Insurance Consumer Rights in the State of Utah (2022)

Insurance policies are contracts and legal rules come into play when you file an insurance claim. You are "the insured" and your insurance company is "the insurer." Understanding how your insurer should handle your claim and what your rights are will help you navigate the process, be your own best advocate and collect all available policy benefits to cover your losses.

After disasters, it's common for an insurer to rotate adjusters, which means you will have to work with multiple adjusters before your claim is resolved. Knowing your legal rights will make it easier for you deal with rotating adjusters and keep your claim on track toward a fair and full claim settlement without unreasonable delays.

Your insurance company and its employees are required to be fair and reasonable and follow state laws and regulations. They must do a timely, thorough and unbiased investigation and assessment of your loss(es) and claim. They must work with you to adjust your claim and pay what they owe in a timely and fair manner and in full compliance with the policy contract and applicable laws.

Insurance company claim adjusters are supposed to be trained on your state's laws and claim handling regulations, but it's often up to you to make sure they're valuing your losses fairly, offering all benefits you're entitled to, and following the regulations and laws in your state.

Use the guidance and sample letters you'll find on United Policyholders' website (uphelp.org) to "speak UP" and collect all benefits you're entitled to under the policy you paid for.

The information included here will give you a basic understanding of how the claim process should go and the legal rights that give you leverage to get a fair outcome. Here are the places where your rights as a Utah insurance consumer are spelled out:

Utah Code

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Title 31A-1-101 et. seq. – Insurance Code
(Various provisions, but no specific section contains all of the

regulations).

Chapter 2 – Administration of the Insurance Laws

Chapter 26 – Unfair claim settlement practices 31A-26-303

Utah Administrative Code

R590-190-1 Unfair Settlement Practices

R590-190-1 Unfair Property, Liability, and Title Claim Settlement Practices Rule.

Bulletins issued by the Utah Insurance Department

Claim Communications

UP strongly recommends keeping a daily claim journal. As often as possible, jot down the date, time, and details of conversations, issues, problems and agreements with the adjuster assigned to your claim and other professionals such as contractors, government agencies, etc.

Also, we strongly recommend communicating in writing with insurance company representatives so there is a clear paper trail of how your claim is being handled. These days many communications will be via email, so make sure to save those emails where you can find them. After in-person or phone conversations with insurance company representative you should send short follow-up emails or letters summarizing what was said or agreed to. Document that you're cooperating fully with the insurer. This will prevent them from blaming you for delays and confirm that you're holding up your end of the bargain.

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Check out our “Speak UP” tips on being politely assertive, organized and avoiding delays and misunderstandings. (https://www.uphelp.org/pubs/speak-how-communicate-your-insurance-company).

Time Frames and Deadlines

Below are timeframes and deadlines to be aware of. After a disaster, deadlines can become unrealistic due to shortages of available inspection, clean up and construction professionals. Speak UP! Document the contractors or service providers you called, who you spoke with, and what they told you in your claim journal. Sometimes following a natural disaster more work exists than skilled labor can support and it is important to document that you kept trying to find someone to help protect your property following a loss.

Processing your claim

15 Days – Your insurer must acknowledge the receipt of a notification of claim within 15 days after receiving it, unless payment is made within such period of time, or unless the insurer has a reason acceptable to the Insurance Department as to why such acknowledgment cannot be made within the time specified. See Utah Admin. Code R590-190-6(1).

Promptly – Your insurer must provide within 15 days all necessary claim forms, instructions, and reasonable assistance so that you can comply with policy conditions and the insurer’s reasonable requirements. See Utah Admin. Code R590-190-6(3).

Communicating information to you

10 Working Days – insurers must provide a substantive response to you within 15 days whenever a response has been requested. See Utah Admin. Code R590-190-6(2).

Investigating and paying or denying your claim

30 Days – Your insurer must complete its investigation of claim and advise first-party claimants of the acceptance or denial of the claim within 30 days after receipt by the insurer of properly executed proofs

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of loss. See Utah Admin. Code R590-190-10(2).

More time – If more time is needed to determine acceptance or denial, the insurer must notify the first-party claimant within 30 days after receipt of proofs of loss, giving reasons more time is needed. See Utah Admin. Code R590-190-10(2).

45 Days – If the investigation remains incomplete, the insurer must send the claimant a letter 45 days from the date of initial notification and every 45 days thereafter, setting forth the reasons additional time is needed for investigation, unless the first-party claimant is represented by legal counsel or public adjuster. See Utah Admin. Code R590-190-10(2).

