

ARE YOU READY?

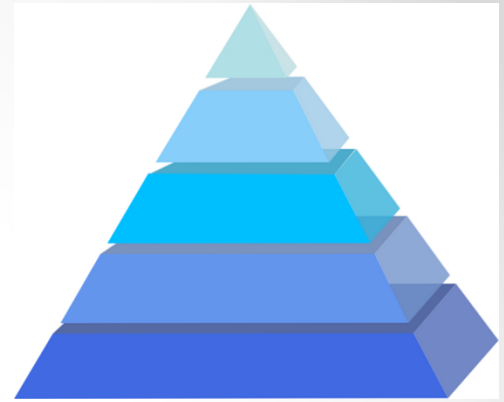
How to Prepare for What Happens After a Hurricane

Jose Fons, LEGAL SERVICES OF GREATER MIAMI, INC.

FEMA ASSISTANCE

- **Declaration from the President** - The Governor of the State must request that the President issue a Declaration of Disaster so that the state will be eligible for federal disaster assistance programs. 44 C.F.R. § § 206.35 & 206.36.

Hierarchy for Relief & Recovery



1. Red Cross (shelters, food, transportation, financial aid)
2. Other Voluntary Relief Efforts
3. Insurance Proceeds
4. SBA Disaster Loans for Personal and Business Use
- 5. FEMA Benefits**
6. Public Benefits (disaster unemployment, disaster food stamps)

REGISTRATION



60 Day Registration Period. 44 C.F.R. § 206.112(b).

FEMA will accept late registrations for an additional 60 days with justification and suitable documentation. 44 C.F.R. § 206.112(c).

FEMA's SINGLE HOUSEHOLD RULE:

FEMA will include all members of a pre-disaster household in a single registration and will provide assistance for one temporary housing residence. 44 C.F.R. § 206.117(b)(1)(ii)(B).

Boarders/Roommates → Need to show financial independence and inability to relocate together

What Law Applies?

- Stafford Act: 42 U.S.C. § 5174
- Implementing Regulations – 44 C.F.R. § § 206.110-206.120
- FEMA's Individual Assistance Program and Policy Guide (IAPPG) –
- www.fema.gov – general information, press releases, FAQs, publications

WHO IS ELIGIBLE?

- **IMMIGRATION STATUS:** At least one member of the household must be a **U.S. Citizen, Non-Citizen National, or Qualified Alien status** (LPR, asylee, refugee). **Parents may apply on behalf of their minor USC children.**
- Insufficient (or no) insurance coverage
 - If claim was denied or delayed may be eligible for assistance but will need to repay FEMA upon receipt of insurance proceeds – 44 C.F.R. § 206.113(a)(3)
- Applicant's necessary expenses and serious needs are **directly caused** by a declared disaster
- **Housing Assistance → 1. Occupy 2. Own Home at time of Disaster**

WHO MAY BE INELIGIBLE?

- PERSONS DISPLACED FROM SOMEWHERE OTHER THAN THEIR PRE-DISASTER PRIMARY RESIDENCE. 44 C.F.R. § 206.113(b)(1).
- PERSONS WITH ADEQUATE RENT FREE HOUSING ALTERNATIVES. 44 C.F.R. § 206.113(b)(2).
- PERSONS WHO OWN RENTAL PROPERTY OR SECONDARY PROPERTY WITHIN REASONABLE DISTANCE TO WORK, ETC. 44 C.F.R. § 206.113(b)(3).
- PERSONS WHO FAILED TO MAINTAIN FLOOD INSURANCE AS A REQUIREMENT OF RECEIVING PREVIOUS DISASTER ASSISTANCE (44 C.F.R. § 206.113(b)(8) OR HAVE ADEQUATE INSURANCE COVERAGE TO MEET NEEDS. 44 C.F.R. § 206.113(b)(6).

