



## Sandy Claims Review Division Update

December 30, 2016

FEMA's top priority is to support disaster survivors and help communities recover from the devastating effects of disasters. To accomplish this mission, FEMA is making significant improvements to the National Flood Insurance Program (NFIP) to better serve policyholders who experience loss from flooding.

We are overhauling and realigning our entire organization to improve the customer experience. FEMA's vision for reform is a broad effort that emphasizes the principles of trust, predictability, value and choice for the policyholder. FEMA published a [Notice of Proposed Rulemaking](#) in the Federal Register in May 2016 to remove the Arrangement between FEMA and the Write Your Own (WYO) insurance companies from the NFIP regulations in order to make changes without going through the rule-making process.

FEMA also announced steps to control litigation costs in the flood insurance program. And, FEMA established an oversight team to work with NFIP to address standard billing practices, to provide advice and render settlement concurrence on NFIP cases when asked by WYO companies.

The Sandy Claims Division is focusing on these improvements, including the need for increased oversight of the program, enhanced education and training, strengthened data gathering and analysis capabilities and an improved customer experience.

The Sandy Claims Division also provides a process in which Hurricane Sandy survivors who have not pursued litigation can have their claims reviewed promptly if they feel they were underpaid. While not every claim reviewed results in a determination of underpayment, additional payments are being made to policyholders whose claim reviews do show underpayment.

FEMA is committed to ensuring we pay every policyholder what they are due under their policy. Flood insurance plays a critical role in assisting survivors on their road to recovery. Like other types of insurance, it does not cover all losses but it is the first line of defense against a flood. There is no incentive for FEMA to underpay any claim going through the review process.

### Claims Review

Beginning in March 2015, the Sandy Claims Division, formerly known as the NFIP Transformation Task Force, reached out to nearly 144,000 policyholders that filed Hurricane Sandy claims and provided an opportunity for all claims to be re-reviewed. The last day that a policyholder could request a review of their NFIP flood claim through the Hurricane Sandy Claims Review was October 15, 2015.

As of **December 30, 2016**, within the Sandy Claims Review, nearly **18,610 (96.0 percent)** of policyholders requests have received the Results of Review on their claims. Of this figure, **12,949** claims have been closed with policyholders receiving a total of **\$145,756,310**. To date, nearly **79.2 percent** of

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closed claims received additional payment and **20.8 percent** of closed claims received no additional payment after the review.

NFIP-certified adjusters are focused on ensuring they have the necessary information to review submitted claims. They reach out to each policyholder assigned to provide status updates, seek additional documentation if warranted, and to answer policyholder questions.

After FEMA and the policyholder reach an agreement on the results of the claim review, and if the review indicates additional payment is warranted, FEMA directs the NFIP insurer to issue a check in the name of the policyholder, including any loss payee. FEMA is required by law to include on checks the names of those with secured interests at the time of loss, such as a mortgage company or the U.S. Small Business Administration. The policyholder is responsible for negotiating with lienholders regarding the distribution of funds.

To protect their personal information, FEMA requires all NFIP policyholders in the Hurricane Sandy Claims Review to provide a written document to verify their identity before the review of their claim begins. This added level of protection will help keep personal information safe and will comply with the federal Privacy Act (5 USC 552a).

FEMA recognizes that a policyholder may choose to be represented in the review process. If so, FEMA must ensure that a representative is appropriately designated and authorized to speak for and receive information on behalf of the policyholder. Policyholders who want to have legal representation for the process will need to complete a designation of representation.

Some policyholders may want to [review their flood insurance claim file](#). FEMA will process claim file requests from a policyholder or the policyholder's designated representative under the Privacy Act and the Freedom of Information Act. Policyholders may provide their verification of identity in the same letter used to designate a representative and/or to request a copy of their claim file, as long as the letter is properly signed and notarized (or sworn).

Policyholders are advised that due to the time required to make their complete claim file comply with federal privacy regulations, requesting a copy of the claim file may add a significant delay to the review process.

Policyholders may request portions of their file that they feel pertinent to their case (e.g., their Write Your Own insurance company file, engineering report, Desk Review documents, or previous adjustments and estimates). Requesting portions instead of the entire file should shorten the processing time.

Several nonprofit service providers offer free advice and answer questions for policyholders in the claims process. A list of these advocacy groups can be found on the claims review website at [fema.gov/media-library/assets/documents/116439](http://fema.gov/media-library/assets/documents/116439).

The Sandy Claims Review process was created with input and support from members of Congress, both majority and minority, advocacy groups representing policyholders, and even included some critics of FEMA.

