalence of certain health conditions in those populations, the propensity to seek health services or compensation from the program, and the monetary damages previously awarded by the VCF through 2004.

Under H.R. 847, spending for the WTC Health Program and VCF awards would increase direct spending, while the administrative costs associated with the VCF would be subject to future appropriations. Expenditures related to the WTC Health Program would be subject to annual spending caps totaling about $4.6 billion through 2020, when the program would sunset. Award payments under the VCF would be subject to a lifetime spending cap of $8.4 billion through 2032, when the program would cease operation.

ESTIMATED BUDGETARY EFFECTS OF H.R. 847, THE JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010

	By Fiscal Year, in Millions of Dollars											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011-2015	2011-2020
CHANGES IN DIRECT SPENDING												
Title I: World Trade Center Health Program												
WTC Health Program												
Estimated Budget Authority	70	318	349	380	424	469	521	578	639	706	1,541	4,454
Estimated Outlays	63	306	345	376	418	464	515	571	632	698	1,508	4,388
Medicare and Medicaid												
Estimated Budget Authority	0	-5	-10	-10	-10	-20	-20	-30	-40	-40	-35	-185
Estimated Outlays	0	-5	-10	-10	-10	-20	-20	-30	-40	-40	-35	-185
Subtotal, Title I												
Estimated Budget Authority	70	313	339	370	414	449	501	548	599	666	1,506	4,269
Estimated Outlays	63	301	335	366	408	444	495	541	592	658	1,473	4,203
Title II: September 11th Victim Compensation Fund												
Estimated Budget Authority	500	1,000	3,500	500	200	150	150	100	100	100	5,700	6,300
Estimated Outlays	450	950	3,250	800	230	155	150	105	100	100	5,680	6,290
Total Changes in Direct Spending: Titles I and II												
Estimated Budget Authority	570	1,313	3,839	870	614	599	651	648	699	766	7,206	10,569
Estimated Outlays	513	1,251	3,585	1,166	638	599	645	646	692	763	7,153	10,498
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Administration of the September 11th Victim Compensation Fund												
Estimated Authorization Level	75	100	200	100	10	10	5	5	5	5	485	515
Estimated Outlays	56	94	175	125	33	10	6	5	5	5	483	514
Appropriation for NIOSH World Trade Center Health Program												
Estimated Authorization Level	-71	-72	-73	-74	-75	-77	-78	-80	-81	-83	-365	-764
Estimated Outlays	-26	-60	-69	-71	-73	-75	-76	-78	-79	-81	-299	-688
Total Changes in Discretionary Spending												
Estimated Authorization Level	4	28	127	26	-65	-67	-73	-75	-76	-78	120	-249
Estimated Outlays	30	34	106	54	-40	-65	-70	-73	-74	-76	184	-174

Note: NIOSH = National Institute of Occupational Safety and Health.

On June 10, 2010, a federal district court judge approved a settlement between firefighters, police, contractors, and others who worked at the World Trade Center site, and New York City and its contractors for claims of injuries associated with their rescue and cleanup work. To become final, the settlement requires the participation of 95 percent of the plaintiffs, who have yet to agree to the terms. Should that settlement become final, CBO expects that the number and value of compensation awards provided through the VCF would be lower than presented in this cost estimate for H.R. 847.

Eligible Population

CBO's analysis focused on two populations—responders and survivors. The responder population includes those who were involved in the rescue, recovery, and cleanup efforts following the terrorist attacks in 2001. Survivors include commuters, residents, "passers-by," and students who were in the New York City (NYC) disaster area around the time of the attacks and in the months following. Under H.R. 847, CBO estimates that roughly 650,000 individuals from the NYC disaster area—approximately 75,000 responders and 575,000 survivors—would meet the exposure requirements specified in the legislation, along with potentially another 10,000 responders from the Pentagon and Shanksville, Pennsylvania, sites. Although many of those individuals may have or develop health conditions related to the terrorist attacks, CBO estimates that only a portion would participate in the WTC Health Program and apply for an award under the VCF. Overall, CBO expects that of the total population that meets the exposure requirements, slightly less than 15 percent would enroll in the WTC Health Program by 2020 and slightly more than 5 percent would receive awards from the VCF. Those estimated participation rates reflect people's willingness to enroll in government programs as well as additional requirements that would have to be met to receive a VCF award.

