

FEMA & Other Disaster Benefits

Southeast LA Legal Services Corp.

www.slls.org

October 19, 2015

Rowena Jones & David Williams



Intro

- * This resource is a general outline only, intended for lawyers and other advocates unfamiliar with federal post-disaster benefits for individuals.
- * Legal programs that provide free legal aid are welcome to adapt and expand on this outline for their own internal training use.



Trigger for FEMA aid

- Presidential declaration of “major disaster”
- Federal assistance supplements resources of state and local governments and voluntary relief organizations.

Robert T. **Stafford** Disaster Relief and Emergency Assistance **Act**,
as amended **42 U.S.C. §5121 et. seq.**

www.fema.gov/pdf/about/stafford_act.pdf



Stay Up To Date

www.fema.gov/news-releases

Find your relevant state, county and municipality resources , or

www.fema.gov/disaster/4241/updates-blog-news

FEMA Benefits

42 U.S.C. § 5174 (The Stafford Act)

44 C.F.R. Part 206 – (Federal Disaster Assistance)

www.fema.gov (agency website)

www.disasterassistance.gov (apply, monitor app., etc.)

Or via FEMA Helpline: 1-800-621-3362

Documents and Items You Need To Apply

- * Social Security number
- * Current and pre-disaster address
- * A telephone number where you can be contacted
- * Insurance information
- * Total household annual income
- * A routing and account number from your bank (only necessary if you want to have disaster assistance funds transferred directly into your bank account).
- * A description of your losses that were caused by the disaster

Individuals & Households Program (IHP)

- Housing assistance.
- Other needs assistance (“ONA”).
- Total monetary limit **per household** changes yearly (annual CPI adjustment).
- Monetary limit through mid-October 2015 – a bit under \$33,000.
- Unpaid FEMA debts should not be offset against amounts to which an applicant is entitled.
- FEMA considers applicant’s financial situation except with rental assistance requests by homeowners.

Limits of IHP

- IHP is NOT designed to make people whole after a disaster.
- IHP is NOT designed to replace a home or even cover all disaster-related expenses.
- Applicants are expected to utilize other available sources of assistance, e.g., Red Cross & private disaster groups and private insurance, and IHP does not duplicate that assistance.
- FEMA does not supplement inadequate insurance. Applicant only eligible for FEMA assistance if insurance does not cover a category that FEMA does (e.g., no contents insurance – may be eligible for FEMA ‘personal property’ assistance).

Housing Assistance under the IHP

Basic requirement:

- * Primary residence.
- * destroyed, inaccessible, or uninhabitable.

This means that those homeless at the time of the disaster are ineligible.

Housing Assistance

Assistance may include:

- * Rental Assistance , renewable for up to 18 months, available for both displaced homeowners and former renters who cannot find affordable rentals; FEMA much stricter on renewal applications of former renters; renewal applicants must have receipts to show use of prior aid.
- * Temporary shelter in hotels, mobile homes (trailers), boats, or housing on military bases.
- * Money to repair damaged homes/hazard mitigation.
- * Money toward replacing destroyed housing, but subject to the cap on assistance.

Other Needs Assistance (ONA)

FEMA may cover **disaster-related**:

- Medical and dental costs
- Replacement or repair of necessary medical items
- Disaster-related funeral and burial costs
- Clothing, furnishings, appliances, tools for jobs, educational materials
- Cleaning and sanitization of property
- Vehicles damaged by the disaster
- Moving and storage costs

IHP Assistance & SBA Loans

- Completed SBA loan application may be required by FEMA for ONA but not for housing programs assistance
- Summary denials (e.g., very low income/resources) may be done by FEMA and SBA
- SBA loan decisions can be appealed

SBA Loans

- SBA Disaster Loans 15 U.S.C. § 636 (b), (c)
- Regulations 13 C.F.R. § 123 et seq.
- Agency website www.sba.gov

SBA Loans, cont'd

- Personal/Real Property Replacement
 - Homeowners and renters
 - Repair or replace disaster damages to primary residence (up to \$200,000) or personal property (up to \$40,000)
- Physical Disaster Business Loans
- Economic Injury Disaster Loans

Applying for FEMA Benefits

- Online: www.disasterassistance.gov
- Phone: (800) 621-FEMA (3362)
- Smart Phone: fema.gov

Contact with FEMA

Applicants should:

- Keep copies of all submissions to FEMA.
- Never rely on verbal communication from FEMA representatives (second call may result in statements different from the first).

