



FEMA

W-06079

October 13, 2006

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

FROM: *David I. Maurstad*
David I. Maurstad
Federal Insurance Administrator
National Flood Insurance Program
Mitigation Division

SUBJECT: Formal Appeals Process – Issuance of Denial Letter

WYO Clearinghouse Bulletin W-06040, issued on June 8, 2006, announced the May 26, 2006, Federal Register publication of an interim final rule, which implemented section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (FIRA) of 2004. The interim final rule added a formal appeals process to the NFIP regulations. Further, a final rule was published in the October 13, 2006, Federal Register, which finalized the regulation on the formal appeals process.

As you know, both FIRA of 2004 and the Standard Flood Insurance Policy (SFIP) allow an insured who is dissatisfied with an insurer's decision to deny a claim, in whole or in part, to file a lawsuit in Federal district court for the disallowed portion of the claim, or to invoke the appraisal provision of the SFIP. The rule provides an additional avenue, the formal appeals process, for resolving flood insurance disputes. The formal appeals process is not available to an insured that has filed suit or is or has been subject to appraisal. Also, the appeals process outlined in the rule does not abolish or replace the right to file a lawsuit against the insurer pursuant to the National Flood Insurance Act of 1968 as amended, nor does it expand or change the 1-year statute of limitation to file suit against the insurer for the disallowed portion of the insured's claim.

The appeals process is available after the issuance of the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim. Therefore, in order for the policyholder to comply with the requirements of the appeals process, the WYO Companies and the NFIP Servicing Agent must make sure that they provide a written denial letter to policyholders when their claim, in whole or in part, is denied. The denial letter should provide specific information on the reasons why the claim was denied.

The WYO Companies and the NFIP Servicing Agent should immediately begin to include in the denial letters, wording that announces the formal appeals process. We suggest the following: “If you do not agree with your insurer’s decision to deny your claim or any part of the claim, Federal law allows you to appeal that decision within 60 days of the date of this denial letter. Your appeal must be in writing and include: a copy of this letter, a copy of the completed Proof of Loss form you submitted to the insurer, your written statement of the basis for the appeal in as much detail as possible including relevant policy and claim information, and all the documentation that supports your written statement. The appeal must be sent to: Federal Emergency Management Agency, Mitigation Division, Federal Insurance Administrator, 500 C Street, SW, Washington, DC 20472. You may not appeal if you are or have been subject to appraisal or have filed suit on the matter(s) upon which the insurer’s denial of your claim or any part thereof is based.”

In order for the Federal Insurance Administrator to provide a timely written final appeal decision to the policyholder, it is imperative that any request made to a WYO Company and the NFIP Servicing Agent by FEMA or the NFIP Bureau and Statistical Agent for information is fulfilled within 48 hours. In most cases, a copy of the claim file will be requested (the copy, including all photographs, must be legible). In all cases, the response to a request for information must include a detailed synopsis of the claim handling that focuses on the issues related to the denial.

I want to thank each of you in advance for your cooperation in this important endeavor.

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Claims, Legal, Underwriting