



Federal Insurance and Mitigation Administration

NFIP Transformation Task Force Update

May 14, 2015

Claims Review

The week of May 18, FEMA will notify approximately 142,000 policyholders who submitted a Hurricane Sandy flood claim that they may request that their file be reviewed. FEMA will begin sending letters to claimants who incurred storm loss from Oct. 27, 2012 through Nov. 6, 2012.

Effective May 18, policyholders may call a toll-free telephone number or go online to download a form requesting a review, even before receiving the letter. Policyholders will have 90 days from receipt of the letter to make contact with FEMA.

Letters will be mailed over a four-week period. The first batch of letters will be prioritized by those who had engineer reports as part of their claim.

Most reviews will be concluded within 90 days of the policyholder requesting the review.

When policyholders contact FEMA, they should provide the name of the policyholder and the address of the insured property. They will be asked questions to determine whether they qualify for review. Those currently in litigation or who have received policy limits (the maximum amount under their flood insurance policy) will not qualify for a review.

FEMA will obtain the policyholder's claim file from their insurance company and forward it to the NFIP review office within two business days. Files will be assigned to a highly qualified, NFIP-certified adjuster who will serve as a case worker for the insured. Claims with engineering reports will be reviewed by an engineer not associated with firms currently under investigation.

Case workers will contact policyholders to guide them through the review process. Property visits may be conducted if applicable.

The case worker will make a recommendation after a thorough review of the claim file and any new information provided. If the policyholder does not agree with the recommendation, the policyholder will have the opportunity to obtain an additional review of the file by a third party neutral, who may be a retired judge or an attorney with insurance expertise. This neutral party will make a recommendation to FEMA. FEMA will give substantial weight to the neutral party's recommendation.

If the results of the review support additional payment, FEMA will direct the insurance company to issue payment to the policyholder. FEMA will notify the policyholder by letter. Policyholders who receive additional funds will need to provide a signed Proof of Loss. Once all parties involved have been notified of the results, the case will be closed.

Federal agencies cannot provide disaster assistance for damages or losses covered by insurance. If a policyholder receives additional insurance proceeds from FEMA and also received Sandy-related disaster assistance from another source such as the U.S. Small Business Administration (SBA), the Department of Housing and Urban Development (HUD), or one of HUD's state or local grantees such as New Jersey - Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) Program, New York Rising, or New York City Build it Back, the policyholder may have to repay the other disaster assistance if the original source determines that additional insurance proceeds duplicate a benefit previously provided.

Litigation

Policyholders who were not satisfied with the NFIP payments they received after Sandy had the option of filing an administrative appeal with FEMA or filing a lawsuit in U.S. District Court. Some did both. As of April 10, 2015, 2,044 cases were filed in U.S. District Courts in the Eastern District of New York and New Jersey.

Litigation presented the court and NFIP with allegations of questionable engineering practices related to Sandy claims. FEMA will not fund or approve work with any WYO-contracted engineering firms that are known to have values that differ from FEMA's survivor-centric approach.

In February 2015, FEMA's new Deputy Associate Administrator for Insurance initiated a process to settle Sandy claims as quickly as possible so policyholders can receive negotiated payments for their claims and not endure prolonged litigation.

To expedite FEMA's ability to settle claims more quickly, FEMA informed the WYO insurance companies that FEMA would lead efforts to settle these cases. FEMA reviewed hundreds of individual cases and developed a procedure to analyze plaintiffs' payment demands, review relevant case materials, verify coverage and payment information, and provide a fair settlement offer as a basis for final negotiation. FEMA will work directly with any individual plaintiff's counsel to resolve a client's Sandy flood claims in this fashion.

FEMA has expedited the claims settlement process by tenfold over the past two months. FEMA has brought in additional legal staff to support coordination and settle cases more quickly.

In this expedited procedure (FEMA-Plaintiffs' Counsel Process) FEMA receives information from plaintiffs' counsel specifying damages and proposed settlement amounts. FEMA flood-certified

adjusters review the proposed settlement amounts and make recommendation to FEMA's Office of Chief Counsel, which makes a tentative offer to plaintiffs' counsel.

As of April 2015, FEMA and plaintiffs' counsel had agreed on settlement amounts for approximately 575 cases. More are being processed every day and offers are being tendered.