Individuals & Households Program (IHP) – Housing Assistance

**MAXIMUM AMOUNT OF ASSISTANCE
FROM IHP PROGRAMS = \$34,000 (2018)**

Eligibility Criteria - Dwelling is “**uninhabitable**”, meaning **not safe, sanitary, or fit to occupy** and requires repairs to make it habitable; **or** “**inaccessible**”, meaning cannot reasonably be expected to gain entry – **IAPPG at page 78.**

- **HOUSING ASSISTANCE**

- **Financial Assistance**

1. Lodging Expense Reimbursement (LER, i.e., hotels)
2. Rental Assistance
3. Repair
4. Replacement

- **Direct Assistance – Units provided by FEMA (i.e. trailers)**

LER Explained

Expenses for reasonable short-term accommodations incurred in the immediate aftermath of a disaster

Eligibility Criteria – Uninhabitable; or Inaccessible AND incurred expenses; not insured; did not receive lodging assistance from another source – **IAPPG at page 78-79.**

- Hotel Receipts
 - Name and Contact Information for Hotel
 - Name of Applicant
 - Dates of Stay
 - Amount Paid
- Proof that Home was Uninhabitable
 - Document from electric company showing power was out
 - Letter from Landlord that home was damaged and tenant required to vacate
 - Order of Evacuation



Rental Assistance Explained

Eligibility Criteria – Uninhabitable; or Inaccessible; or Utility Outages; or Forced Relocation... AND not insured; willing to relocate; does not have access to adequate rent-free housing – **IAPPG at page 80-81.**

- Money is only for rent, not security deposits or utilities –
 - Usually issued in 2-month increments
 - Only one Rental Assistance award per household to assist all members of the pre-disaster household
 - Required to recertify for Continued Temporary Rental Assistance
 - Need to **request recertification paperwork (IAPPG at page 81)**
 - Declaration of Continuing Need
 - Proof that funds were used toward rent
 - Pre and post disaster lease agreements, rent receipts
 - Proof of pre-disaster and post-disaster income
 - Proof of pre-disaster and post-disaster utilities
 - Permanent Housing Plan

Home Repair Explained

- **REPAIRS:** TO RESTORE HOME TO SAFE AND SANITARY LIVING CONDITION. 44 C.F.R. § 206.117(b)(2). AVAILABLE TO **HOMEOWNERS ONLY** and MUST SHOW **INSURANCE IS DENIED, INADEQUATE, OR DELAYED.**
- **Eligibility Criteria – IAPPG at 87**
 - Repair of component is necessary to ensure safety or health or to make component or residence habitable;
 - Component was functional pre-disaster
 - Damage caused by disaster
 - Damage is **not** covered by insurance

NOT INTENDED to return the home to its pre-disaster condition

Home Repair (Cont'd)



- **WHAT'S COVERED? – IAPPG at page 86-87**
 - Structural components (Foundation, Exterior Walls, Roof);
 - Windows and Doors;
 - Heating, Ventilation and A/C systems;
 - Utilities (electrical, plumbing, gas, water/sewer);
 - Interior (floors, walls, ceilings, doors and cabinetry);
 - Structure's access and egress;
 - Blocking, leveling, anchoring of a mobile and reconnecting/resetting home sewer, water, electrical and fuel lines and tanks;
 - Line items to restore a houseboat to habitable state, not necessarily to return to seaworthiness
 - Eligible Hazard Mitigation Measures (i.e., elevating electric panel, washer, dryer, water heater, heating unit).

Individuals & Households Program (IHP) – Types of Assistance

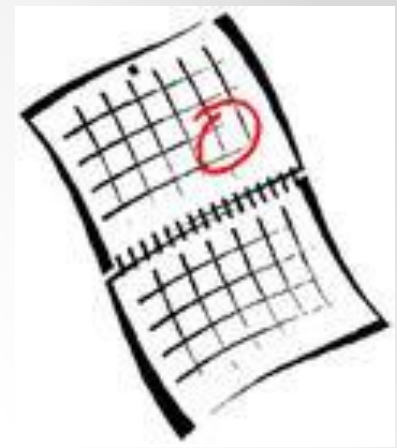
Other Needs Assistance (ONA) – Page 133

- Personal Property Assistance (“essential”) – Page 152-155
 - Appliances, clothing, room furnishings or essential tools
 - Not self-employment
- Medical/Dental (page 140- 143)
- Childcare Assistance (i.e. daycare – page 143-147)
- Transportation Losses (**not** cosmetic – page 155)
- Funeral (page 137- 140)
- Miscellaneous items (i.e. chainsaws, generators, items purchased or rented after the disaster – page 148)
- Clean and Removal Assistance (page 151)

