

CLAIMS

The claims information outlined in this section describes key aspects of the National Flood Insurance Program (NFIP) process. Information about the claims process can also be found in the *NFIP Flood Insurance Claims Handbook*.

Two important points about NFIP claims payments follow:

- The NFIP Direct Servicing Agent and the WYO Companies (NFIP insurers) pay the insured for direct physical loss by or from flood to the insured's NFIP-insured property [Building Property and Personal Property (contents)]. This means that there must be evidence of physical change to the property.
- Payment for direct physical loss by or from flood can be made if the insured has (1) paid the correct premium, (2) complied with all terms and conditions of the Standard Flood Insurance Policy (SFIP), and (3) furnished accurate information and statements. (See SFIP Section I, Agreement.)

I. OVERVIEW OF THE CLAIMS PROCESS

A. Procedure and Requirements After a Flood

1. Notice

In the event of a loss, the insured must provide prompt notice to the NFIP Direct Servicing Agent or WYO Company (NFIP Insurer). This notice is often made through the policyholder's insurance agent or the insurer's representative.

2. Handling the Claim

a. Working with the Adjuster

Generally, the adjuster will contact the insured within 24–48 hours after receiving the notice of loss. However, depending on local conditions and the severity of flooding, it may take more time. The insured should work cooperatively and promptly with the claims adjuster to determine and document all damaged items.

b. Scoping the Loss

The adjuster will take measurements and photographs and note direct flood damage. This is called "scoping a loss."

c. Preparing a Detailed Estimate

The adjuster will use the information gained from the visit(s), and the documentation the insured has

provided, to complete a detailed estimate of damages. The insured will receive a copy of the estimate. It is to be used as a guide when the insured asks for bids for repair work from licensed professional contractors. The adjuster may ask if the insured would like to request an advance payment from the insurer.

B. The Proof of Loss

1. Completing and Filing the Proof of Loss

The proof of loss is the insured's statement of the amount of money being requested. The proof of loss must be signed and sworn to by the insured with attached documentation to support the amount requested.

After a loss is reported, the insurer will assign an adjuster to assist the insured with the claim. The adjuster will work with the insured to reach an agreed amount for the covered loss. Once the adjuster scopes the damage and provides an estimate of the flood damage, a proof of loss form may be provided for the policyholder to sign and swear to.

The adjuster will assist the insured with preparing a proof of loss. The insured is responsible for preparing the proof of loss, signing and swearing to the proof of loss, and ensuring that the proof of loss is received by the NFIP insurer with the supporting documentation within 60 days after the date of the flood loss.

A complete proof of loss, signed and sworn to by the insured, along with documentation to support the amount requested, is required before a claim can be paid. Any requests for additional payment must be sent to the NFIP insurer within 60 days after the date of loss or within any extension of that deadline made in writing by the Associate Administrator for Federal Insurance and Mitigation.

NOTE: Signing the proof of loss does not waive an insured's rights to make supplemental claims or to amend the original proof of loss. Once the insured signs and swears to the proof of loss form, is paid, and cashes the check(s), the insurer may still make an additional payment if additional flood damage is found and the request for additional payment is supported with the documentation provided within 60 days after the date of the loss. There is only one claim made for a flood loss event, even if multiple proofs of loss are submitted for that claim.

2. Extensions Beyond 60 Days

In severe flood events, the Federal Emergency Management Agency (FEMA) may authorize an

extension of the 60-day time period to send the proof of loss to the NFIP insurer. Such extensions are made in writing by the Associate Administrator for Federal Insurance and Mitigation and publicized via the media or insurance agents and representatives.

3. Steps to Resolve Claim Disputes

Step 1

An insured who does not agree with the adjuster's estimate of damage should work with the adjuster to find a dollar amount for the covered loss that can be agreed to. The insured may also find it helpful during this process to work with their general contractor.

Step 2

If an agreement with the adjuster cannot be reached, the insured may contact the Adjusting Firm to elevate the matter.

Step 3

If an agreement cannot be reached with the Adjusting Firm, the insured may contact the NFIP insurer's claims department to discuss the amount difference or coverage issue with a claim examiner.

Step 4

If an agreement cannot be reached with the claim examiner, then the insured should complete a proof of loss form for the total amount they are requesting (the undisputed amount plus any additional amount). Then, a signed and sworn-to proof of loss form with documentation to support the additional amount being requested should be sent directly to the NFIP insurer's claim examiner.