Geographic and Time-Period Requirements. Title I specifies that individuals must have been present in the following locations following the terrorist attacks to be eligible for the new health program: NYC disaster area, the Pentagon site, and the Shanksville, Pennsylvania, site. Title II would give discretion to the VCF Special Master (appointed by the U.S. Attorney General to administer the fund) to define the geographic area for awards from that fund; for this estimate, CBO assumes that the geographic areas of exposure specified in title I would also be used as the criteria for compensation payments under title II. Title I defines the NYC disaster area as the part of Manhattan that is south of Houston Street and any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former World Trade Center site. H.R. 847 would also base eligibility on the amount of time an individual spent in the specified region. Based on those requirements, CBO estimates that about 75,000 responders and 575,000 survivors from the NYC disaster area would meet the geographic-eligibility and time-period requirements specified in H.R. 847, as well as potentially another 10,000 responders from the Pentagon and Shanksville, Pensylvania, sites.

Those estimates are based on information collected by certain hospitals (known as the Centers of Excellence) in the NYC area that are treating responders, New York City's Department of Health and Mental Hygiene, the U.S. Department of Health and Human Services, Research Triangle International, and New York State Laborers' Tri-Fund. In particular, CBO's analysis relies heavily on the WTC Health Registry which was developed by New York City's Department of Health and Mental Hygiene and the U.S. Department of Health and Human Services (HHS) to document and evaluate the short- and long-term physical and mental health issues associated with the terrorist attacks and recovery efforts. The Registry established eligibility criteria that considered an individual's residence, location at the time of attacks, and intensity and duration of exposure to hazardous conditions. About 71,000 individuals enrolled voluntarily in this Registry before it closed in November 2004.

Diseases. The bill would require a determination that the terrorist attacks were substantially likely to be a significant factor in aggravating, contributing to, or causing the condition or illness prior to receiving treatment through the WTC Health Program. Title I would specify certain physical and mental health conditions deemed WTC-related for both responders and survivors. Title II would give discretion to the Special Master to determine what physical conditions would be eligible for an award; for this estimate, CBO assumes that the diseases specified in title I would also be used as criteria for compensation payments.

In general, individuals whose health conditions developed or were aggravated as a result of the terrorist attacks cannot easily be distinguished from individuals whose conditions would have developed or worsened in the absence of those attacks. Therefore, CBO considered the entire population that may develop and seek treatment for eligible physical and mental health conditions that might be associated with the aftermath of the terrorist attacks. The existence of a causal relationship between the attacks and specific diseases generally would be difficult to establish or disprove.

CBO analyzed more than a dozen studies on the incidence and prevalence of the WTC-related health conditions in both responders and survivors. We also analyzed data collected in the Morbidity and Mortality Weekly Report (MMWR) and population level data collected by the Medical Expenditure Panel Survey (MEPS). The MEPS collects annual data pertaining to the use of health care services, sources of payment for those services, and health insurance coverage. Based on those analyses, CBO estimates that about 280,000 of the individuals (about 40 percent) who meet the exposure criteria defined in the legislation have or will develop a health condition that meets the criteria set in the bill.

Responders who meet the geographic-eligibility criteria and survivors who both meet the geographic-eligibility criteria and develop a qualifying physical or mental health condition, as defined in the bill, would be eligible to enroll in the WTC Health Program.

CBO estimates that about 50,000 responders and 230,000 survivors would develop at least one qualifying physical or mental health condition. That estimate reflects the prevalence of the eligible conditions among the general population as well as the increase in prevalence attributable to the attacks themselves.

