

Progress on N.J. Sandy insurance claims concealed

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Thursday, March 21, 2013 BY RICHARD NEWMANSTAFF WRITERThe Record Since superstorm Sandy struck the Northeast last October, New York residents have been able to track the performance of insurance companies in response to the disaster by logging on to a state government website.Connecticut's insurance regulator also is tracking Sandy complaints and making the data available to the public.But Sandy victims in New Jersey who hope to see how their insurance companies are doing here are out of luck. The state does not make company-specific information public, citing regulations pertaining to confidentiality of files that could be part of a regulatory investigation.Nearly five months after Sandy, many New Jersey storm victims are frustrated, as measured by the more than 3,000 calls received through a state Department of Banking and Insurance hotline. But even as they complain about what they regard as unsatisfactory settlement offers, claim-processing delays and claim denials, they have no idea if the treatment they received from their insurance carrier is the exception or a part of a pattern.State insurance regulators generally do not publicize company specific consumer complaint information on home and auto insurers, but as catastrophic weather events have become more frequent, and the stakes have increased for policyholders and the insurance companies, states have been under greater pressure to be more forthcoming."The performance of insurance companies after a storm like Sandy is incredibly important," Benjamin M. Lawskey, New York state's top insurance regulator, said in a statement. "Homeowners and businesses have the right to know how their insurers are performing and how quickly the companies are handling claims."The federal government's flood insurance program has made data on the performance of private companies that administer those claims available to the public.New York's report cards, updated regularly, include response time, claim payment and complaint data.The federal government's flood insurance program has made data on the performance of private companies that administer those claims available to the public.Connecticut began providing homeowners' insurance complaint data after Hurricane Irene in 2011, said Donna Tommelleo, spokeswoman for the Connecticut Department of Insurance.New Jersey, which has been collecting similar

data from insurers, sees it differently. Citing a regulation on the confidentiality of investigative files, the New Jersey Department of Banking and Insurance recently denied The Record's request for information on which insurers have received the most complaints, which companies are taking the longest to process claims, and which insurance companies have denied the most claims — although the state does make aggregated complaint information public. Marshall McKnight, a spokesman for the state Department of Banking and Insurance, said "the department considers those files 'confidential investigation work product.'"

The state administrative code cited in the department's denial states that "investigative files in any matter pending investigation or in an completed investigation in which no formal disciplinary action was taken" are "specifically determined to be non-public records." McKnight declined to comment on whether the Sandy-related investigative work might lead to enforcement actions against insurers in New Jersey. But he said data could be used in market conduct examinations, which are investigations of insurers' claims files performed by the state. Those reports are posted on the department's website, he said. "The commissioner [Ken Kobylowski] has said the insurance industry as a whole has done a commendable job responding to this unprecedented storm," McKnight said.

As of March 1, New Jersey homeowners' claims were 93 percent closed, excluding flood claims, and the insurers paid out \$1.35 billion in claims, said McKnight, who said hotline calls should not be characterized as complaints, but rather "requests for assistance." It's not surprising that state officials have played down the issue of posting company-specific consumer complaints against home insurers, as New Jersey over the past decade has tried to mend strained relations with the property and casualty industry, draw more insurers to the state and be more business-friendly. While Governor Christie has been critical of the federal flood insurance program's response to Sandy, he has been silent on the response from the private fire and casualty industry. However, the governor has announced establishment of a mediation program for those with non-flood-related Sandy claims greater than \$1,000. Insurance carriers will pay for the mediator, to avoid going to court. The different responses of state regulators in the wake of Sandy may just boil down to the way they view their role. "Some regulators are much more inclined to take a strong position publicly," said Amy Bach, executive director of United Policyholders, an advocate for consumers. "Some regulators see themselves more as consumer advocates and some see themselves more as solvency and safety regulators," she said.

For other observers, New York's willingness to shine light on the relative performance of specific financial companies serves the public interest. "It exerts pressure on insurers and puts them on notice that they are being watched, and that alone is valuable to consumers," said attorney Walter M. Luers, chairman of the New Jersey Foundation for Open Government. Luers said New Jersey's denial of requests for company-specific complaint data could be on shaky legal ground. A public agency may deny granting access to a record that is "part of an investigation in progress," when disclosure

would be “inimical to the public interest,” Luers said. “Here, there very well could be a strong public interest in disclosure of the complaints, because they may show patterns of problems by company or by area,” he said. To be sure, making individual company complaint data and other information public has its flaws and the data can be hard to interpret. Even critics of the industry point out that many complaints about insurance coverage are rooted in the policyholder’s lack of understanding of their coverage. Michael P. Abrams, managing partner of Lawley Westchester LLC, an independent insurance agent, which has an office in Fairfield, said the property and casualty industry’s response to Sandy is “a black mark against it,” referring to the thousands of complaints about delays and insufficient settlement offers. However, a big part of the problem, said Abrams, is consumers do not read the contracts, and many insurance agents are not doing a good job explaining the coverage. “Insurance companies are not going to pay for something not covered under the contract, and the problem is people don’t know what they’ve bought,” he said. “I wouldn’t make any judgments on those numbers,” said Bob Pasmore, senior director of personal lines policy at the Property Casualty Insurers Association of America. “Sometimes a claim will take a little longer and the policyholders are perfectly satisfied with the outcome. Sometimes immediately is not fast enough. I think everybody is trying to get these claims taken care of efficiently and effectively. The [report cards] don’t necessarily always tell the full story.” Email: newman@northjersey.com