Step 5

If the NFIP insurer agrees with the insured's documentation, they will pay the amount being requested; or they may provide the adjusting firm with their recommendation, which may lead to an additional payable amount and a new signed and sworn to proof of loss. If the insurer disagrees, they will issue payment for any undisputed amount, and a written denial letter will be sent to the insured fully explaining the reasons for the disallowance (denial) of the claim or any portion of the claim.

If the insured agrees with the denial or no longer disputes the decision, the loss is settled. If the insured disagrees, he or she may appeal the claim by following the process described in subsection D, *Appealing a Claim*.

C. Claim Payment

Once the insured has received final payment for the building and/or personal property, the claims process is complete. If the policy has been written correctly, the claim payment will be based on the agreed-upon proofs of loss, subject to the coverage limits and deductibles indicated on the policy Declarations page at the time of loss.

NOTE: If it is discovered that the policy is misrated, it must be reformed in accordance with the SFIP and General Rules subsection IX.D, *Reformation and Reduction of Coverage*.

D. Appealing a Claim

Once the claim or any portion of the claim has been denied or disallowed in writing, the insured may appeal that decision directly to FEMA within 60 days of the date of the NFIP insurer's denial letter. This will initiate an administrative review by FEMA of the insurer's handling of the claim.

Insureds who have already filed suit against their insurer or who entered into appraisal to determine the amount of their loss are ineligible for the appeals process.

An appraisal may be used when the dispute is about the amount of the claim, but neither coverage, nor the scope of the loss, may be included in the appraisal process. In the appraisal process, the insured and the NFIP insurer each hire a competent and impartial appraiser. If these appraisers cannot agree on an amount, together they hire an arbitrator who can be requested to be a judge of a court of record in the State in which the insured property was located at the time of loss.

1. Filing an Appeal

Appeal letters should include:

- Insured name;
- Property address;
- The flood insurance policy number (shown on the policy's Declarations Page);
- Contact information; *and*
- The relationship of the author if the author of the letter is a representative of the policyholder (e.g., a relative, a public adjuster, or an attorney). The author must be ready to show FEMA documented proof of that relationship when asked.

It is also important to include the names of everyone who has handled or been involved with the claim, and copies of all documents that will support the review. More information about the specific documents FEMA requires for appeals can be found on pages 10-12 of the NFIP Flood Insurance Claims Handbook referenced in the beginning of this section.

Appeal letters and documentation should be sent to the following address:

Federal Insurance and Mitigation Administration
Federal Insurance Administrator
400 C St. SW, 3rd Floor
Washington, D.C. 20472-3010

2. Appeal Process

Once FEMA receives the appeal letter, the agency will conduct a review of the entire claim file and ensure that all the terms and conditions outlined in the SFIP of the insured's responsibilities have been met. The agency will then determine whether the claim was evaluated and paid properly.

Shortly after receiving the appeal, FEMA will send a letter acknowledging receipt of the appeal and request the claim file including all supporting documentation from the insurer. If FEMA determines additional information or documentation is needed, insureds will have 14 calendar days to submit the requested documentation.

Within 90 days of receiving all necessary documentation, FEMA will make a determination and send the named insured and the insurer a decision letter explaining the resolution, and include next-step information.

If FEMA agrees with the insured, FEMA will recommend appropriate action(s) the insurer should take. If FEMA

disagrees with the insured, FEMA will provide an appeal denial letter with a detailed explanation of its denial. If new questions are raised or an insured provided new documentation to support the appeal, FEMA may recommend that the insured submit that information directly to the insurer for consideration of additional payment.

After an appeal has been filed and an insured still does not agree with the decision, a lawsuit may be filed within one year of the insurer's first written denial letter. A lawsuit can only be filed in United States District Court in the district where the property is located at the time of the loss. The appeal process does not extend the 1-year period to file suit beginning with the original written denial by the insurer. Subsequent written denials do not restart the 1-year period.

II. INCREASED COST OF COMPLIANCE (ICC) CLAIMS

The insured may file an ICC claim once they have received a letter from the community official stating the insured building is substantially damaged by flood, that is, the cost to repair flood damage is 50 percent or more of the market value of the building. The insured should contact the flood adjuster or the insurer's claim representative to file the ICC claim. The insured has up to 6 years from the date of the underlying flood loss to complete the approved mitigation activity (floodproofing, relocation, elevation, demolition or any combination of these activities). The insured should be aware that beginning a mitigation project prior to receiving the substantial damage letter from the community official will jeopardize their eligibility to receive ICC funds towards the project.

