

TESTIMONY
Before
The United States Senate
Committee on Health, Education, Labor, and Pensions

Hearing on

Examining the Continuing Needs of Workers and Communities Affected by 9/11
Washington, DC
June 29, 2010

Presented by
James Melius MD, DrPH

Administrator, New York State Laborers' Health and
Safety Trust Fund
Albany, NY

Honorable Chairman Harkin, Ranking Member Enzi, and other members of the Senate Health, Education, Labor, and Pensions Committee. I greatly appreciate the opportunity to appear before you at this hearing.

I am James Melius, an occupational health physician and epidemiologist, who currently works as Administrator for the New York State Laborers' Health and Safety Trust Fund, a labor-management organization focusing on health and safety issues for union construction laborers in New York State. During my career, I spent over seven years working for the National Institute for Occupational Safety and Health (NIOSH) where I directed groups conducting epidemiological and medical studies. After that, I worked for seven years for the New York State Department of Health where, among other duties, I directed the development of a network of occupational health clinics around the state. I currently serve as Chair of the Advisory Board on Radiation and Worker Health which oversees part of the federal compensation program for former Department of Energy nuclear weapons production workers.

I have been involved in health issues for World Trade Center responders since shortly after September 11th. Over 3,000 of our union members were involved in response and clean-up activities at the site. One of my staff spent nearly every day at the site for the first few months helping to coordinate health and safety issues for our members who were working there. When the initial concerns were raised about potential health problems among responders at the site, I became involved in ensuring that our members participated in the various medical and mental health services that were being offered. For the past six years, I have served as the chair of the Steering Committee for the World Trade Center Medical Monitoring and Treatment Program. This committee includes representatives of responder groups and the involved medical centers (including the NYC Fire Department) who meet monthly to oversee the program and to ensure that the program is providing the necessary services to the many people in need of medical follow-up and treatment. I also serve as co-chair of the Labor Advisory Committee for the WTC Registry operated by the New York City Department of Health and as a

member of the Community Advisory Committee for the medical program serving the community residents and workers affected by 9/11 exposures. These activities provide me with a good overview of the benefits of the current programs and the difficulties encountered by responders seeking to address their medical problems and other needs.

I believe that Dr. Prezant will testify in more detail on the medical problems experienced by the fire fighters and other responders. The pulmonary disease and other health problems among fire fighters, other rescue and recovery workers, and community residents are quite serious and are afflicting a large number of people. All of the federally funded medical programs have done an outstanding job in providing high quality medical care for the many thousands of people affected by these exposures. I believe that the expert medical care being provided is helping many of these ill people continue to work and be active which would not be the case if these programs did not exist.

These medical conditions are likely to persist for years and require chronic monitoring and treatment. As the recent study of NYC fire fighters demonstrates, the pulmonary capacity lost due to the WTC exposures does not appear to recover. Post traumatic stress disorder, another common condition in this population, is often very difficult to treat and requires years of treatment for some individuals. We also have to be vigilant for the emergence of new WTC-related conditions. The WTC exposures were complex and unlike any that have been studied in the past. It would not be unexpected for other WTC-related conditions to become apparent as time goes by. The collection of medical data on these populations allows us to track their health and identify new health problems due to their 9/11 exposures at an early stage when (hopefully) we will be able to avert more severe illness.

Given the need for long term medical monitoring and treatment, the current programs provide the most effective and efficient approach to provide these people with expert medical care by physicians experienced in detecting and treating these conditions and in a setting where their long term health can be tracked. The close link between the health

monitoring or tracking and medical treatment is essential to provide the best long term health care for these individuals.

These medical programs require federal support. As I have testified at a previous hearing of this committee, health insurance (including Medicare) does not provide reimbursement for the treatment of work-related injuries or illnesses. Workers' compensation systems are slow and are not designed to handle complicated cases where people have multiple health problems and whose medical needs and treatments may constantly change over time. Despite attempts by New York State to facilitate claims for people with WTC-related illnesses, these claims still take years to get adjudicated and often not in a satisfactory manner that would support the long term health care needs of the claimants. Community residents often face similar problems with their health insurance, and many of them lack health insurance coverage at present or are covered by policies with high co-pays and other costs for them.

A comprehensive solution is needed to address the health needs of the 9/11 rescue and recovery workers and community residents. We cannot rely on a fragmented system utilizing private philanthropy, health insurance, line of duty disability retirement, and workers' compensation to support the necessary medical monitoring and treatment for the thousands of people whose health may have been impacted by their WTC exposures. This fragmented approach will inevitably leave many of the ill and disabled rescue and recovery workers without needed medical treatment and will only worsen their health conditions. The delays and uncertainty about payments would discourage many of the ill rescue and recovery workers from seeking necessary care and discourage medical institutions from providing that care. We will also lose track of these people and the ability to monitor their long term health.