Prior to FEMA taking lead on the efforts to settle cases in litigation the District Courts established a process to settle cases through mediation and 423 cases were resolved this way.

Through the expedited NFIP claims settlement process, FEMA has directed Write Your Own insurance companies, who sell and service Standard Flood Insurance Policies available under the NFIP, to tender settlement offers to policyholders. FEMA has also worked with the U.S. Attorney's Office in the Eastern District of New York (EDNY) to tender settlement offers to policyholders who bought insurance directly from FEMA through the Direct Servicing Agent Companies.

So far, FEMA and plaintiffs' liaison counsel have agreed to tentative settlements in more than 450 cases. Offers have been authorized in 325 cases in NY and NJ (278 WYO and 47 DSA).

FEMA is establishing a check-writing protocol that will get settlement checks to policyholders as quickly as possible, generally within 30 days of the settlement agreement. FEMA has a responsibility to identify other parties who may have an interest in the settlement of the claims, such as a lienholder. Representatives from third-party interests, including HUD and SBA, have agreed to expedite determinations on what duplication of benefits from their recovery programs may apply to litigants in order to settle claims.

The agency made progress in the effort to negotiate settlements for policyholders in litigation during a court hearing on April 27 in the Eastern District of New York (EDNY). Based on progress in negotiations, the Hurricane Sandy Committee of Magistrate Judges representing EDNY extended the stay on litigation for an additional 30 days, allowing settlement negotiations to continue.

During the April 27 court hearing parties reached agreement on how to resolve duplication of benefits and attorney's fees. It was announced that several WYO insurance companies had agreed to pay costs associated with litigation. Additionally, representatives from SBA, HUD and New York Rising agreed to expedite determinations on what duplication of benefits may apply to litigants.

Transformation

FEMA is conducting an internal review of its processes to reform the NFIP program for the claims and appeal process. The NFIP Transformation Task Force has identified three areas where it will focus its internal reviews. These include:

- overhauling the claims and appeals process,
- aligning management of litigation in a way that puts the flood survivor first, and
- improving the customer experience throughout the entire claims process.

The Task Force is analyzing how the claims process worked after Hurricane Sandy as well as FEMA's oversight of the flood insurance program and litigation data related to Sandy claims. FEMA is engaging with nonprofit organizations, advocacy groups, community officials, insurance companies and Congressional staff, among others, to gain insight into the claims process and how it can be improved.

As part of this effort, FEMA is pursuing contractor support to leverage industry expertise in customer experience best practices. Specifically, FEMA is soliciting industry experts to assist the NFIP Transformation Task Force with developing expert recommendations to bring the existing process into alignment with FEMA's survivor-centric mission and approach.

The FEMA Administrator and Deputy Associate Administrator for the NFIP participated in a meeting of the U.S. Senate Sandy Task Force on April 28. At this meeting, FEMA reiterated its commitment to provide policyholders every dollar they are due under their policy.

FEMA is instituting additional oversight over WYO companies to hold them accountable, and to ensure their work with engineering firms puts claimants first. As part of our effort to reform the NFIP, FEMA notified WYO insurance companies of changes in the process for seeking reimbursement for expenses, such as the hiring of engineering firms for claims adjustments going forward. Pending further guidance, FEMA will review and approve all proposed engineering costs to ensure that WYOs, as fiscal agents for the U.S. Government, are fulfilling their role by guaranteeing that taxpayer funds are being appropriately expended and their work is consistent with putting policyholders first.

FEMA will continue to work closely with Congress, federal, tribal, state, local, and community officials to ensure policyholders are paid every dollar for which they are eligible and to improve transparency in the flood insurance program going forward.

Resources:

In a video posted online, Deputy Associate Administrator Brad Kieserman addressed Sandy flood insurance policyholders to share the NFIP's values and priorities of ensuring all policyholders are paid every claim dollar they are due: <https://www.youtube.com/watch?v=aR-T0RFXdg>

FEMA maintains a webpage containing information and updates for National Flood Insurance Program policyholders who were affected by Hurricane Sandy: www.fema.gov/hurricane-sandy-nfip-claims. There is also a short link that takes users to that same webpage: www.fema.gov/sandyclaims.

The website will be updated regularly with new information on reforms and Sandy NFIP claims progress.