**More than \$145.7 million** has gone to policyholders and we're working as quickly as possible – literally in shifts -- to continue to make things right. Even as we do that, we're continuing to overhaul

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the flood insurance program to make sure the companies we partner with share our values of putting policyholders and survivors first.

FEMA takes all allegations of fraud seriously and refers any allegations of fraudulent practices to the Office of Inspector General. We are working with the New York and New Jersey Attorneys General and are cooperating with all investigations.

### **Litigation**

Policyholders dissatisfied with the NFIP payments they received after Hurricane Sandy had the option of filing an administrative appeal with FEMA or filing a lawsuit in U.S. District Court. Some did both. Approximately 2,000 policyholders filed litigation against NFIP insurers over their Sandy flood insurance claims in Federal District courts of New York and New Jersey.

Of the **1,632** eligible cases, **1,630** cases have been settled, with checks issued totaling **\$164,320,515** as of **December 30, 2016**.

### **Neutral Review**

- If the policyholder does not agree with the recommendation, the policyholder has the opportunity to request in writing an additional review of the file by a neutral reviewer, who may be a retired judge or an independent attorney.
- As an additional step, the Neutral Review process is intended to provide the policyholder with a further review of the claim by a neutral third party. In offering the opportunity, FEMA must ensure that the neutral's recommendation aligns with statutory requirements, regulation, FEMA policy, and the Standard Flood Insurance Policy.
- If a policyholder requests a copy of the file, or part of it, the document must go through a redaction process to comply with the federal [Privacy Act and Freedom of Information Act](#). It is true that the Neutral Review takes more time but we must ensure that it is done properly.
- The neutral's recommendations are not a final determination and are not binding on FEMA. The neutral reviewer – as a contractor of the government – does not have the ability to direct payments or bind FEMA to any particular result that requires expenditure of government funds. When the finding by the third-party neutral is compliant with agency regulations and policy, FEMA may adopt the recommendation by the neutral reviewer and may authorize the recommendation for payment to the policyholder.

### **NFIP Transformation**

Beyond the Sandy Claims Review, FEMA is undertaking substantial changes in how the NFIP operates, with a focus on the customer experience and greater oversight of the Write Your Own (WYO) insurance companies. Here are some of the steps we are taking:

- In February 2016, FEMA created an Appeals Branch with insurance specialists, program analysts and staff attorneys to resolve policy disputes on administrative appeal. This new branch plans to

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institute new appeals processes to provide all policyholders the opportunity to explain and confirm any issues raised through an appeals process.

- The Appeals Branch will incorporate lessons learned from the Sandy Claims Review. In the new process, policyholders will receive a statement of fact from a reviewer. The reviewer and the policy holder will discuss the claim and the policyholder may submit additional information. FEMA will document the findings and then issue a decision.
- On March 8, 2016, the Office of Inspector General released an audit, requested by FEMA, which concluded that the agency does not provide adequate oversight of the NFIP. FEMA concurred with all seven recommendations made in the audit report.
- On May 23, 2016, we published a [\*Notice of Proposed Rulemaking\*](#) in the Federal Register, and set in motion a proposal to remove from the NFIP regulations a copy of the current Arrangement between FEMA and the WYO insurance companies. Currently, FEMA must undergo rulemaking every time we seek to update the Arrangement. However, through this rulemaking change, we propose to remove the Arrangement from the NFIP regulations so that FEMA can revise and update the outdated Arrangement without having to go through rulemaking in the future.
- At the same time, we announced steps to control legal costs associated with flood insurance-related litigation. This is important because FEMA reimburses insurance companies that service flood insurance for all reasonable litigation expenses. When a policyholder sues a WYO Company as a fiscal agent of the United States, the company is responsible to its insured and taxpayers to defend the litigation in a cost-effective and appropriate manner.
- On October 14, 2016, **FEMA** published a bulletin to clarify for WYO companies the listing of third parties on a payment check that is not in litigation. The manner in which a flood insurance claim payment is issued, including the payees on a check, is governed exclusively by applicable federal laws and regulation, and the terms of the Standard Flood Insurance Policy (SFIP), **and must comply** with the Assignment of Claims Act. The Sandy Claims Review program only includes policyholders and mortgage companies on NFIP payment checks, however, this bullet lays out the procedures a third party must follow to be included as a payee.
- FEMA has seen instances where costs have gone far too high and as a result some have sought to take advantage of the system. To address this, FEMA has established an oversight team that will work closely with the NFIP to address standard billing practices, provide litigation-related advice and concur on litigation settlements on NFIP cases when asked by a WYO company.
- FEMA has added additional executive level leadership to manage the NFIP. FEMA also intends to increase attorney staffing to engage in a more robust oversight of WYO insurance company litigation and revise guidance.
- NFIP has begun establishing a field office, known as a Flood Response Office (FRO) in some disaster operations to provide technical support to adjusters operating in the impacted area. Being onsite with state insurance officials and in a FEMA disaster field office allowed our NFIP representatives to have more immediate, direct visibility on daily flood-related activities. Embedded

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NFIP experts provided a unique perspective of the customer experience and helped facilitate the relationship between policyholders and the flood insurance program.

