

**Statement of Caswell F. Holloway
Chief of Staff to New York City Deputy Mayor for Operations Edward Skyler and
Special Advisor to Mayor Michael R. Bloomberg**

H.R. 847: 9/11 Health & Compensation Act of 2009

April 23, 2009

**Committee on Energy and Commerce
Sub-committee on Health
U.S. House of Representatives**

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Introduction/Overview

- Good morning. I want to thank Chairman Pallone, Ranking Member Deal, and the other distinguished members of the Committee for convening this hearing on H.R. 847, the 9/11 Health and Compensation Act.
- I also want to thank House Speaker Nancy Pelosi and the New York delegation for making it a priority to enact legislation to establish a sustained, long-term 9/11 health program. While the full extent of the health effects resulting from the WTC attacks is unknown, medical evidence suggests a variety of short-term and medium-term health impacts. Additionally, the Centers of Excellence and the WTC Health Registry continue to generate valuable research adding to our body of knowledge about this health effects. Addressing the long-term effects of this attack on America will require a federal commitment to monitoring and treatment.
- My name is Cas Holloway and I am Chief of Staff to New York City's Deputy Mayor for Operations Edward Skyler and a Special Advisor to Mayor Bloomberg.
- I was an Executive Director of a Panel convened by Mayor Bloomberg at the fifth anniversary of the attacks to assess the Health Impacts of 9/11. That report called for a sustained, long-term program to provide monitoring and treatment to address the health impacts of 9/11, and for the re-opening of the Victim Compensation Fund.
- Since that time, Mayor Bloomberg, myself and many other members of the Mayor's Administration have travelled to Washington to make the case for sustained federal funding. In fact, as you may recall, last July, I testified before this Subcommittee, and it is a privilege to appear before you again.
- As the members of this committee know, a tremendous amount has happened since I last appeared before you. In terms of this bill, the City has engaged in extensive discussions with stakeholders, and some of the issues that existed in the prior version of this bill have been addressed.
- In terms of the City's economic outlook, we are still in the throes of an economic crisis that has resulted in the highest unemployment rate in New York City since October 2003, and a projected budget gap of \$3.2 billion in FY 2011 that could grow to \$4 billion and more in future years. Mayor Bloomberg has moved aggressively—since well before the current crisis became apparent—to cut costs and save surpluses for tough times; but even with these measures the City has had to make deep cuts, and we're not done yet. Congress has provided a tremendous temporary boost with the American Recovery and Reinvestment Act, and we are already moving to commit those funds to projects and programs across the City.

- I mention these statistics not merely because they are timely, but because the City's finances are severely strained; we must concentrate resources on providing the essential services New Yorkers and visitors to the City need, and on getting the economy running again.
- With respect to H.R. 847, the version of the bill currently before this committee is an important step forward, and in its broad strokes, achieves what the City has long been seeking—sustained funding to treat those who are sick, or could become sick, and re-open the Victim Compensation Fund so that those who were harmed as a result of 9/11 are fairly compensated without having to show that the City, the Contractors, or anyone but the terrorists were at fault.
- But there are two important issues that, in the City's view, must be addressed. First, the bill requires the City to pay 10% of the entire treatment and monitoring costs for anyone eligible under the bill. Based on the best information we have from CBO, this translates to more than \$50 million per year—more than \$500 million over 10 years—and it's unfair for New Yorkers to bear so much of what we believe is clearly a national obligation. Moreover, particularly at a time when the City is being forced to make deep cuts, including to essential services, the cost share in the bill is simply too high.
- Second, regardless of what the City's cost share ultimately turns out to be, the bill does not give the City adequate oversight of the programs it is expected to fund. This issue can be easily addressed by the addition of a "right-to-audit" or similar mechanism to the bill, and it must be included to give the City the tools it needs to ensure that public dollars are spent appropriately.
- I'll talk about these issues in greater detail shortly, but first I'd like to review some essential facts about the scope of this problem and the efforts the City has made to address it.
- More than 90,000 (and by some estimates, well more than 100,000) New York City firefighters, police officers, other first responders and recovery workers responded to ground zero and participated in the rescue, recovery and clean-up at the site. And hundreds of thousands of residents, area workers, school children and other community members were directly impacted by the attacks.
- Although Congress has appropriated funding on an ad-hoc basis to monitor and treat these groups, the uncertainty of that funding requires that we seek new appropriations every year—and we were only recently able to access some of these funds for the only Center of Excellence that treats residents and other non-responders—the WTC Environmental Health Center at our Health and Hospitals Corporation.
- Two and a half years ago, as the fifth anniversary of 9/11 approached, Mayor Bloomberg directed City agencies to make a thorough investigation of the health problems created by that terrorist attack. The report we published six months later established beyond question

that many people who were in or near the area around the World Trade Center on September 11th or the days following are suffering from a variety of physical and mental conditions.