APPLICANT MUST FIRST APPLY FOR SBA DISASTER LOAN AND BE DENIED OR RECEIVE INSUFFICIENT FUNDS FROM SBA for **personal property, moving/storage, transportation losses**. 44 C.F.R. § 206.119(a).

There needs to be a link between the disaster and the assistance requested (i.e. disaster caused the expense)

APPEALS



- Appeals must be filed within **60 days** from **DATE** of Eligibility Decision Letter. 44 CFR § 206.115. **(Page 65 of IAPPG)**
- Types of Decisions that can be Appealed:
 - Eligibility for assistance (denial or insufficient award amount)
 - Cancellation/withdrawal of application
 - Rejection of late application
 - Denial of continued rental assistance
 - Intent to collect rent from FEMA provided housing
 - Termination of direct housing assistance
 - Denial of a request to purchase a FEMA trailer
 - Sales price of a FEMA trailer
 - **Any eligibility related decision**

APPEALS (continued)

- ▶ APPEALS MUST BE IN WRITING & EXPLAIN THE REASON FOR THE APPEAL. 44 CFR § 206.115(b).
- ▶ IF YOU ARE APPEALING ON BEHALF OF A CLIENT, MUST INCLUDE A COPY OF THE FEMA WRITTEN CONSENT FORM. 44 CFR § 206.115(b) & 44 CFR § 206.110(j).
- ▶ INCLUDE FEMA APPLICATION NUMBER AND DISASTER NUMBER ON APPEALS AND CORRESPONDENCE TO FEMA.
- ▶ FEMA HAS 90 DAYS TO ISSUE DECISION. 44 CFR § 206.115(f).
- ▶ FILE APPEALS TO:
 - FEMA – APPEALS OFFICER OR REGIONAL ADMINISTRATOR
 - NATIONAL PROCESSING SERVICE CENTER
 - P.O. BOX 10055
 - HYATTSVILLE, MD 20782-8055
 - OR
 - FAX TO: (800) 827-8112

FEMA WRITTEN CONSENT FORM

Name of Applicant/Consenter: _____

Birthdate of Applicant/Consenter: _____

Place of Birth of Applicant/Consenter: _____

Damaged Address: _____

Current Address: _____

FEMA Application Number: _____

Telephone Number of Applicant/Consenter: _____

I, _____, **SPECIFICALLY
CONSENT TO THE FOLLOWING INFORMATION DISCLOSED:**

- *My entire case file, including inspection report, amount of assistance, etc.*
- *My current contact information*
- *Any future information added to my case file subsequent to the date of this consent*

I FURTHER SPECIFICALLY REQUEST THAT THE INFORMATION BE DISCLOSED TO THE FOLLOWING ORGANIZATIONS AND/OR INDIVIDUALS:

ADDITIONALLY, I CONSENT TO HAVE THE ABOVE NAMED ORGANIZATIONS AND/OR INDIVIDUALS SPEAK ON MY BEHALF AND REPRESENT ME BEFORE FEMA.

THIS CONSENT IS MADE PURSUANT TO AND CONSISTENT WITH 28 U.S.C. §1746. I DECLARE, UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.

Signed: _____ **Date:** _____



Common Reasons for Denial and Recommendations for Appeal

Denial – “Ineligible – Home is Safe to Occupy” (IID-HA)

- ***FEMA has determined you are not eligible for Housing Assistance because the damage caused by the disaster has not made your home unsafe to occupy***
- **APPEAL**
 - Request New Inspection – “Appeal Inspection”
 - Take Photographs of Damage (mail color copies directly to FEMA)
 - Argue the standard is “safe”, “sanitary” OR “functional” – 44 C.F.R. 206.111
 - Include Contractor Estimates

Definition of Habitability

- “**safe**” – secure from disaster-related hazards or threats to occupants
- “**sanitary**” – free of disaster-related hazards, **OR**
- “**functional**” – an item or home capable of being used for its intended purpose.