- NFIP has introduced advance payments of up to \$10,000 pre-inspection to put money quickly into the hands of policyholders to enable them to start the process of recovery. Since its implementation in 2015, policyholders have received advance payments after severe record flooding affected South Carolina in October 2015, Louisiana in August 2016 and in the five states impacted by Hurricane Matthew in early-October.
- By December 31, 2016, we also expect to have plans to help us improve WYO oversight procedures to monitor special adjustment expenses, eliminating potential abuse when submitted expenses fall below appropriate thresholds.
- FEMA’s hotline, 1-(800) 621-FEMA (3362), is now available to policyholders to specifically address NFIP questions and is tied to the FEMA registration number 1-(800) 621-3362 (option 2). The hotline also allows customers to get to NFIP if they are having trouble with their claim, their adjuster, or engineer. This one-to-one service improves the customer experience and also serves as an “early warning system” for FEMA to become aware of problems sooner, so we can take action to address them.

### **Resources**

- NFIP policyholders with recent flood damage should contact their agent or insurance company and provide their policy number and a telephone and/or email address where they can be reached at all times. An adjuster will call back. To learn more about filing a claim, visit [FloodSmart.gov](http://FloodSmart.gov) or call the FloodSmart helpline (888) 379-9531.
- Policyholders can contact the call center at (800) 621-3362, Monday through Friday from 8 a.m. to 6 p.m. Central Time to obtain a Request for Support form and email it to FEMA-NFIP-Support@fema.dhs.gov or fax to (540) 504-2360.
- The NFIP Transformation website at [fema.gov/moving-forward-flood-insurance](http://fema.gov/moving-forward-flood-insurance) page explains the steps we’re taking to move forward with flood insurance reform.
- The U.S. Senate Committee on Banking, Housing and Urban Affairs issued a majority report, “[Assessing and Improving Flood Insurance Management and Accountability](#),” in the wake of Hurricane Sandy.

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<b>Sandy Claims Review Data (Dec. 30, 2016)</b>	<b>Number</b>
<b>Claims in Sandy Claims Review</b> Total claims entered into review process	19,392
<b>Results of Review Ready (cumulative)</b> Adjuster has reviewed the claim and has held, or is ready to hold, a Results of Review discussion with the policyholder.	19,366
<b>Results of Review</b> Adjuster has notified policyholder of the claim review results.	18,610
Total claims paid or payments proposed to policyholders: <b>15,749</b> Total claims closed and claims with no additional payment proposed: <b>2,694</b>	
<b>Total payments proposed to policyholders to date</b>	\$218,882.409
<b>Claim files closed</b> After all claim review and payment activities are completed, the claim file is closed. Includes: claims with additional payment, claims voluntarily withdrawn and claims closed without additional payment ( <b>2,694</b> ).	12,949
<b>Policyholders with closed, paid claims</b>	10,255
<b>Total payments accepted by policyholders to date</b> Policyholder signs Proof of Loss. FEMA directs the insurance company to process payment for building coverage, contents coverage, or both.	\$135,812,569
<b>Remaining claims to be reviewed</b>	26
<b>Sandy Litigation Report Data (Dec. 30, 2016)</b>	<b>Number</b>
<b>Cases received</b> Number of NFIP policyholders who entered the Sandy Litigation Settlement Process.	1,694
<b>Cases withdrawn from Sandy Litigation Settlement Process</b> These cases returned to litigation.	62
<b>Eligible cases</b>	1,632
New York	750
New Jersey	880
Other states	2
<b>Cases settled</b>	1,630
New York	749
New Jersey	879
Other states	2
<b>Cases tentatively settled</b>	2
<b>Total payments authorized</b>	\$164,320,515
<b>Sandy Neutral Review Data (Dec. 30, 2016)</b>	<b>Number</b>
<b>Total Files Received by Neutral Review Operations Group</b>	2,520
<b>Total Files Completed Neutral Review</b>	302
<b>Final Agency Decision Concurs with Neutral Reviewer's Recommendation</b>	293
<b>Final Agency Decision Does Not Concur with Neutral Reviewer's Recommendation</b>	7
<b>Total Neutral Review Upheld but with Additional Payment Identified by FEMA</b>	2
<b>Total Additional Payments from Neutral Review</b>	\$4,983,917.27

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