FEMA Inspection

- FEMA tries to inspect the damaged property ASAP
- Applicant should try to be present
- Can ask for repeat inspection if needed

FEMA decision

FEMA decision arrives by mail; applicants can also register to get online access to claim decisions:

- Appeal if disagree.
 - time limit to appeal on FEMA notice
 - Include supporting documentation with appeal
- Amend application if circumstances change.

Benefits Approved

- Advise recipients to use FEMA benefits only for the approved purposes & to document its use.
 - FEMA can recoup even years later.
 - Keep receipts and bills and copies of FEMA correspondence.
- FEMA benefits are tax free and exempt from garnishment; they are not countable as resources or income by other federal needs-based assistance programs (e.g., TANF, SNAP/food stamps, Medicaid, SSI).

“Split Household” Issue

- Only one set of FEMA assistance is meant to be given to a **single household at the damaged address.**
- “Household” is those who lived together in the pre-disaster residence at the time of the disaster and those who intended to return.
- Advise applicants about potential FEMA recoupment or referral for fraud if FEMA decides that duplicate applications were intentional.

Flood Bar Issue

FEMA will deny some assistance to applicants who:

- Lived in a flood zone.
- Own a residence that got FEMA help in an earlier disaster (or rented there and got FEMA help for themselves), and prior aid recipient was told to buy flood insurance.
- Did not carry flood insurance at the time of new disaster for at least the amount of prior assistance.

Lack of Contact with FEMA

- Every page of written submissions to FEMA should have applicant's FEMA ID# on it.
- Notify FEMA promptly of address or phone number changes.
- FEMA can consider applications withdrawn if unable to contact.

Renter Access Issues

- Landlord lack of cooperation may prevent inspection
- Landlord may have disposed of applicant's property
- Advise applicants of ways to document loss (photos, statements or affidavits) and get FEMA to take alternative action (neighbor or external inspections, e.g.).

Appealing FEMA Decisions

- It is often best to try calling & recalling FEMA, and supplementing written record, before appealing, because appeals are unlikely to succeed or have the record complete.
- Written appeal; **include all possible supporting documents! Supplement if necessary. Appeals should have court quality evidence: sworn affidavits, etc.**
- **Every page** includes DR number and applicant's FEMA registration number.
- Postmarked or faxed within **60 days** of decision mailing date.
- Signed by applicant or Authorized Representative (rep. must include signed FEMA release form).

Civil Rights Violations

- FEMA can't discriminate on the basis of race, color, religion, nationality, sex, disability, age, or economic status (www.fema.gov/civil-rights-program).
- To try informal resolution call FEMA Equal Rights Office (202) 646-3535 or 1-(800) 621-3362.
- File formal written complaint within 180 days of the discrimination.

Disaster Unemployment Assistance (“DUA”)

- Application **Deadlines** will be announced by state agency that administers unemployment insurance program . See www.sces.org .
- App **Deadlines** may differ by county.

DUA - Eligibility

- Unemployed workers/ self-employed who:
 - Became unemployed as a direct result of the disaster
 - Are not eligible to receive regular unemployment insurance
- Or those who:
 - Become breadwinner after head of HH dies in disaster
 - Become unemployed due to disaster-sustained injury
 - Can't reach their job due to disaster
 - Were scheduled to start a job but can't due to disaster

DUA/UI decisions

- Decisions arrive by mail generally (check your state).
- Keep address current and monitor mail.
- Denials can be appealed but act quickly; usually there's a short appeal period (check your state law)
- DUA overpayments are not waivable as a matter of federal law; check your state law for collection relief rights on regular UI overpayments.

Disaster Food Stamps (“D-SNAP”)

- SNAP (Supplemental Nutrition Assistance Program) = formerly Food Stamps.
- D-SNAP = Cash assistance for new and ongoing FS recipients
- Usual SNAP financial eligibility rules relaxed.
- D-SNAP resources: www.fns.usda.gov/disaster/disaster-assistance

D-SNAP/SNAP– Applying

- Check with the agency that administers the food stamp (SNAP) program in your state.
- Many eligible for regular SNAP benefits have never applied; advise of possible dual eligibility.
- Assistance denials can be appealed.

Resources

- FEMA's Help after a Disaster
www.fema.gov/pdf/assistance/process/help_after_disaster_english.pdf
- www.disasterlegalaid.org
- www.probono.net
- www.lsba.org/dr
- rjones@slls.org
- dwilliams@slls.org