Eligibility for an award under the VCF would differ from that for the WTC Health Program. The VCF would only compensate individuals with physical health conditions who have received treatment. CBO estimates that about 100,000 responders and survivors would meet those criteria.

Direct Spending

CBO estimates that enacting H.R. 847 would increase direct spending by $10.5 billion over the 2011-2020 period. About $4.2 billion of that amount would result from spending for health care benefits provided under title I. The remaining $6.3 billion would be spent on compensation payments provided under title II.

Title I: Health Care Benefits. Under current law, the National Institute of Occupational Safety and Health (NIOSH) provides funding to several programs that offer medical monitoring and treatment to responders and survivors with conditions associated with the September 11, 2001, terrorist attacks under the umbrella of the WTC Medical Monitoring and Treatment Program. Those programs treat or have enrolled approximately 60,000 individuals: about 40,000 in the Mt. Sinai Coordinated Consortium Responder Heath Program and the National Responder Program; about 16,000 in the Fire Department City of New York Responder Health Program; and about 4,600 survivors in the WTC Environmental Health Center Program. Funding for those programs is subject to annual appropriation. For 2010, $70 million was appropriated to NIOSH through the Centers for Disease Control and Prevention (CDC) to support those programs.

H.R. 847 would establish the WTC Health Program within HHS to replace and expand the NIOSH programs. The WTC Health Program would provide monitoring and treatment benefits for qualifying health conditions to individuals who were engaged in emergency response, recovery, and cleanup operations related to the terrorist attacks. It also would provide monitoring and treatment benefits to certain residents and others with a qualifying health condition who were working, visiting, or residing near the WTC during the year following the attacks. H.R 847 would replace annual appropriations for the NIOSH programs with mandatory funding for the WTC Health Program. (An estimated reduction in authorized discretionary spending is discussed below under "Spending Subject to Appropriation.")

CBO estimates that, if unconstrained, the WTC Health Program would cost between $5 billion and $6 billion over the 2011-2020 period. In contrast, the cap on federal spending specified in H.R. 847 is about $4.6 billion over that same period. Taking that

spending cap into consideration, CBO estimates that gross spending would total $4.4 billion over the 2011-2020 period. The WTC Health Program also would result in some savings for Medicare and Medicaid, yielding a net increase in direct spending of $4.2 billion over the 2011-2020 period, as shown in the table on page 3. CBO also estimates that New York City would contribute $0.5 billion to the WTC Health Program over the 2011-2020 period.

Program Participation. The WTC Health Program would cover individuals enrolled in the existing programs as of the date of enactment and would allow up to an additional 25,000 responders and 25,000 survivors to enroll in the program. H.R. 847 defines exposure and health criteria for an eligible WTC responder and an eligible WTC survivor. The program's administrator would be allowed to expand those eligibility criteria until 80 percent of the numerical limitation is reached.

CBO estimates that about 65,000 of the approximately 85,000 responders at the various sites who would meet the exposure criteria would enroll in the WTC Health Program and that about 20 percent of those enrollees would receive treatment through the program in a given year. We estimate that about 250,000 individuals, or roughly 40 percent of the approximately 575,000 survivors who would meet those criteria, would also meet the health condition criteria specified in title I of H.R. 847. CBO expects that less than 10 percent of those individuals would enroll in the WTC Health Program by 2020. In part, this estimate reflects the expectation that most individuals will continue to receive care from providers who are not affiliated with a Center of Excellence or the WTC Health Program. CBO further expects that, in a given year, slightly less than half of the enrolled survivors would receive treatment through the WTC Health Program.

Survivor and Responder Health Benefits. H.R. 847 would provide for health benefits, including monitoring and medically necessary follow-up treatment for enrolled responders. Survivors would receive an initial health evaluation to determine program eligibility. Once eligibility is determined, H.R. 847 would provide for monitoring and medically necessary follow-up treatment for survivors. Monitoring, initial health evaluations, and medically necessary follow-up would only be covered when provided by Centers of Excellence or by providers who participate in the nationwide network established by the WTC program administrator. The WTC Health Program would also provide funding for coordination and administrative expenses for the Centers of Excellence. CBO estimates that the cost of the health benefits program (including initial health evaluations, monitoring, treatment, and administration) would total up to $4.5 billion over the 2011-2020 period. That amount comprises about $4.2 billion for monitoring and medically necessary treatment and $0.3 billion for administrative costs.

