

Resolving Claims Through Arbitration

Release Date: Dec 6, 2024

Release Number: FS-019

Claimants who disagree with an Administrative Appeal Decision can resolve their disputes through arbitration – a legal process where a neutral third-party arbitrator reviews the claim and issues a final, binding decision, providing an efficient alternative to court proceedings.

Background

Once an Authorized Official has issued a determination on all elements of a claim listed in the claimant's Proofs of Loss (POLs), the claimant may choose to appeal specific loss line items. After the appeals process is complete, the claimant will receive an Administrative Appeal Decision (AAD), which is the agency's final decision on the claim.

If a claimant is dissatisfied with an AAD, they may choose arbitration to resolve the dispute. Arbitration is a legal process where a neutral third-party reviews all claim and appeal documentation and issues a final, binding decision.

By choosing arbitration, claimants can resolve their disputes outside of court, with a qualified independent arbitrator conducting the hearing and delivering a resolution. Once the claimant submits a written request for arbitration, the dispute will be settled through binding arbitration, and the claimant waives their right to pursue a lawsuit.

Eligibility for Arbitration

To be eligible for arbitration, a claimant's request must meet the following criteria:

- The dispute arises from the Hermit's Peak/Calf Canyon Fire Assistance Act.
- The claimant filed an Administrative Appeal with the Claims Office.



FEMA

Page 1 of 4

- The issue to be arbitrated was addressed during the administrative appeals process.
- The Claims Office issued a final decision through an AAD.

Arbitration Process

Step 1: Submit an Arbitration Request

After receiving an AAD, claimants have 60 days from the date of this decision to submit a Request for Arbitration (RFA). Upon receipt of the RFA, the following actions are taken:

- The arbitration unit reviews and acknowledges the RFA. An arbitration agreement and the accompanying hearing rules are sent to the claimant for a signature.
- The administrative record consisting of relevant documentation developed through the initial determination and appeal is sent to both the claimant and the arbitrator. The arbitrator facilitates the process and schedules the hearing.

Step 2: Arbitration Assignment and Scheduling of Hearing

Once the arbitration request is processed, the following actions are taken:

- An arbitrator is assigned, or a panel of arbitrators is assigned if the amount in dispute exceeds \$500,000.
- The assigned arbitrator becomes the claimant's primary point of contact.
- The arbitrator contacts the claimant and coordinates the hearing date.

Step 3: Arbitration Hearing and Decision

After the arbitrator is assigned and the hearing is scheduled, the following actions are taken:

- The arbitrator conducts the hearing.
- The arbitrator reviews findings from the administrative record and may hear testimony to clarify existing evidence.
- The arbitrator issues a final, binding decision and communicates it to all parties within 10 days of the hearing.



Finality of Arbitration Decision

The arbitrator's decision is final and legally binding for all parties, including both the claimant and Claims Office.

Judicial Review

If claimants disagree with a decision, they may pursue judicial review. To initiate judicial review, the claimant must file a civil lawsuit against FEMA in the U. S. District Court of New Mexico. This lawsuit must be filed within 60 days of the date shown on the arbitrator's decision.

Costs

The Claims Office covers all fees and expenses related to the arbitrator handling the case. However, claimants are responsible for any attorney's fees, representative fees, copying expenses, travel costs for attending the hearing, and other additional costs.

Frequently Asked Questions

Can a claimant receive a deadline extension for submitting a Request for Arbitration?

Yes, deadline extensions may be granted for "good cause," such as hospitalization, incarceration, or military deployment. The Arbitration Administrator will determine whether the circumstances warrant an extension.

How can a claimant submit a Request for Arbitration?

Claimants can submit a request by email to fema-hermits-peak-arbitration@fema.dhs.gov; in person at any public facing Claims Office; or by mail to:

Arbitration Docket - FEMA Hermit's Peak/Calf Canyon Claims Office
P.O. Box 1329 Santa Fe, NM 87504



FEMA

Are claimants allowed legal representation during arbitration?

Yes, claimants may choose to have legal representation during arbitration. However, all costs associated with legal representation, such as attorney fees, are the claimant's legal responsibility. Legal representation is not required to participate in the arbitration process.

What is the role of the arbitrator, and how are they assigned?

The arbitrator is a neutral, third-party legal professional randomly assigned by an independent contractor to ensure impartiality. Neither the claimant nor the Claims Office selects the arbitrator.

What qualifications are required for an arbitrator?

Arbitrators must be attorneys in good standing with at least 10 years of relevant legal experience and five years of experience as an arbitrator or judge. For disputes involving amounts over \$500,000, a panel of three arbitrators will decide the case. For smaller disputes, a single arbitrator will be assigned.

How long does the arbitration process take?

The length of time may vary, but the arbitrator's decision is issued within 10 days after the hearing concludes. If necessary, the arbitration administrator may extend this timeframe with notice to both the claimant and the Claims Office.

Can claimants present new evidence during the arbitration hearing?

No, claimants may not introduce new evidence. The arbitrator will review only the evidence included in the administrative record but may accept oral or written testimony to clarify existing information.

For additional questions or comments regarding the arbitration process, please contact: fema-hermits-peak-arbitration@fema.dhs.gov.

