



FEMA

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June 4, 2015

MEMORANDUM FOR: Write Your Own (WYO) Company Principal Coordinators, WYO Vendors, NFIP Servicing Agent, and Independent Adjusting Firms



FROM: Brad J. Kieserman
Deputy Associate Administrator for Insurance
Federal Insurance and Mitigation Administration

SUBJECT: Advance Payments and Debris Removal Under Standard Flood Insurance Policies

As a result of the widespread and extensive flood damage in the States of Texas and Oklahoma from torrential rains in late Spring 2015, FEMA is issuing the following conditional waivers regarding advance payments and debris removal:

Advance Payments

FEMA is making every effort to ensure that accurate settlement of Standard Flood Insurance Policy ("SFIP") claims to thousands of flood policyholders occurs in a prompt manner. Therefore, I am authorizing a conditional waiver of the requirements in the General Conditions section of the SFIP Dwelling Form [Section VII (J) and (M)], General Property Form [Section VII (J) and (M)], and Residential Condominium Building Association Policy Form (RCBAP) [Section VIII (J) and (M)] to allow advance payments prior to the property inspection being completed to a policyholder who sustained flood damage as a result of the current flood event. When the notice of loss is received, the company will confirm contents coverage and validate that the insured building and contents have been flooded. After the insurer determines that a general and temporary condition of flood as defined in the SFIP existed and damaged the property, an advance payment not to exceed \$5,000.00 can be made to the insured. The advance payment should be made using their contents coverage limits only. I strongly encourage the issuance of advance payments if possible and a non-waiver agreement should be signed by the insured.

A written notice must accompany the advance payment to the insured. The written notice must inform insureds that:

1. The advance payment is being applied against insureds' contents claim and is not a payment for Additional Living Expenses (ALE). ALE is specifically excluded in the SFIP.
2. The advance payment is conditioned upon insureds signing the standard non-waiver agreement.

3. Endorsement of the check constitutes a certification that the insured has a good-faith belief that the insured contents suffered a covered loss and that the insured understands that by endorsing the check, he/she understands that he/she will asserting a claim to Federal funds.
4. The insureds understand that if the loss is determined to not be a payable loss, if there was not a flood loss at all, or if the advance payment exceeds the amount of actual loss, the advance payment (or portion thereof) must be repaid, which is why the non-waiver agreement must be signed.
5. Acceptance of an advance payment will not affect the insureds' right to seek additional payments under the terms and conditions of their SFIP.
6. After the claim is settled, the final payment will be reduced by the amount of any advance(s) made to the policyholder.
7. The named insured must consent to the terms and conditions of receiving this waiver to receive this advance payment, and endorsing and negotiating the advance payment will constitute consent.

If a WYO Company issues an advance payment in accordance with the terms and conditions set forth in this bulletin to an insured suffering flood damages, FEMA will use these standards in all reviews or audits of files, including any reviews under the Arrangement or the Improper Payments Information Act of 2002 (Public Law 107-300, 33 U.S.C. §3321 note), as amended by the Improper Payment Elimination and Recovery Act of 2010 (Public Law 111-204). If the WYO Company makes an advance payment in accordance with the terms and conditions of this Bulletin, FEMA will not hold the company responsible for ineligible payments. The company will need to make best efforts to recoup the funds, but if unable to do so, the recoupment shall be referred to FEMA for appropriate action. However, if a WYO Company makes an advance payment that results in an unauthorized payment without complying with the terms and conditions set forth in this Bulletin, the company will be responsible for the erroneous payment.

Debris Removal

The National Flood Insurance Program (NFIP) Standard Flood Insurance Policy (SFIP) makes available a maximum of \$100,000 coverage for contents in a dwelling and up to \$500,000 for commercial contents/inventory/stock, but actual coverage is dependent upon the limits selected and purchased by the policyholder. The SFIPs, which are codified in Federal regulation at 44 C.F.R. Part 61, Appendix A(1) (the Dwelling Form), Appendix A(2) (the General Property Form), and Appendix A(3) (the Residential Condominium Building Association Policy or "RCBAP"), require the policyholder to separate damaged from undamaged property, putting it in the best possible order so the adjuster may examine it.

The policyholder is responsible for proving the loss and for complying with the requirements for presenting a claim as set forth in Section VII, parts (J) and (K) of the Dwelling and General Property form SFIPs and Section VIII, parts (J) and (K) of the RCBAP. As set forth in the SFIPs, the insured is responsible for separating damaged and undamaged property presenting the damaged property to the adjuster/insurer for inspection and preparing an inventory of damaged property as required by their policy. The insured must also timely submit a signed and sworn Proof of Loss, attaching documentation to fully support the amount claimed.

For dwelling policies only, in the event the community has scheduled the mandatory removal of contents or building debris and the flood-damaged debris must be removed before the adjuster is able to examine it because of health and safety reasons, the policyholder is not required to separate and show the damaged property and may comply with the SFIP's requirement by providing photographs of the damaged property showing the existence of the item and damage to it. The photographs should particularly demonstrate the existence and damage to expensive and high-quality items, but they should also include all removed items. Policyholders should keep samples or swatches of carpeting, wallpaper, furniture upholstery, window treatments, and other items for which the type and quality of material will impact the claim payment amount. Such photographs, documents, and samples should minimize any potential problem in proving the loss. Photographs should also include groups of clothing, kitchen, and furniture items. These items, along with the insured's written inventory of damaged contents and any receipts, bills, or estimates of cost will be given proper consideration by the insurer.

This process applies to all contents that are damaged and will be claimed, including those contents in attached garages, detached garages, and other structures that meet the SFIP's definition of a "building." Note: Unless those other buildings also have a separate SFIP issued for them, damages to those buildings are not covered, but contents in them may be covered. Generally, there is a one-policy-per-building requirement in the NFIP.

This exception to presenting the damaged property for inspection may not fully apply to commercial policies with contents coverage. In many cases, the commercial contents/stock/inventory claim can require an expert (such as a forensic accountant) to determine the amount of the loss because of turnover in inventory or partial use of the inventory by the business. If the policyholder has already hired an expert to help prove the loss, the insurer will give proper consideration to the information presented. Insurers should ask commercial policyholders if an expert has been hired to assist with contents/stock/inventory claim.

This exception to the process of presenting damaged items for inspection can also apply to any building debris that must be removed by the insured for health and safety reasons.

Authority: 44 C.F.R. § 61.13(d); 44 C.F.R. §§61, Appendices A(1), A(2) and A(3), General Condition (D); 44 C.F.R. § 62.23(k); 44 C.F.R. § 62, Appendix A(1), Articles II(G) and IV(B); 42 U.S.C. § 4019.

cc: Vendors, IBHS, and Government Technical Representative

Required Routing: All Departments and Independent Adjusting Firms