The WTC Health Program would pay for the monitoring and medically necessary treatment costs associated with a qualifying health condition that are not covered by a patient's primary insurer, including deductibles, copayments, coinsurance, and other cost-

sharing requirements. (As a practical matter, the WTC Health Program would be the primary insurer for individuals covered by Medicare.) H.R. 847 specifies a series of WTC-related health conditions; however, H.R. 847 would authorize the administrator to approve conditions and illnesses not specified in the legislation but deemed to be a WTC-related health condition for treatment. The administrator could also add illnesses and conditions to the list of WTC-related health conditions through the rulemaking process, which might include requesting a recommendation of the Advisory Panel. In addition, for an individual, a condition not on the list would be deemed to be WTC-related if a physician determines that it was likely to have been caused or aggravated by exposure to the terrorist attacks.

CBO estimated the cost of treatment for WTC-related health conditions using data from MEPS, Medicare, and the Federal Employees Compensation Act (FECA) program. CBO analyzed MEPS data to estimate the national average cost of treating qualifying conditions. Those costs were then adjusted to reflect the relative costs in New York City—spending per Medicare enrollee is about 20 percent higher in New York City than the national average—and to account for differences between payment rates in the FECA program and those underlying our estimate of national average cost. Those costs were then projected based on CBO's estimates of growth in per capita health spending. The administrator would be required to establish a program for necessary outpatient prescription pharmaceuticals prescribed under this title through contracts with one or more vendors. Separately, CBO estimated the cost of outpatient prescription drugs and assumed that those payment amounts would be comparable to prices paid in the private market.

The WTC Health Program would be the secondary payer for survivors with private insurance or Medicaid coverage and for responders receiving benefits from a non-NYC worker's compensation or other work-related injury or illness benefit plan. For those individuals, the program would pay the difference between FECA payment rates and the amounts paid by the primary insurer; the individual would have no out-of-pocket obligation.[1] CBO estimates that primary insurers would cover about 60 percent of the cost of treating WTC-related health conditions for those individuals, with the WTC Health Program paying the rest.

CBO estimates that federal spending for Medicaid would be reduced by about $30 million over the 2011-2020 period. Those savings would occur largely because, in some cases, providers would bill the WTC Health Program instead of Medicaid to avoid the administrative cost of dealing with two payers.

---

1. For responders employed by New York City, all WTC-related conditions would be considered work-related. The legislation would relieve the city's worker's compensation program or other work-related injury or illness benefit plan of the obligation to pay for those conditions in return for the city's participation in the financing of the WTC Health Program.

The WTC Health Program would reduce Medicare spending because it would replace Medicare as the primary payer for individuals enrolled in Medicare. CBO estimates that Medicare savings would total about $155 million over the 2011-2020 period.

CBO estimates that costs incurred to administer health evaluations, monitor, and provide treatment would total up to $0.3 billion over the 2011-2020 period. H.R. 847 would direct the administrator to enter into contracts with Clinical Centers of Excellence to provide monitoring and treatment benefits and initial health evaluations, counseling, outreach, translational and interpretive services, and to collect and report on utilization, incidence, and prevalence data.

Other Health Benefits and Program Funding. H.R. 847 would provide funding for:

- Mental health benefits for surviving family members of responders who died at the WTC site on September 11, 2001;
- Creation of a scientific committee and technical advisory committee;
- Education and outreach;
- Uniform data collection;
- Research pertaining to conditions related to the September 11, 2001, terrorist attacks; and
- Maintaining ongoing data collection through the WTC health registry.

