




FEMA

W-17013a

October 16, 2017

MEMORANDUM FOR: Write Your Own (WYO) Company 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
(Supersedes WYO Bulletin W-17013)

FEMA believes a properly constructed denial letter can help policyholders better understand why the Standard Flood Insurance Policy (SFIP) does not cover all or part of their claims. To that end, on April 4, 2017, FEMA issued WYO Clearinghouse Bulletin W-17013 to mandate standard elements for all denial letters and the establishment of a policyholder rights attachment.

Since issuing W-17013, FEMA has observed inconsistent incorporation of the denial letter elements by the WYO Companies and NFIP Direct. In addition, FEMA has revised the policyholder rights attachment based on feedback received since its issuance. As such, this bulletin rescinds and replaces W-17013 with additional explanation.

In WYO Clearinghouse Bulletin W-09002, issued January 12, 2009, FEMA directed insurers to issue adequate denial letters to policyholders. With W-17013, FEMA pursued two separate but related goals concerning adequate denial letters. First, FEMA sought to improve the policyholder experience at the time of denial by providing a plain-language description and standardized information fields. Second, FEMA wanted to remove the elements concerning appeals and litigation to a separate, standalone document, while also highlighting other options policyholders could undertake following a partial or complete denial of their claims.

In order to accomplish the goal of improving the policyholder experience at the time of denial, the WYO Companies and NFIP Direct **must include** the following elements in all denial letters:

- **The date of the denial letter.** The date of the initial denial letter begins the one-year period from which the policyholder may file suit; the denial letter date also triggers the 60-day period to file an appeal with FEMA under Title 44, Code of Federal Regulations, Section 62.20.
- **The name(s) of the policyholder(s), the mailing address, and the loss location.** While straightforward, these elements are especially important when policyholders involve legal representatives, public adjusters, or other representatives when submitting a claim for payment (i.e., the proof of loss).

- **The date of loss.** Necessary when policyholders file claims for the same properties across multiple events.
- **The date(s) the policyholder submitted a request for payment (e.g., advance payment, proof of loss) or failed to comply with a material term of the SFIP (e.g., failed to submit a timely proof of loss).** Sequentially, a denial letter should be issued only after the policyholder submits a signed and sworn proof of loss, signs the final adjuster's report, or fails to comply with a material term of the SFIP.
- **The item(s) denied with the corresponding dollar amount denied, whenever applicable.** Denial letters should avoid general terms such as "various items" or "finished items in a basement," and instead list the items not covered by the SFIP.
- **A plain-language explanation for the non-payment or non-coverage.** Rather than quote the SFIP at length, the denial letter should explain why the SFIP does not provide coverage.
 - Example: "The Standard Flood Insurance Policy does not cover shrubs. We therefore must deny the part of your claim seeking payment for shrubs. This limitation appears in the SFIP at Section IV, Paragraph 6."
 - Not: "The above-referenced claim has been closed without payment.
IV. PROPERTY NOT COVERED
6. Land, land values, lawns, trees, shrubs, plants, growing crops, or animals[.]"
- **Citations to the relevant sections of the SFIP and a web link to the SFIP.** This should complement the plain-language explanation, not replace it.

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.

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. FEMA intends for this attachment to replace the previous standard paragraphs in the denial letters themselves concerning appeals and litigation.

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 adjusters 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 insurer provides 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 fema.gov.

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This bulletin rescinds WYO Clearinghouse Bulletin 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, and rescinds and replaces W-17013 (Apr. 4, 2017) in its entirety.

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Data Processing, Marketing, Underwriting

Policyholder Rights



FEMA

You have options if your flood insurer denies your claim

We understand that the claims process is not always an easy one, but we are here to support you. If you do not agree with your insurer's decision to deny your claim and you receive a full or partial claim denial letter from your insurer, you have several options:



Work with your insurer. We encourage you to first talk to your adjuster or insurer for any specific questions about your claim. Your adjuster can answer general questions and assist you in proving your loss. Your insurer can address specific questions and make final decisions about your claim. If you need to correct or add to any previously submitted proof of loss, you can submit an amended proof of loss directly to your insurer. You must sign and swear to an amended proof of loss and include documentation to support your loss and the dollar amount requested.



File an appeal. You may file a flood insurance appeal directly to us at FEMA, the Federal agency that oversees the National Flood Insurance Program (NFIP). On appeal, FEMA will work with you and your insurer to gather the claim facts, review the applicable guidance, policy terms and conditions, and provide an appeal decision that explains why FEMA is upholding or overturning the decision.

- To file an appeal, you must explain the issue(s) in writing, include a copy of the denial letter from your insurer, and provide any supporting documentation.
- There is no fee to file an appeal and you do not need a third party to represent you. If you have a third party represent you, FEMA will not pay for any costs incurred for representation. By law, FEMA cannot discuss your claim with a third-party representative unless you provide certain information in writing. Please see "Authorize Someone Else to Represent You" at <https://www.floodsmart.gov/flood/appeal-your-claim-payment> for more information.
- You must file your appeal within 60 days of the date of the insurer's denial letter by sending it to FEMA, 400 C Street SW, 6th Floor SW, Washington, D.C. 20472-3010, or FEMA-NFIP-Appeals@fema.dhs.gov. **FEMA will receive and begin processing emailed appeals more quickly than those sent via U.S. mail or express carrier.** Please note that due to cybersecurity requirements, FEMA cannot access file sharing sites, CDs, DVDs, or any electronic storage devices.
- If you appeal, you can later choose to file suit against your insurer as long as you are still within the one-year timeframe available to file suit, but you can no longer seek appraisal.



File a lawsuit. Federal law permits you to file suit in the Federal District Court where the damage occurred within one year of when your insurer first denied all or part of your claim.

- You must file suit against your insurer. If the NFIP Direct is your insurer, you may file suit against FEMA. For all other flood insurers, you may not file suit against FEMA.
- Filing an appeal does not extend the one-year timeframe to file suit against your insurer.
- Prior to or after filing a lawsuit, you may want to invoke the appraisal provision of the Standard Flood Insurance Policy. Appraisal is a viable alternative to a lawsuit when the only dispute between you and your insurer involves the price to be paid for a covered flood-damaged item.
- After filing an appeal to FEMA, you may still file suit against your insurer, but once you initiate litigation you can no longer file an appeal.