- They include firefighters and police officers... community residents, schoolchildren, and owners and employees of neighborhood businesses... and also construction workers and volunteers from across America who contributed to the heroic task of clearing the debris from the World Trade Center site.
- The report made clear that the ultimate scope of these health effects is still unknown; that they must continue to be studied; and that those who are sick or could become sick must be monitored and treated with the best possible care.
- With two important modifications that I noted above, and will discuss in greater detail below, passing this bill would, at long last, achieve these goals, and fully engage the Federal government in resolving the health challenges created by the attack on our entire nation that occurred on 9/11.
- The destruction of the World Trade Center was an act of war against the United States. People from every part of the country perished in the attack, and people from all 50 states also took part in the subsequent relief and recovery efforts.
- And that makes addressing the resulting health effects of 9/11, as well as compensating those who were harmed as fairly and expeditiously as possible, a national responsibility.
- But New York City has not waited for Federal funds to meet the health needs of those who are sick in the aftermath of 9-11. New York City taxpayers have, for example, borne the expense of free screening and treatment for thousands of people at the WTC Environmental Health Center at our Health and Hospitals Corporation; and we've launched a number of public outreach campaigns about 9/11 health problems and how to get help.
- In addition, in 2008, our Department of Health and Mental Hygiene launched the 9/11 Benefit Program for Mental Health & Substance Use Services, which provides coverage for mental health services for thousands of New Yorkers directly affected by the attack. Since its April 2008 inception, 2,378 individuals have enrolled in the program, and an additional 1,448 individuals have initiated the enrollment process and are awaiting eligibility determination.
- This program, and many of the 9/11-related health programs funded by the City, were initiated on the assumption that federal funding would eventually become available—through the 9/11 Health and Compensation Act or otherwise. The City will not be able to continue to fund these programs on its own indefinitely, and all of them are in jeopardy unless Congress acts quickly.

FDNY and DOHMH

- I do not mean to suggest that the federal government has done nothing in this area. NIOSH grants, and the annual appropriations that Congress has made over the last several years have funded the World Trade Center program at Mt. Sinai, as well as the longest-running health response to the attacks--the FDNY WTC Medical Monitoring and Treatment Program.
 - Through that program, about 15,000 FDNY rescue/recovery workers (active and retired fire and EMS) have received at least one FDNY WTC Monitoring Exam, a 97 percent compliance rate. Over 85% have received a 2nd WTC Monitoring Exam, and over 75% have received a 3rd Exam. A fourth exam was initiated this year, and compliance and retention rates remain extremely high.
- Along with monitoring, the program has provided treatment, including WTC-related prescription drugs, to thousands of FDNY rescue/recovery workers. In the most recently completed grant year (7/1/07 to 6/30/08), the program provided WTC-related physical health and mental health treatment to 3,157 and 2,574 members, respectively.
- The program also serves as a key source of vital research on the health impacts of 9/11. FDNY has produced 25 peer-reviewed articles on WTC medical conditions.
- The FDNY program is operating under a federally funded NIOSH grant program for monitoring, treatment and data analysis. At NIOSH's request, the program has submitted funding requests to extend FDNY-WTC related healthcare services from July 1, 2009 through September 29, 2010. Without that funding, the program will have to discontinue clinical services in the early summer of 2009.
- In addition, federal funding enabled the establishment of the WTC Health Registry, which this bill will continue to fund on a permanent basis. The Registry is a partnership between the City and the federal government that is the largest effort of its kind in history. It includes more than 71,000 exposed people from every state in the country, and from every Congressional District. Over 20 percent of the people in the Registry are from outside the New York Metropolitan region. This is a reflection of the numbers of people from throughout the country who were in New York at the time of the attacks, or who came to New York afterwards.
- Efforts like the Registry, and the reports generated by the Medical Working Group created by Mayor Bloomberg to keep abreast of the newest research and resource needs for 9/11 health issues, are central to the City's approach to this issue, which is to dedicate resources based on the latest science and medical research. And the data shows that 9/11 health issues continue to be a serious problem.
- Registry data confirm continued high levels of reported post-9/11 asthma and Post-Traumatic Stress Disorder (PTSD) among Registry enrollees 5-6 years after the attacks. Adverse health

symptoms, while reported mostly among rescue and recovery workers, have also been reported by Lower Manhattan residents, office workers, and passersby on 9/11. Reported PTSD levels were high at baseline and remain elevated at the time of the follow up survey.