44 C.F.R. 206.111; IAPPG at page 78.



Denial – Failure to Verify Ownership (Home Repair Only)

- **Owner-Occupant standard is defined under IAPPG as:**
 - Legal owner; or
 - Does not hold formal title to the residence and pays no rent, but is responsible for the payment of taxes or maintenance of the residence; or
 - Has lifetime occupancy rights with formal title vested in another

Standard MUST be met at the time of the disaster

- **APPEAL** – Provide documents... Deed, mortgage document, utility bills, tax records, bill of sale, certificate of title, photo ID, mail linking applicant to property
 - Prepare Affidavit for client to execute explaining acquisition of property and responsibility to maintain.

Denial - Insurance

FEMA finds applicant ineligible because it has determined he/she has insurance to cover your losses

APPEAL – Deadline is 1 yr. from registration date

- Provide insurance policy/declaration page showing lack of coverage
- Correspondence from insurance carrier showing lack of coverage, denial, or delay in benefits
- Estimates for repairs

Failure to Carry Flood Insurance – If the applicant **OR** the prior owner received assistance for flood damage they are required to maintain flood insurance – **requirement runs with the property**

- **Failing to maintain flood insurance will render applicant ineligible for IHP Assistance for flood-damaged items in future disaster**

Denial – Linked for Duplicate Review (ILDOBR)

“FEMA has determined you may have been living at the same address as someone who already applied for FEMA assistance. By law, FEMA cannot duplicate benefits that have been awarded to someone else”

- **FEMA’s SINGLE HOUSEHOLD RULE:**

- FEMA will include all members of a pre-disaster household in a single registration and will provide assistance for one temporary housing residence. 44 C.F.R. § 206.117(b)(1)(ii)(B).
- Boarders/Roommates → Need to show financial independence and inability to relocate together

APPEAL

- Provide documentation showing occupancy, correct address, financial independence, and inability to relocate together
- Prepare Affidavit/Declaration for client to execute as to all facts



ONA- Denials

- **Personal Property** – Denied because of minimal needs or insufficient amount awarded (i.e. \$341.70)
 - Review inventory with client ... What was lost or damaged?
 - Was the personal property available for inspector to verify losses?
 - **“Essential” Personal Property** – Appliances (i.e. fridge, washing machine); Clothing; Room Furnishings (bedroom, living room and dining furniture); Essential tools (required by employer as condition of employment or education– not self-employment); Accessible Items (medically-required)– See IAPPG at page 152.

APPEAL – prepare inventory, gather pictures, and estimates for repair and/or replacement. Note...FEMA calculates the award amount for each item according to consumer price index for item of **average quality, size, and capacity in the area where disaster occurred.**

ONA- Denials (Cont'd)

- **Transportation Losses –**

1. List of All Owned Vehicles & description of damage
2. Vehicle Registration Valid at time of Disaster
3. Estimate/Bill for Repairs from Mechanic
4. Name of Mechanic, Company Name, Address and Telephone Number
5. Insurance policy
6. Insurance settlement or statement that coverage does not exist
7. Documents showing vehicle is essential (i.e. Affidavit)

- **Medical**

1. Statement from service provider verifying the date the medical injury or illness occurred and its relation to the disaster
2. Name, address, telephone number and policy number of health insurance (claim must be filed with the carrier before submitting to FEMA)
3. Written denial from insurance carrier or a statement from applicant verifying lack of insurance

