

## FACT SHEET

# Public Assistance Appeals & Arbitration under the Disaster Recovery Reform Act

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This Fact Sheet explains how certain applicants for FEMA Public Assistance may request arbitration with the Civilian Board of Contract Appeals (CBCA).

## Background

Section 1219 of the Disaster Recovery Reform Act of 2018 (DRRA) amended Section 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to provide a right of arbitration for applicants who dispute a FEMA determination on their Public Assistance application, including eligibility for assistance or repayment of assistance. FEMA refers to this arbitration as “Section 423 arbitration.”

## Eligible for Section 423 Arbitration

To be eligible for Section 423 arbitration, a Public Assistance applicant’s request must meet **all three** of the following conditions:

1. The dispute arises from a disaster declared after January 1, 2016; and
2. The disputed amount exceeds \$500,000 (or \$100,000 if the applicant is in a “rural area,” defined as having a population of less than 200,000 living outside an urbanized area); and
3. The applicant filed a first-level appeal with FEMA pursuant to the time requirements established in 44 Code of Federal Regulations (C.F.R.) § 206.206.

## Not eligible for Section 423 Arbitration

1. Applicants who do not file a first-level appeal pursuant to the time requirements established in 44 C.F.R. § 206.206; and
2. Applicants who were eligible to file a second-level appeal, but did not do so within the time requirements established in 44 C.F.R. § 206.206; and
3. Applicants who file a second-level appeal pursuant to 44 C.F.R. § 206.206; and
4. Applicants who received a second-level appeal determination from FEMA.



# FEMA

# Time limits for filing a second-level appeal or a request for Section 423

## Arbitration

Applicants must file a second-level appeal or Section 423 arbitration request within 60 days after receipt of the first appeal decision. If the applicant takes neither action, the applicant no longer has a right to appeal or arbitrate.

If FEMA does not issue a first-level appeal decision within 180 days of receiving the appeal, the applicant may withdraw the first-level appeal and request Section 423 arbitration. In this circumstance, the applicant must file the request for Section 423 arbitration within 30 days of withdrawing their first appeal.

## Appeals & Arbitration Request and Process

FEMA's regulations on appeals, found in 44 C.F.R. § 206.206, are still in effect and provide the required process for Public Assistance applicants to file first- and second-level appeals.

CBCA regulations at [48 C.F.R. 6106.601 - .613](#) provide the CBCA's rules of procedure for FEMA Section 423 arbitrations. Public Assistance applicants may request arbitration by emailing the request to the CBCA at [cbca.efile@cbca.gov](mailto:cbca.efile@cbca.gov); an applicant must submit its request for arbitration in writing simultaneously to the recipient, the FEMA Regional Administrator, and the arbitration administrator (the CBCA); "Each party shall have one primary representative. This person need not be an attorney..."; and "[n]o party is required to provide additional evidence. An applicant or grantee may, but need not, supplement materials it previously provided to FEMA regarding the dispute."

FEMA also intends to initiate a revision of 44 C.F.R. § 206.206 to implement Section 423 arbitration. Until FEMA finalizes such regulations, the Agency will rely on procedures indicated in this Fact Sheet and the CBCA's regulation at 48 C.F.R. Part 6106.

## Notification of Right to Arbitrate

When FEMA issues a first-level appeal denial for a dispute arising from a declaration since January 1, 2016, the Agency will provide the applicant specific information on how it may further request either a second-level appeal or Section 423 arbitration.

## Costs

The CBCA arbitrates at no cost to the parties. Other expenses, including attorney's fees, representative fees, copying costs, costs associated with attending any hearing, or any other fees not listed in this paragraph will be paid by each party incurring such costs.

## Questions

Questions concerning Public Assistance, including appeals and arbitration, should be directed to the Public Assistance Branch Chief in the applicable FEMA Regional Office.

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