

Part 2: How Do I Receive Fair Payment on My NFIP Policy?

Supplemental Claims, Claim Files and Lawsuits

Part 1 discusses the basics of rules you must follow when you file a claim, what to do before a loss, and basic tips on helping contractors help you with your claim. Below are some additional tips, especially for larger home losses.



NFIP Considers Supplemental Claims As Requiring Proof of Error, or Reimbursement

NFIP interprets your obligations under your SFIP (see § VII(J)) as placing the burden of proving all losses on you, to its satisfaction. Even though federal policy regulates adjuster conduct (see here [at II-3 and VII-1-2](#), and [here](#), for example) for claims, NFIP will always say work an adjuster does is a “[courtesy](#).” In any case, if you ask for payment after the first settlement of your claim, that is a “supplemental claim.”

[Updated NFIP policy \(p. 3\)](#) states that if repairs have been completed, you “must document that funds previously paid were used to repair or replace covered damage and must show with specificity that additional funds to repair covered damage are required.” While arguably a violation of the SFIP, that’s the rule. If you haven’t made repairs, you can just submit estimates and other documents to show errors (in quantity, quality and/or price) in the first report. (Adjusters will often refuse to do a ‘supplemental’ for this reason. They must do the work; the insurer can deny.) This is why, as noted in factsheet #1, **contractors must properly document their work**, and otherwise be willing to talk to an adjuster about it.

Consider Requesting a Copy of Your Claim File

If you have concerns about your claim, such as how an adjuster or examiner is handling your claim or if documents are missing or hidden, we suggest you ask for your claim file. This can be done with a letter to a private insurer; if you ask NFIP, you must submit a Privacy Act request, which will probably take a few months and requires personal information to prove your identity (see the DHS reference [here](#)). If you may or do have foundation damage and engineers are involved [a claim file request is likely required to obtain helpful draft engineering reports](#). Even if you don’t, there still can be helpful data.

Be Mindful of the Statue of Limitations for Suing the Insurance Company (not NFIP)

If [the standard escalation process](#) (also *Flood Insurance Manual*, § 15(I)(A)(3)) isn’t helping you obtain fair payment, you may wish to exercise your right to sue. While you can file an administrative appeal for your claim and FEMA says it has recently improved its reviews, historically it has not helped.

You have **1 year from the first written denial of any** part (or all) of your claim to start your suit.

Conservatively, the date on the first letter your insurer sent rejecting any claim by you for payment (for any work or item) is that date. You must sue

your insurer, not NFIP, in federal court, and in the district court for your area.

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NYLAG’s Storm Response Unit is available to assist homeowners. Contact us at (212) 381-0701 or StormHelp@nylag.org