S. 1334

Senate 1334 the James Zadroga 9/11 Health and Compensation Act of 2009 provides the comprehensive framework needed for the long term health monitoring and treatment for the workers and community residents whose health has been affected by their WTC exposures. The legislation builds on the current medical monitoring and treatment programs and adds appropriate oversight to ensure that the program is properly administered. These additions include:

- Certification by NIOSH for all new people enrolling in the program.
- Certification by NIOSH for the diagnosis of a WTC-related condition making that person eligible for treatment in the program. Note that this diagnosis requires two steps – the finding that the individual has the medical condition (on the list of WTC-related conditions) and then that, in his or her case, that condition is related to their WTC exposures.
- Basing the medical care at Centers of Excellence to ensure that physicians experienced in treating WTC-related health problems are providing this care.
- Reimbursement through a fee for service system that will help to better track and monitor treatment costs.
- Requirements for the development and use of approved treatment protocols where appropriate by the medical care providers in the program.
- Implementation of quality assurance programs.
- Implementation of a federal program to detect fraud, duplicate billing, and payments for inappropriate services.
- Implementation of a method for adding new WTC-related health conditions after scientific review.
- Requirements for uniform data protocols within the program.
- Continuation of the national program to provide monitoring and treatment for individuals living outside of the New York City region.

These and other provisions in S 1334 will help to maintain the high quality of the program and ensure that the federal support is properly administered by the participating medical centers and providers. It will also stabilize the funding for the institutions providing the care.

Victims Compensation Fund

The legislation would also reopen the victims compensation fund (VCF) which will provide fair compensation for economic losses for people whose health has been damaged by the WTC exposures. This is especially important for the many individuals who are disabled and unable to work and who are now unable to support their families. The VCF as administered immediately after 9/11 had a limited time period for application, and many people did not become ill until after they were no longer eligible to apply.

Recently, another possible source of compensation was announced. This is the proposed settlement of the lawsuits for health damages filed against the City of New York and other parties involved in the rescue, clean-up and recovery efforts. While we do not yet know the full details of that settlement, it is clear that this settlement does not provide a comprehensive solution. The lawsuits involve approximately 10, 000 to 11,000 individuals including at least a few thousand without current health problems. We know that many more people have been documented to be ill due to their 9/11 exposures. The federal medical programs have recognized over 20,000 people in treatment for WTC-related health problems. Many of these would not be covered by this settlement. Secondly, the settlement as announced does not include provisions for ongoing health care. Thus, even for those people who accept the settlement, there would be the need for current medical programs.

Conclusion

S 1334 and the similar House bill HR 847 provide a sound and effective approach for supporting the long term health care needs of the workers and residents whose health has been damaged by their exposures in the aftermath of the WTC terrorist attack.

Discontinuing or disrupting this high quality, coordinated medical treatment would only exacerbate the health consequences of the 9/11 disaster. Most of the participants in the monitoring and treatment program have medical conditions (asthma, mental health problems, etc.) that should be responsive to medication and other treatments. They need expert medical care by providers who are experienced in providing care for WTC patients. Their health status needs to be tracked to detect illness in those who are not yet sick and to monitor for possible new conditions related to WTC exposures. The Centers of Excellence fulfill both of these functions. Hopefully, many of these people will gradually recover and not become disabled due to their WTC-related medical conditions. To the extent, that we can prevent worsening of the medical conditions and prevent many of these people from becoming too disabled to work, we can not only help these individuals, but we can also lower the long term costs of providing care and assistance to this population.

The continued stable funding provided by this legislation will ensure that these excellent medical programs will continue to provide this badly needed care. Too often in the past, we have neglected to properly monitor the health of groups exposed in extraordinary situations only to later spend millions of dollars trying to determine the extent to which their health has been impacted. Agent Orange exposure in Vietnam and the current compensation program for nuclear weapons workers (EEOICPA) are only two examples of this problem. We should learn the lessons from these past mistakes and make sure that we provide comprehensive medical monitoring for those potentially impacted by the WTC disaster.

We are approaching the ninth anniversary of this terrible event. We have known about the potential health consequences from these exposures for most of those nine years and

have seen the number of people who have become ill, disabled, and dying from their WTC conditions continue to increase. Many of these people are truly heroes for what they did, and all were initially reassured by the federal government that the air was “safe” to breath. We should now do our duty to these rescue and recovery workers and community residents whose health has been damaged by their WTC exposures and pass legislation that provides long term comprehensive medical and compensation programs for these people. I urge you to do this as soon as possible.

Thank you. I would be glad to answer any questions.