

DMNA Regulation Number 27-10

9/11 Pension Examining Board



**Division of Military
and Naval Affairs**

**Division of Military and Naval Affairs
330 Old Niskayuna Road
Latham, New York 12110-3514**

**1 September 2025
UNCLASSIFIED**

SUMMARY

DMNA Regulation Number 27-10, 9/11 Pension Examining Board, 1 September 2025.

- DMNA Regulation 27-10 is a new regulation.
- This regulation serves to establish policy and guidelines for all matters pertinent to the formation and function of the Division of Military and Naval Affairs' (DMNA) 9/11 Pension Examining Board (Board).
- Applicability: This regulation applies to members of the New York Army National Guard, the New York Air National Guard, the New York Naval Militia, and the New York Guard.

**STATE OF NEW YORK
DIVISION OF MILITARY AND NAVAL AFFAIRS
330 Old Niskayuna Road
Latham, New York 12110-3514**

9/11 PENSION EXAMINING BOARD

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CHAPTER 1 GENERAL

1-1. PURPOSE. The purpose of this regulation is to establish policy and guidelines for all matters pertinent to the formation and function of the Division of Military and Naval Affairs' (DMNA) 9/11 Pension Examining Board (Board).

1-2. AUTHORITY. This regulation is issued pursuant to New York State Military Law §§ 11 The Adjutant General (TAG), The Executive Deputy Commissioner, The Chief of Staff, State and 217 Pensions. TAG may waive any provisions of this regulation when it is in the best interest of the organized militia and DMNA.

1-3. DEFINITIONS.

a. "Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member of the organized militia who participated in the World Trade Center rescue, recovery, or cleanup operations for a qualifying period.

b. "Qualifying condition or impairment of health" shall mean a qualifying physical condition, or a qualifying psychological condition, or both.

c. "Qualifying physical condition" shall mean one or more of the following:

(1) diseases of the upper respiratory tract and mucosae, including conditions such as rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, and upper airway hyper-reactivity, or a combination of such conditions;

(2) diseases of the lower respiratory tract, including but not limited to tracheo-bronchitis, bronchitis, chronic obstructive pulmonary disease, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;

(3) diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;

(4) diseases of the skin such as conjunctivitis, contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic, or non-specific reactive in nature, caused by exposure or aggravated by exposure; or

(5) new onset diseases resulting from exposure as such diseases occur in the future including cancer, asbestos-related disease, heavy metal poisoning, and musculoskeletal disease.

d. "Qualifying psychological condition" shall mean one or more of the following:

(1) diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions; or

(2) new onset diseases resulting from exposure as such diseases occur in the future including chronic psychological disease.

e. "Participated in World Trade Center rescue, recovery, or cleanup operations" shall mean any member of the organized militia who:

(1) participated in the rescue, recovery, or cleanup operations at the World Trade Center site;

(2) worked at the Fresh Kills Land Fill in New York;

(3) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan;

(4) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York; or

(5) repaired, cleaned or rehabilitated vehicles or equipment, including emergency vehicle radio equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, provided such work was performed prior to decontamination of such vehicles or equipment.

f. "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.

g. "Qualifying period" shall mean:

(1) any period of time within the forty-eight hours after the first airplane hit the towers; or

(2) a total of forty hours accumulated any time between September eleventh, two thousand one and September twelfth, two thousand two.

h. "Beneficiaries" shall mean a surviving spouse, children under twenty-one years of age or dependent parent(s), as defined by Internal Revenue Service rules.

CHAPTER 2

BOARD COMPOSITION AND APPOINTMENT OF MEMBERS

2-1. COMPOSITION. The Board shall consist of three members and a standing Chairperson.

2-2. APPOINTMENT. TAG shall appoint a Board of three officers, at least one of whom shall be a medical officer. If no medical officer is available, the medical officer on such board may be a civilian physician. The three Board members are appointed by TAG through a convening order; their appointments remain in effect unless and until TAG executes a new convening order.

a. Board members must be:

(1) current Department of Defense Service Members in the rank of O3 or higher who fall under the command of the New York State TAG;

(2) current employees of the DMNA who retired (traditional or medical) from Department of Defense Service under the command of the New York State TAG and who held the grade of O3 or higher upon issuance of their retirement order; or

(3) a medical officer assigned to either the New York Army or Air National Guard.

b. DMNA's State Director of Legal Affairs shall serve as the Board's chairperson.

2-3. CONFLICTS. It is the policy of the DMNA that all Board activities shall be conducted in accordance with the highest standards of integrity and ethics and in a manner that will not reflect or appear to reflect adversely on the credibility, objectivity, or fairness of the DMNA, its leadership, or staff.

a. Every Board member must maintain the highest standards of honesty and integrity in discharging the duties related to their appointment to this Board.

b. Board members are required to disclose potential conflicts of interest to the Board's Chairperson as soon as they arise.

c. The Board's Chairperson will review all potential conflicts of interest with TAG for final determination.

d. In the event a conflict requires a Board member to abstain from participating in a meeting, TAG shall have the authority to appoint an additional Board member in accordance with Section 2 above.

CHAPTER 3 DUTY OF THE BOARD

3-1. DUTY OF THE BOARD. To inquire into the merits of any disability claim related to the World Trade Center rescue, recovery, or cleanup operations and to recommend the amount or amounts, if any, to be paid.

3-2. REVIEW. The Board shall review each claimant's file individually as set forth in the DMNA Reg 27-9, including, but not limited to:

- a. any and all medical determinations included in a claimant's most recent Independent Medical Examination (IME) results; and
- b. any and all presence documentation.

3-3. RECOMMENDATIONS. The findings and recommendations of the Board shall be submitted to TAG, who may return the proceedings to such Board for reconsideration and who shall approve or disapprove the claim and fix the amount, if any, to be paid:

- a. In accordance with NY CLS Mil §217, no pension award may exceed the maximum of 75% of a service member's final annual State Active Duty (SAD) pay.
- b. In accordance with NY CLS Mil §217, no death benefit award may exceed the maximum of 50% of a service member's final annual (SAD) pay.

CHAPTER 4 MEETING PROCEDURE

4-1. FREQUENCY OF MEETINGS. The Board must hold sufficient meetings to discharge all of its duties, but not less than quarterly so long as at least one (1) claim is ready for review.

a. In the event no claims are ready for review, the Board chairperson shall memorialize and communicate the same to TAG.

b. In order for a claim to be considered ready for review, the claimant must have provided a complete file as set forth in DMNA Reg 27-9 not less than ten business days prior to the next scheduled meeting of the Board.

4-2. ATTENDANCE. Board members are encouraged to attend meetings in person. However, participation via teleconference or video conference where attendance in person is not possible is permitted.

a. All three Board members and the Board Chairperson must be present for the Board to review a pending claim.

b. In the event a Board member is unable to attend a meeting, TAG shall have the authority to appoint a replacement board member in accordance with Chapter 2-2.

c. Attendance of all Board members shall be recorded by the Board Chairperson and that record shall be maintained by the DMNA's State Director for Legal Affairs for a period of not less than three years.

4-3. SCHEDULE. Board meetings are conducted exclusively on non-holiday workdays and only during normal business hours.

4-4. RECORD. Board meetings are not meetings/hearings of record.

The proponent office of this regulation is the Legal Affairs Directorate (MNLA). Users of this regulation are invited to send comments and suggested improvements in letter format, directly to The Adjutant General, Division of Military and Naval Affairs, ATTN: MNLA, 330 Old Niskayuna Road, Latham, New York 12110-3514.

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