The bill specifies a maximum amount for each of those activities. CBO estimates that the costs of those activities would total up to $0.5 billion over the 2011-2020 period. In addition, H.R. 847 would provide funding for training and technical assistance, transportation expenses, and claims processing. CBO estimates that the costs of those activities would total an additional $0.2 billion over the 2011-2020 period. Thus, the total cost of other activities would total up to $0.7 billion over the 2011-2020 period.

World Trade Center Health Program Fund. H.R. 847 would establish the WTC Health Program Fund to pay for the benefits included under title I. New York City and the federal government would contribute to the fund based on percentages and amounts provided in the legislation.

The legislation would authorize implementation of the WTC Health Program only if New York City enters into a contract with the WTC program administrator in which the city agrees to pay 10 percent of program costs. This estimate assumes that the city would

enter into that contract and that the city would reimburse the WTC Health Program within six to nine months. (Alternatively, if the city would not enter into a contract with the administrator, CBO expects that no payments would be made from the WTC Health Program Fund, resulting in no increase in direct spending over the 2011-2020 period.)

The federal government would be required to contribute the lesser of 90 percent of the program expenditures or an annual amount specified in the legislation. That cap on federal spending would rise from $71 million in 2011 to $743 million in 2020 and would total about $4.6 billion over the 2011-2020 period.

In the absence of a cap, CBO estimates that the federal share of annual expenditures for the WTC Health Program would probably be about 1 percent to 5 percent higher than the annual caps. However, CBO's cost estimate targets the midpoint of a distribution of likely spending outcomes. Establishing a cap on annual spending truncates that distribution of likely outcomes by eliminating the potential for spending above the cap. Therefore, the middle of the truncated range of likely spending outcomes would be slightly below the cap. As a result, CBO estimates that federal spending would total about $4.4 billion over the 2011-2020 period.

H.R. 847 would require New York City to cover 10 percent of the expenditures for carrying out title I. If the city pays its share, the WTC Health Program would assume responsibility for treatment costs for responders that would under current law be the responsibility of the city's worker's compensation or other work-related injury or illness benefit plan. Late payments from the city would accrue interest on the unpaid amount. For the purpose of our estimate, we assume that New York City would make payments on time. If the city fails to pay pursuant to its contract with the administrator and interest accrues on the unpaid amount, the federal expenditures would reach the cap more quickly.

CBO estimates that the city of New York would contribute about $0.5 billion over the 2011-2020 period.

Title II: Compensation Payments. Title II would reopen the September 11, 2001, Victim Compensation Fund, which provided compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist attacks. The VCF, which terminated operations in 2004, was established by the Air Transportation Safety and System Stabilization Act (Public Law 107-42) as an administrative alternative to litigation. That act created a Special Master, who determined the compensation levels based on specified eligibility criteria and subsequent regulations. Through 2004, the VCF made 2,880 death and 2,680 injury awards, totaling more than $7 billion (about $6 billion was for death awards). Public Law 107-42 did not cap the number or amount of awards that could be issued by the Special Master.

H.R. 847 would establish broader eligibility rules for compensation than those established for the VCF under Public Law 107-42. Under the bill, total payments would be capped at $8.4 billion through 2032. CBO estimates that compensation payments would total $6.3 billion over the 2011-2020 period, with about 90 percent ($5.7 billion) of those payments made in the first five years following enactment. Most of the awards would be for physical injuries associated with the attacks or with debris removal and response activities following the attacks. CBO estimates that the VCF would make additional payments totalling about $300 million after 2020.

CBO's estimate of those payments is based on a number of assumptions and projections regarding eligibility, average award amounts, and attorneys' fees.

Changes in Eligibility. Title II would make many more individuals who were involved in the rescue, recovery, and cleanup efforts potentially eligible for compensation. Based on information provided by the previous Special Master of the VCF, CBO assumes that the VCF would be administered in the same manner as it was previously but would reflect new regulations written after the bill's enactment. Those regulations would reflect the following changes made by the bill:

- Time Present at Site: Eligibility would be determined in part based on the time an individual was present or near the sites of the terrorist attacks. Specifically, the bill would require that an eligible individual must have been at those sites some time during the period beginning on September 11, 2001, and ending on August 30, 2002. Prior to the sunset of the original VCF, the implementing regulations required that an individual had to have been present at those sites during the 12 hours immediately following the attacks, or for responders, 96 hours after the attacks.