Preserving your right to sue if necessary

There is typically a deadline in your insurance policy for filing a lawsuit related to a claim. Check your policy for a "suit against us" provision, or similarly worded provision, to find that deadline. It's typically 12 months from the date of loss or the date your insurer closes your claim. However, the laws in your state that apply to lawsuit deadlines may extend the period stated in your policy, so it's best to check with an experienced Utah state attorney to avoid losing your legal rights and the leverage those rights give you to get a fair payout on a claim.

In Utah, policy holders cannot sue for statutory violations of the insurance code. Utah Code § 31A-26-303(5). However, lawsuit can be brought via breach of contract actions. For advice regarding your specific contract and claim seek the experience of a Utah attorney for a better outcome.

Unfair Claim Practices

Your insurer is prohibited from using unfair claim practices and/or treating you badly during the claim process. These practices are set out generally in the Utah Code and more specifically in the Unfair Claims Settlement Practices statute. The following are a few examples listed in 31A-26-303 Specific **Unfair claim settlement practices defined**:

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Each of the following acts is an unfair claim settlement practice:

1. Knowingly misrepresenting material facts or the contents of insurance policy provisions at issue in connection with a claim under an insurance contract; however, this provision does not include the failure to disclose information;
2. attempting to use a policy application which was altered by the insurer without notice to, or knowledge, or consent of, the insured as the basis for settling or refusing to settle a claim; or
3. failing to settle a claim promptly under one portion of the insurance policy coverage, where liability and the amount of loss are reasonably clear, in order to influence settlements under other portions of the insurance policy coverage, but this Subsection (2)(c) applies only to claims made by persons in direct privity of contract with the insurer.

Each of the following is an unfair claim settlement practice if committed or performed with such frequency as to indicate a general business practice by an insurer or persons representing an insurer:

4. failing to acknowledge and act promptly upon communications about claims under insurance policies;
5. failing to adopt and implement reasonable standards for the prompt investigation and processing of claims under insurance policies;
6. compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by those insureds when the amounts claimed were reasonably near to the amounts recovered;
7. failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment was made;
8. failing to promptly provide to the insured a reasonable explanation of the basis for denial of a claim or for the offer of a compromise settlement;
9. appealing from substantially all arbitration awards in favor of insureds for the purpose of compelling them to accept settlements or compromises for less than the amount awarded in arbitration;
10. delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms which contain substantially the same information; or
11. not attempting in good faith to effectuate a prompt, fair, and equitable settlement of claims in

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which liability is reasonably clear.

12. The commissioner may define by rule, acts or general business practices which are unfair claim settlement practices, after a finding that those practices are misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition.

Remedies: Filing an official complaint with your State Insurance Agency

The Utah Insurance Department oversees how insurance companies operate in the state. They can impose penalties on your insurance company if they it did not comply with the laws in your state that require insurers to handle claims fairly and in good faith.

Visit uphelp.org and Insurance Resources for Utah https://uphelp.org/recovery/state-by-state-help/utah/ for resources and tips on the process and strategy of filing a formal complaint.

You can call the Utah Insurance Department consumer hotline with any questions or complaints toll-free at:

(801) 957-9305

File a complaint online, by going to https://insurance.utah.gov/complaint
select “Complaint portal” at the bottom for an online form.

Their mailing address is:

Utah Insurance Department
4315 S. 2700 W., Suite 2300
Taylorsville, UT 84129

Special rules that may be in place after a disaster

Check the Utah Insurance Department website regularly to find all rules, regulations or other updates they may have put out that are specific to the disaster. https://insurance.utah.gov/bulletins

After past disasters, special rules have been put into place such as:

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- Requirements that insurers advance funds for temporary expenses instead of requiring you to incur and submit receipts.
- Requirements that insurers extend deadlines for submitting proofs of loss and other documents.
- Agreements with insurers that they will accept less detailed contents inventories.

Hiring Professional Help

When you paid your premium, you paid for coverage *and* good claim service. In theory, you should not have to hire outside help to get what you already paid for. However, in reality, you may need to. You have the right to hire an attorney or public adjuster to help navigate your claim. However, we urge caution before agreeing to pay a portion of your insurance benefits to any professional, and before hiring anyone to speak for you or negotiate on your behalf with your insurance company. Only hire someone who has strong references and who is likely to add value to your claim and recover more funds more quickly than you'd be able to recover on your own.

