



FEMA

W-09002

January 12, 2009

MEMORANDUM FOR: Write Your Own (WYO) Company Principal Coordinators,
the National Flood Insurance Program (NFIP) Servicing Agent,
and Selected Adjusting Firms

A handwritten signature in black ink, appearing to read "James A. Sadler".

FROM: James A. Sadler, CPCU, AIC
Director of Claims
National Flood Insurance Program

SUBJECT: Formal Appeals Process – Issuance of Denial Letter (Revised)

WYO Clearinghouse Bulletin W-06079, issued on October 13, 2006, announced the Formal Appeals Process – Issuance of Denial Letter as instruction to the WYO Companies and the NFIP Servicing Agent of their role in the Formal Appeals Process. The purpose of the current Bulletin is to reiterate the process, to emphasize the importance of an adequate denial letter, and to provide a revised address for the Federal Insurance Administrator.

As you know, both the Flood Insurance Reform Act (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. A final rule published in the Federal Register on October 13, 2006, provides an additional avenue, the formal appeals process, for resolving flood insurance disputes. The formal appeals process is not available to an insured who has filed suit or whose claim is or has been subject to appraisal. Also, the appeals process outlined in the final 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 after the insurer's full and complete investigation of the 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. When the reasons given in the denial letter do not agree with the actual facts of the claim, then that letter could be faulty and may not trigger the appeals process required by FIRA 2004. In

such a case, FEMA will forward the policyholder's letter to the insurer requesting that they deal directly with the policyholder to close the matter until a final determination is made and an adequate denial letter is sent.

The WYO Companies and the NFIP Servicing Agent should immediately begin to include in their final claim determination denial letters, wording that announces the formal appeals process. FEMA recommends the following language:

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 Directorate, Federal Insurance Administrator, 1800 South Bell Street, Arlington, VA 20598-3010**. To avoid delays, it is critical that you use the complete ZIP + 4 Code given here. You may not appeal if your dispute is or has been subject to appraisal or you 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 or 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 again for your continued cooperation in this important endeavor.

Please note that the new mailing address for the Federal Insurance Administrator in the recommended language above is to be used for all correspondence to all branches of the Mitigation Directorate's Risk Insurance Division, including Claims and Appeals, Industry and Public Relations, Operations Management, and Underwriting:

**Federal Emergency Management Agency
Mitigation Directorate
[Branch Name Here]
1800 South Bell Street
Arlington, VA 20598-3010**

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Claims, Legal, Underwriting