- Geographical Expansion: Based on regulations promulgated under Public Law 107-42, the Special Master originally defined the crash site as a zone bounded by specific streets very close to the WTC area. H.R. 847 would expand the definition of the crash site to include routes related to debris removal (such as barges and landfills). Although the bill does not specify other changes to the site definition, the Special Master would have discretion to expand the site if it is determined that there was demonstrable risk of physical harm in adjacent areas. For this estimate, CBO assumes that the new regulations would extend the boundaries to be the same as those defined for eligibility for the health care benefits authorized in title I of the bill.

- Extended Claims Filing Deadlines: Generally, the filing deadline under the bill would depend primarily on when the Special Master determines that a claimant realizes that he or she suffered some form of physical harm resulting from the terrorist attacks or associated debris removal. If the Special Master determines that

a claimant was aware (or should have been aware) of such an injury by the time the regulations are promulgated, the claimant would have two years to file from that time (roughly by the end of December 2012). For all others, if a claimant realizes such an injury after the new regulations are finalized, the claimant would have two years from when the Special Master determines that the claimant should have been aware of such injury. All claims would have to be filed by December 22, 2031.

Awards and Average Award Amount. CBO expects that the bill's expanded eligibility criteria would significantly increase the number of individuals who could seek compensation from the VCF. CBO expects that most of the awards would be for injuries associated with the attacks, and therefore our analysis focused on those claims. Further, the bill would not provide compensation for mental health conditions although it would provide treatment for mental illnesses under title I. Over the next 10 years, CBO estimates that about 35,000 awards would be made, with an average award amount of about $180,000.

- Number of Awards: CBO expects that the number awards would depend largely on the estimated number of responders and survivors who have or will have health conditions or symptoms associated with the terrorist attacks and recovery efforts, and are being treated for such conditions. Under H.R. 847, the VCF would require that all claimants prove they were treated by medical professionals and provide contemporaneous medical records to verify that treatment. CBO estimates that about 100,000 individuals—nearly 25,000 responders and more than 75,000 survivors—would meet that additional eligibility requirement.

  CBO estimated the proportion of those individuals who would file a claim by reviewing studies on the propensity of individuals to seek legal remedy for injuries. Although CBO estimates that the overall claim rate would be a bit under 50 percent, we expect that responders would have a much higher filing rate than survivors because of their involvement in the existing treatment programs at the Centers of Excellence and because of the efforts by certain union organizations to publicize the possible health issues associated with the cleanup efforts.

  Taking into account the VCF's previous approval rate and the approval rates of other compensation programs, CBO estimates that about 35,000 awards would be made, including payments to nearly 20,000 responders and 15,000 survivors. CBO expects that the number of death claims would be very small because there is little evidence that many individuals have died from injuries caused by the 2001 terrorist attacks after compensation benefits were first awarded.

- Average Award Amount: Under the bill, award amounts would be determined in the same way as they were before the sunset of the original VCF. Awards would

comprise two parts—economic and noneconomic loss—adjusted for collateral offsets such as pensions. For injury victims, economic loss would reflect the actual lost income or expenses incurred as a direct result of the injury and future lost income and costs due to those injuries. Noneconomic loss would reflect compensation for pain and suffering due to injuries associated with the attacks. Awards, which would be provided in one payment, would be determined within 120 days of filing the claim and paid within 20 days of such determination.

Based on information provided by administrators of the previous VCF program, CBO estimates that the average injury award would be about $180,000. (For death claims, the average award would be about $2 million, the same amount provided under the original VCF.) CBO estimated the average injury award by considering the characteristics of the current population enrolled in WTC Medical Monitoring and Treatment Programs, including average age, extent of disability, estimated income, and employer-provided benefits such as pensions and health insurance. CBO estimates that the average award would be higher for responders—about $240,000 per claim—because we expect that a greater proportion of responders have more serious injuries. In contrast, we estimate that awards for survivors would average about $100,000. The award estimates also were adjusted to account for certain health care benefits provided under title I.