Advocate Tips

- **Client Goals and Expectations**

- Adjust Expectations about eligibility and timing – A FEMA appeal is **NOT** a quick-fix and there is no guarantee of success
- Refer to SBA Disaster Loan (if applicable) or other disaster related social service organizations that can provide more immediate assistance
- Request additional information, documents and set internal deadlines leading up to appeal deadline
- Plan ahead – they must sign their fact specific declaration/affidavit on or before the date you submit the appeal.
- It is better to submit all documentation together rather than piece-meal to avoid confusion and delay

Advocate Tips

- **Monitor status** – Contact every two weeks and/or monitor client's online disaster account – FEMA will verify the client's identity with you (i.e. Name, Last Four Digits of SS, Damaged Property Address, Current Property/Mailing Address, Current Phone Number)
- Write down Representative name and ID number
- All communications (oral and written) will be directed to your client – remind your client to contact you upon receipt of any notices or phone calls.
- Can supplement an appeal if client submitted a pro se appeal
- Can appeal until receive “Final” decision – even then can appeal if change in circumstances and/or good cause
- Include Declaration and have client sign appeal letter if no affidavit is being included with appeal- **“THIS APPEAL LETTER IS MADE PURSUANT TO AND CONSISTENT WITH 28 U.S.C. §1746. I DECLARE, UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.”**

Sample Language - Introduction

Re: **APPLICANT NAME**
 FEMA Application No.
 FEMA Disaster No. _____
 Damage Property Address: _____
 SS#: _____

Dear FEMA Appeals Officer:

The above referenced applicant, _____, by and through the undersigned counsel, hereby submits this Appeal Letter as it relates to FEMA's December 30, 2017, Eligibility Decision Letter which found Ms. _____ ineligible for Housing Assistance because she did not prove she owned the damaged property at the time of the disaster. Enclosed please find a FEMA Written Consent Form signed by _____, authorizing our office to represent her in this matter. This consent form complies with the requirements outlined by FEMA in its Individual Assistance Program and Policy Guide (IAPPG).

Records Request

- Submit records request simultaneous with Appeal Letter ... pursuant to Freedom of Information Act, 5 U.S.C. § 552, and Chapter 3, page 66 of IAPPG
 1. Complete copy of application file;
 2. Inspection records and photographs
 3. Call-logs and/or internal call-history notes

Send to:

Individuals and Households Program,
National Processing Service Center
P.O. Box 10055
Hyattsville, MD 20782-8055 **or**
Fax – 301-209-4410 or 1-800-827-8112

SBA Disaster Loans

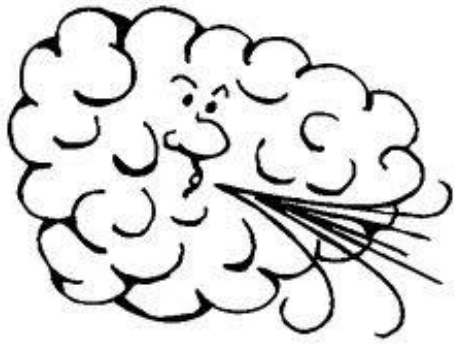


- ▶ The Small Business Administration (SBA) is the primary source of federal funds for long-term recovery assistance for disaster victims.
- ▶ The SBA provides low-interest disaster loans to repair or replace homes, personal property or businesses that sustained damages not covered by insurance.
 - Homeowners may borrow up to \$200,000 for disaster related home repairs.
 - Homeowners and renters may borrow up to \$40,000 to replace disaster-damaged personal property
 - Interest rates as low as 1.875% and terms up to 30 years for homeowners/renters.
- ▶ To apply for a disaster loan, you may file an application electronically through SBA.gov or in-person at local DRC.

SBA Disaster Loans



- ▶ APPLYING FOR A SBA DISASTER LOAN IS REQUIRED TO BE ELIGIBLE FOR OTHER NEEDS ASSISTANCE. 44 CFR § 206.119(a)(1).
- ▶ APPLICANT MUST BE DENIED OR SHOW SBA LOAN DOES NOT SATISFY TOTAL NECESSARY EXPENSES CAUSED BY DISASTER IN ORDER TO BE CONSIDERED FOR OTHER NEEDS ASSISTANCE



THE END

Questions?

