

Fed Probe Why Sandy Victims Were Shortchanged on Flood Insurance Claims

NJ Spotlight

Critics call for wide-ranging, structural reforms to ensure problems encountered after Sandy don't happen again

Amid the stress and confusion in the immediate aftermath of Superstorm Sandy, residents of coastal communities found themselves struggling to comprehend their losses and how to begin to put things back together.

They contacted their insurance companies to file flood claims — but many of them didn't fully understand the process or their rights.

"What happened to a lot of people was the adjuster that came out would fill out a proof-of-loss form for the homeowner and then say, 'Here. This is how much you're getting.' And a lot of people didn't even get a copy," said Amy Bach, who runs United Policyholders, a national insurance consumer advocacy group. "They said they didn't know what the basis was for the settlement offer they got. And a lot of people just overwhelmed by life and overwhelmed by the disaster would sort of sit on it and say, 'OK. Jeez... I don't know what I'm going to do with \$13,000 when my damage is \$80,000, but I don't really know where to go.'"

Two -and-a-half years later, those problems — a mix of errors, shortcuts, and alleged fraud that appear to have been commonplace in both those initial inspections and the claims- handling process that followed — are still causing difficulties for storm victims and bogging down the state's long-term recovery. The problems have sparked thousands of lawsuits and prompted FEMA to agree, beginning next week, to reopen and review the flood claims of any of the 144,000 Sandy victims who feel they were unfairly compensated for their losses.

Lawmakers led by Sen. Robert Menendez D-NJ) have also formed a task force and begun holding hearings on the matter, and FEMA says it will consider a number of changes, including harsher penalties for insurance companies that underpay claims and providing more oversight of those companies.

All eyes are on federal officials now to see how thoroughly they investigate the problem and whether the

resulting reforms merely serve as a temporary fix or whether they will strike at the root of the problem. While many people in New Jersey have long since moved on from Sandy, case managers at the Ocean County Long Term Recovery Group still have full caseloads, and they've had to turn away some homeowners in recent months due to the ongoing demand for help. Sue Marticek, the group's executive director, said the flood-insurance denials are a big reason for that backlog.

"Many people have said that if they would have received the money they deserved from their insurance company, they never would have never applied for RREM. They would have never come to us for charity dollars. They feel that they have been shortchanged from the get-go. So now they're behind the eight ball," she said.

Complicating the investigation into what went wrong and how to fix the process is the unusual public-private partnership operating behind the scenes of the National Flood Insurance Program, in which policyholders interact day-to-day with individual insurance companies like Allstate and Selective, while it's the federal government that actually covers the costs of the payouts. Many have faulted FEMA for not keeping a close enough watch over those so-called "Write Your Own Companies" that handled the claims. "Your government failed you, plain and simple, and you deserve much, much better," Menendez said recently as he announced the first of several congressional hearings.

His Sandy Task Force — which also includes Sen. Cory Booker D-NJ) and Sen. Chuck Schumer and Sen. Kirsten Gillibrand from New York — is examining whether the NFIP should be completely overhauled so FEMA no longer relies on third-party, private insurance companies to process flood claims.

In addition to bringing justice to Sandy survivors, Menendez said his goal is to make the flood- insurance program more efficient and responsive for future storm victims.

"What I hope will happen is the task force is going to take a look at the whole claims payment process," said Jay Feinman, who teaches insurance law at Rutgers and has been closely following the scandal.

"They're not going to react to this particular problem, but figure out who in FEMA supervises this and what they know. How the 'Write Your Own' companies administer the program. What the appeals process looks like and redesign it from the ground up. And that's going to depend on getting hard information about what's going on now and getting input from all kinds of stakeholders about what the process should look like."

Among the many long-term fixes that have been proposed in light of the current problems, the Sandy Task Force says it's exploring: + A reexamination of the "earth movement exclusion" that insurance companies commonly used after Sandy to deny flood claims, claiming that what appeared to be flood damage was instead pre-existing and caused by long-term movement or subsidence of the earth;

Changing the claims appeals process to make it fairer to policyholders and avoid unnecessary litigation;

A review of the federal government's practice of reimbursing attorney fees for insurance companies, since current policies do nothing to dissuade companies from engaging in drawn-out and costly legal battles with homeowners;

More transparency, so policyholders will always have access to internal documentation, including draft copies of adjuster estimates and engineering reports;

Greater federal oversight, so potential problems are caught before they mushroom into much larger issues.

For its part, FEMA announced last week that it will begin sending letters to storm victims next Monday, offering them the opportunity to have their flood claims re-opened and handled by new caseworkers. Homeowners will have 90 days to respond.

It's still not clear exactly how the entire process will work, but the agency's administrator, Craig Fugate, said first priority will be given to those with potentially problematic engineering reports of which 3,400 are in New Jersey), followed by anyone else who disputes their claim and received less than the flood insurance policy maximum of \$250,000.

A neutral third-party company will make the ultimate determination on whether homeowners will receive additional payments. FEMA says it could take up to three months — from start to finish — though it expects it will be quicker than that.

From her standpoint, still in the trenches helping storm victims in Ocean County, Sue Marticek hopes the review process is straightforward and uncomplicated.