




FEMA

W-17013

April 4, 2017

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and the
National Flood Insurance Program (NFIP) Direct Servicing Agent

FROM: 
David I. Maurstad
Assistant Administrator for Federal Insurance
Federal Insurance and Mitigation Administration

SUBJECT: Denial Letter Requirements

WYO Clearinghouse Bulletin W-09002, issued January 12, 2009, directed insurers to issue adequate denial letters to policyholders. This bulletin updates FEMA guidance regarding what constitutes an adequate denial letter.

The WYO Companies and NFIP Direct must include the following elements in all denial letters:

- The date of the denial letter;
- The name of the policyholder(s);
- The mailing address;
- The loss location;
- The date of loss;
- The date(s) that the policyholder submitted a request for payment (e.g., advance payment, proof of loss) or failed to comply with a material term of the Standard Flood Insurance Policy (SFIP) (e.g., failed to submit a proof of loss);
- The item(s) denied with the corresponding dollar amount denied, whenever applicable;
- A plain-language explanation for the non-payment or non-coverage;
- Citations to the relevant sections of the SFIP; and
- A web link to the SFIP.

Insurers should continue to acknowledge coverage restrictions in their communications with policyholders. Nothing in this bulletin is intended to broaden coverage or change standard claims handling procedures.

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With every denial, the WYO Companies and NFIP Direct must also include an attachment that explains the rights of the policyholder after a whole or partial denial. In Attachment A to this bulletin, FEMA is providing the policyholder rights document. WYO Companies may modify this document to the extent that they want to include any brand identity or contact information elements.

The attachment provides policyholders with the option to submit flood insurance appeals by email. Accordingly, FEMA encourages WYO Companies and NFIP Direct to email copies of any denial letter, with the policyholder rights attachment, to their policyholders whenever possible.

Finally, FEMA is currently receiving appeals prior to the policyholder receiving a denial letter. FEMA reminds the WYO Companies and NFIP Direct that the SFIP does not authorize an adjuster to approve or disapprove claims, or to tell the policyholder whether the insurer will approve the claim. The adjusters may answer general flood insurance coverage questions in the effort to provide good customer service to policyholders, but should also inform policyholders that the insurers provide the final claim decision. FEMA asks that the WYO Companies and NFIP Direct have their adjusters inform policyholders that they cannot file an appeal until they receive a denial letter. The proper sequence for claims handling and dispute resolution is explained in the FEMA Fact Sheet, "Flood Claims Process," available on www.fema.gov.

This bulletin rescinds WYO Clearinghouse Bulletins W-06079 (Oct. 13, 2006), W-08043 (July 8, 2008), and W-09002 (Jan. 12, 2009) to the extent that they are inconsistent with the direction provided herein.

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Data Processing, Marketing, Underwriting

Policyholder Rights

Actions Available When You Disagree with your Claims Settlement Amount

The Federal Emergency Management Agency (FEMA) encourages all flood insurance policyholders with questions to talk to their adjusters or insurers. Your adjuster and insurer can help clarify how the flood insurance policy applies to your claim and take immediate action if needed.

After you receive a full or partial claim denial letter from your insurer, you have several options available if you disagree with the claim denial:

Appeal within 60 days of denial. You may file a flood insurance appeal directly to FEMA oversees the National Flood Insurance Program (NFIP).

- You must file your appeal within sixty (60) days of the date of the insurer's denial letter by sending it to FEMA, 400 C Street SW, 3rd Floor SW, Washington, D.C. 20472-3010 or FEMA-NFIP-Appeals@fema.dhs.gov.
- When you appeal, you must explain the issue(s) in writing, include a copy of the denial letter, and provide any supporting documentation.
- Once you appeal, you can later choose to file suit against your insurer, but you can no longer seek appraisal under your flood insurance policy.
- You cannot appeal after initiating the appraisal or litigation options.

Seek appraisal for disputes above the claim settlement amount of a covered loss (if applicable). The flood insurance policy permits policyholders to request appraisal of the amount of loss for flood damaged property.

- If you and your insurer agree that a covered loss occurred but disagree about the dollar amount of the loss, appraisal could completely resolve the claim.
- You cannot appeal after initiating the appraisal option.

File suit within one (1) year of the denial of your claim. Federal law permits you to file suit in the Federal District Court where the damage occurred within one (1) year of when your insurer first denied all or part of your claim (42 U.S.C. § 4072; 44 C.F.R. § 62.22).

- If FEMA's NFIP Direct is your insurer, you may file suit against FEMA.
- For all other insurers, you must sue the insurer. FEMA is not a proper party pursuant to 44 C.F.R. § 62.23(g).
- Filing an appeal does not extend the period to file suit against your insurer.
- You may file suit after filing an appeal with FEMA.
- You cannot appeal after initiating the litigation option.

Letters of Representation. Whenever you want to authorize another party to speak with FEMA about your claim, you will need to do so in writing. By law, FEMA must obtain this authorization to protect your privacy. To authorize another individual(s) to represent you, please submit documentation that includes your full name, address, date and place of birth, the name(s) of your representative(s), and your signature. You must have this document notarized or include the following statement: "I declare under penalty of perjury that the foregoing is true and correct. Executed on <DATE>. <SIGNATURE>."

Additional Information. For more information about flood insurance claims, please reference the *Flood Insurance Claims Handbook* mailed to you by your insurer (also available online at www.fema.gov).