H.R. 847

- I've spent some time talking about the City's Centers of Excellence and DOHMH's efforts. H.R. 847 generally provides for their long-term sustainability.
- The bill provides long-term funding to monitor and treat those who are sick or who could become sick because of 9/11, including the 3 current Centers of Excellence, and the DOHMH Mental Health program I described above. It also continues funding for critical research, including the WTC Health Registry. Finally, the bill reopens the Victim Compensation Fund so that people who were harmed by the terrorist attacks can get compensation fairly and quickly without having to prove that the City, the contractors, or anyone else but the terrorists were at fault. The City's Corporation Counsel, Michael Cardozo, testified on that part of the bill at a separate hearing a few weeks ago, and I'll be happy to make his testimony available to anyone who would like a copy.
- To ensure that funding goes only to those whose illnesses are due to 9/11, the bill includes important controls that the City fully supports, and that I'll briefly describe.
- First, the bill defines specific groups (for example, firefighters or recovery workers) and specific geographic areas that people must have been in on, or within a defined time period after 9/11 to be eligible for treatment.
- I should note that there is specified funding to treat people outside the designated areas or groups who may—on a case-by-case basis—be eligible for treatment for a 9/11-related condition. This is necessary because we do not know the full extent of the health impacts of the disaster and want to provide a means for anyone sick because of 9/11 to get treatment.
- Second, while people who meet these criteria are “eligible” for treatment, to actually get treatment, a doctor with experience treating WTC-related conditions must determine based on a medical examination, that exposure to airborne toxins, trauma or other hazards caused by the 9/11 attacks is substantially likely to be a significant factor causing, contributing to or aggravating the patient's condition.
- That assessment must be based in part on standardized questionnaires; and even after a condition is deemed to be WTC-related, it is subject to review and certification by the WTC administrator.
- These are tough standards that are based to a large extent on the protocols already in place at the WTC Environmental Health Center in the New York City Health and Hospitals

Corporation. They are necessary to ensure that only those who are sick due to 9/11 are treated under this program.

- The bill also caps the number of responders and community members who can get monitoring or treatment. These limitations are based on the best available information about how many people were exposed and could potentially be ill, and while we think they will be sufficient to provide treatment to anyone who may need it, there are reporting requirements in the bill so that Congress will be told if those caps are approached.
- In addition to these controls—which apply to every potential patient—the bill mandates the establishment of Quality Assurance and Fraud Prevention programs that will act as further safeguards against the misuse of these funds for any purpose other than to monitor and treat those affected by the 9/11 attacks.
- The bill also includes important provisions to ensure that federal dollars go only to cover costs that the federal government should pay. For example, there is an offset for any Worker’s Compensation payments that have been made. For non-work related conditions, the program acts as a payor of last resort if an eligible recipient has applicable health insurance.

The City’s Position on H.R. 847

- As I noted at the outset of my testimony, overall, this legislation represents an important step towards establishing a long-term federal program to address the health impacts of 9/11.
- As drafted, however, the bill requires the City to contribute a 10 percent matching cost share of the entire program, which could be up to \$500 million over 10 years. City taxpayers would be required to fund 10% of not only the community program—but also the responder program and the national program, regardless of whether New York City residents are the recipients of care.
- This is simply too high a cost for City taxpayers to shoulder alone for what clearly must be a national response to an act of war against our country. This is not to say that the City objects to any cost-sharing. Indeed, Mayor Bloomberg fully supported an earlier version of the bill that required the City to pay 5% of the cost of treating anyone treated at a Center of Excellence within the City’s Health and Hospitals Corporation. We accepted this obligation, because it ensures that the City has a strong incentive to monitor these programs and make sure that these health care dollars are spent wisely.
- But imposing on City taxpayers a cost share of 10 percent of the *entire* program, without giving the City any oversight of how those dollars are spent, is unfair, and unacceptable if the City is to be accountable—as it must be—for ensuring that public funds are used appropriately.

- We are confident, however, that this committee can address these critical issues, and that the City will be able to fully support legislation that we hope will be presented for President Obama's signature before another anniversary of the attacks passes.
- Thank you for your attention. I'd be happy to answer any questions you might have.

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