Attorneys' Fees. This estimate does not include any significant additional costs for attorneys' compensation that the Special Master could award under the bill. The bill would give the Special Master discretion to provide compensation to attorneys for services rendered on cases filed in district court for injuries associated with the terrorist attacks, but CBO expects that this authority would be used sparingly, based on the historical experience of the VCF. Previously, attorneys provided free legal assistance to claimants.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 847 would decrease discretionary spending by $174 million over the 2011-2020 period.

Administering VCF Awards. Under H.R. 847, additional funding would be required to administer the VCF. The original compensation program was administered by the Department of Justice's (DOJ's) Civil Division. About $87 million was spent to process about 7,400 claims, and the average administrative cost per claim was about $11,500. Under the bill, CBO assumes that DOJ would again administer and oversee the program.

Based on information provided by DOJ, CBO estimates that the average cost to process a claim under H.R. 847 would be about $10,000. CBO expects that the average cost would be lower than under the original program because the administrative infrastructure

already exists and because we assume that certain efficiencies would be achieved with a larger number of claims. In total, CBO estimates that, assuming appropriation of the necessary amounts, administrative costs for the program would total $483 million over 2011-2015 period and $514 million over the 2011-2020 period to process an estimated 50,000 claims, including many from individuals who would not qualify for an award. Most of that amount would be for salaries of hundreds of individuals to process millions of documents, operate a claims management system, and manage 20 to 30 claims-assistance sites around the country. Compensation also would be provided for DOJ attorneys, administrative law judges, and support staff.

NOISH World Trade Center Health Program. As discussed above, the enactment of H.R. 847 would replace annual appropriations with mandatory funding for NIOSH through CDC. Under the current-law baseline, CBO projects that discretionary appropriations will continue at the current level of funding adjusted annually for anticipated inflation. Assuming appropriation actions consistent with the bill, CBO estimates that appropriations for NIOSH would be reduced by $71 million in 2011 and increasing amounts in subsequent years because that baseline spending would be replaced by new direct spending under H.R. 847. We estimate that the reduction in appropriations would total $764 million over the 2011-2020 period, resulting in a corresponding reduction in outlays of $688 million over the same period.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for Title I of H.R. 847 as Ordered Reported by the House Committee on Energy and Commerce on May 25, 2010, and Title II of H.R. 847 as Ordered Reported by the House Committee on the Judiciary on July 29, 2009

	By Fiscal Year, in Millions of Dollars												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010-2015	2010-2020
	NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	513	1,251	3,585	1,166	638	599	645	646	692	763	7,153	10,498

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 847 contains no intergovernmental mandates as defined in UMRA. The bill would place conditions on the city of New York for participating in the health program authorized by the bill, but those conditions would not be intergovernmental mandates as defined in UMRA.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 847 would impose a private-sector mandate as defined in UMRA by limiting the liability of New York City, any entity with a property interest in the World Trade Center on September 11, 2001, and any contractors and subcontractors thereof. Liability would be limited to the total amount of available insurance coverage of those entities for compensatory damages or other relief arising from or related to debris removal from sites of the terrorist attacks. By limiting the liability of those entities, the bill would impose a mandate on individuals seeking compensatory damages or other relief. Because of uncertainty about the potential amount of the awards and the ability of the city of New York and other entities whose liability would be limited to pay for any awards in excess of the liability limit, CBO cannot determine the costs the mandate would impose on the affected individuals.

ESTIMATE PREPARED BY:

Federal Costs: Stephanie Cameron, Leigh Angres, and Chapin White
Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum
Impact on the Private Sector: Sarah Axeen

ESTIMATE APPROVED BY:

Holly Harvey
Deputy Assistant Director for Budget Analysis