Attorneys – If you hire an attorney to resolve an insurance claim dispute, try to hire them on a contingency (not hourly) fee basis and agree to advance litigation costs. Claim disputes are time-consuming, so it gets expensive fast when you pay by the hour. Ideally, arrange for one or two qualified attorneys to do an initial evaluation of your situation free of charge. Only hire one that has represented insurance consumers in claim disputes and is a member in good standing of the Utah Bar. Visit our Utah Professional Help Directory at: https://uphelp.org/sponsor-location/utah/. We strongly recommend reading our publication titled "Questions and Answers for Hiring an Attorney for an Insurance Claim" https://uphelp.org/claim-guidance-publications/hiring-an-attorney-for-an-insurance-claim/ before making this important decision.

Public Adjusters – A qualified public adjuster can value your losses, handle the day-to-day aspects of your claim and negotiate a settlement on your behalf. Generally speaking, if you hire a public adjuster, you agree to pay them a percentage of the insurance benefits they recover on your behalf – not an hourly fee. Utah public adjusters can also be found by visiting: https://uphelp.org/sponsor-location/utah/. We strongly recommend reading our publication titled "Questions to Ask Before Hiring a Public Adjuster" before making this important decision. https://www.uphelp.org/pubs/questions-ask-hiring-public-adjuster

Using the Legal System to get a Fair Settlement

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If you haven't been able to get a fair insurance claim settlement on your own or with help from a professional and/or your state's insurance oversight agency, filing a lawsuit is your next option. If your lawsuit is successful, you can recover what the insurer owed and (ideally) also get compensation for the expenses you incurred chasing the policy benefits you were entitled to in the first place. Your success in using the legal system to get a fair settlement will depend on the quality of the lawyer(s) you hire, the laws in your state and the facts in your case.

It's common to worry that a lawsuit will be too time consuming or expensive (or both), but if you get the right lawyer and your case is strong, suing an insurer is often the best and only way to recover what you're owed. Finding a qualified lawyer is essential. Insurance matters require specialized expertise and you need a strong advocate who speaks the language and has previous experience litigating against an insurance company.

Start in our "Find Help" section and click on your state to find professionals who specialize in representing policyholders and support United Policyholders. You'll find many lawyers on the Internet that advertise as insurance specialists, and many of their websites have a chat window that pops up as soon as you visit their site. Speak directly to the lawyer who'd be handling your case and interview them about their insurance and litigation experience. Get and check client references. A lawsuit is a major undertaking but is often the best way to get full compensation, so be an astute consumer and choose your attorney carefully.

The cost of hiring an attorney varies from firm to firm. The two main options are attorneys who charge by the hour and those who work on contingency. For most policyholders, hiring an attorney on a "contingency" fee basis is the only feasible way of doing battle with a well-funded insurance company. Hourly fees for lawyers vary according to firm size, experience of the attorney, and geographic location. While attorneys who work on contingency usually set their fee at 33% of the amount they recover on your behalf, that may increase to 40% if your case goes to trial. Most cases settle before trial. In some states you may not have the option of hiring an attorney on a contingency fee basis.

Using the legal system gives you leverage to get a better settlement and a lawsuit is a valuable tool. For more guidance on what to consider before suing your insurance company, read Hiring an Attorney for an Insurance Claim on uphelp.org

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United Policyholders
Empowering the Insured

Best Practices

Visit and use UP's Recovery Help Library to get information throughout the recovery process: https://uphelp.org/recovery/disaster-recovery-help/. Follow these steps:

Inventory and document your losses. Take pictures of identifiable items before they're removed for disposal or repairs before your lot gets cleared. Create detailed lists of damaged property. If your home was seriously damaged or completely destroyed, get at least one, ideally two, independent repair/replacement cost estimates.

Cooperate with your insurer as best you can and keep a good paper trail. If you are not able to stay in your home, make sure the company has an address and phone number where it can reach you.

Be present for inspections. It's a good idea to be home when the adjuster and or others inspect your property. Feel free to ask your contractor to be there with you to explain his/her opinions and estimates to the insurance company's representatives.

Make only urgent/temporary repairs before filing a claim. Your insurance company may deny your claim if you make permanent repairs before it inspects. If you're not sure if your company considers a repair to be permanent, ask your company (in writing) before starting any repair work. The cost of these repairs and for storing personal belongings is likely covered by your policy.

Keep receipts. Your insurer will usually require you to provide receipts before they'll reimburse you for expenses due to losing the use of all or part of your property. This is also true for collecting full replacement costs above depreciated/actual cash values. On our website you'll find a free expense spreadsheet to help you keep track.

Speak UP. Be politely assertive, communicate clearly, and set realistic goals during the claim process.

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