

[Wildfire victims in limbo as fight with insurers hits another snag](#)

LA Times

After receiving more than 1,000 complaints from Jan. 7 fire victims about how insurers are handling their claims, state regulators are considering referring hundreds of the cases to mediation — a little used practice that some consumer advocates fear could hurt policyholders.

The Department of Insurance has been bombarded with complaints from property owners since the Palisades and Eaton fires destroyed more than 16,000 structures and damaged more than 2,000 others, causing up to \$45 billion in insured damages by one estimate.

Fire victims say they have experienced slow responses from insurance company claims handlers, been rotated to multiple adjusters, denied hygienic testing for toxic chemicals and given lowball offers.

The department has encouraged fire victims unhappy with how their claims are being managed to file complaints. They are then assigned a compliance officer who attempts to resolve the issues with their insurer.

Joy Chen, chief executive and co-founder of the Eaton Fire Survivors Network, which, according to its website, has some 5,000 members, said that the compliance officers have not been successful in sorting out the disputes.

“Across thousands of complaints I’ve seen discussed, I have barely heard of a single survivor who said DOI actually helped them resolve their claim,” she said. “At best, people say things like, ‘I finally got a return call from my adjuster — right before they left for vacation again.’”

The department says the complaint process has helped policyholders whose homes were destroyed or

damaged by the fires recover \$67 million in insurance payments.

Still, the department is considering referring some 400 unresolved complaints to its residential mediation program, two department sources with knowledge of the complaint process told the Los Angeles Times.

That would far exceed the typical number of referrals in a year.

Michael Soller, a spokesman for Insurance Commissioner Ricardo Lara, said it was likely that some unresolved complaints would be referred to mediators but couldn't say how many.

In 2023, the latest year for which department statistics are available, just five residential insurance disputes were sent to mediation, resulting in settlements. The policyholders filed claims totaling \$3.05 million and settled for \$1.55 million.

Over the last 10 years, there were years when no disputes went through mediation, despite a growing number of catastrophic fires statewide. Although 2019 was the busiest year for mediations in the last decade, only 72 cases were referred that year, according to the department's annual reports.

Tony Cignarale, the department's deputy commissioner of consumer services and market conduct, said complaints are referred to mediation when policyholders and insurers reach an impasse despite the assistance of the department's compliance officers, who number about 100 and handle complaints regarding multiple lines of insurance.

The officers seek to determine what might be delaying resolution of a claim and ensure that insurance companies are complying with the law and their policies. However, they are not empowered to adjudicate such differences as factual disputes.

"We try to move the ball forward, but we can't be the judge and jury and say in this particular smoke damage claim you needed to test for these various things — asbestos, lead, chromium, etc. — and you need to do this type of restoration," Cignarale said.

He said a large number of smoke-damage cases arising out of the Jan. 7 fires and a lack of an industry standard for testing and restoration of the homes have complicated claims.

Attorneys representing scores of Jan. 7 fire victims have filed suits against insurers and the California FAIR Plan Assn., the state's insurer of last resort, over their handling of smoke-damage claims. Insurers deny treating policyholders unfairly.

"I think the difficulty with mass disasters is the system is stressed, and there are going to be elements of the system that break down. And after every disaster, we find something new that could be improved," said Rex Frazier, president of the Personal Insurance Federation of California, which represents major property and casualty insurers.

Mediation is free for policyholders and available for cases involving claims exceeding \$7,500 and disputes valued at more than \$2,000. Policyholders can bring an attorney and have the right to reject participation in the process, but insurers are required to participate. Neither side is obligated to accept any offer.

The program has its origins in a pilot program initiated to close hundreds of unresolved complaints after the 1994 Northridge earthquake. It was made permanent in 2005 through a bill that established a \$1,500 flat fee borne by insurers and paid to mediators for each case. The department maintains a panel of about 90 independent mediators, Cignarale said.

Attorney Arnie Levinson, a veteran mediator who has handled disputes between homeowners and insurers, said he charges \$12,000 a day, which includes reading the submitted documents and appearing at the hearing to try to resolve the dispute.

He said smoke-damage and total-loss cases can be complicated, with disputes about materials and upgrades, the size of the rebuild and the need for foundations. The \$1,500 flat fee is too low, he said.

"To get a quality mediator for that kind of money, it's going to be very tough," said Levinson, a mediator with Signature Resolution.

Amy Bach, executive director of United Policyholders, a San Francisco-based consumer advocacy group, said the process is helpful because it is inexpensive and can resolve disputes faster than litigation. However, there can be pitfalls.

"It's important that the compensation be at appropriate levels to attract skilled and impartial mediators,

and that the overall process be monitored for quality control,” she said.

Bach added that mediators need to ensure that policyholders are not “ganged up on” by experienced insurance company representatives during the mediation.

Chen said she feared that policyholders would be at a disadvantage during the hearing.

Soller said the department stands by the process.

Marcia Belforte, 67, relied on a mediator to deal with her insurer after her Santa Rosa home burned down in the 2017 Tubbs fire, which destroyed more than 5,500 structures in Northern California.

“I prepped for weeks and weeks on this, and I literally had my whole policy bookmarked,” Belforte said.

She said she was intimidated when the hearing started as her insurer had three representatives, but she said her knowledge of her policy prompted the carrier to ask to put the mediation on hold, intimating a forthcoming settlement.

Ultimately, she hired an attorney who extracted a payment 30% higher than what the carrier was offering, enabling her to rebuild her home.

“They didn’t have a case with me, and that’s what we found out during mediation, and that’s why it was so critical to go,” she said.

Carmen Balber, executive director of Consumer Watchdog, a Los Angeles advocacy group, said she feared that pushing hundreds of cases into mediation may allow insurers to escape discipline for any wrongdoing.

“My concern is that prematurely sending folks to mediation is going to hamstring the department’s investigation into unfair claims handling practices,” she said.

Cignarale said the department is gathering information on possible illegal practices by insurers through the complaint process, which led to the announcement last month of an investigation into State Farm General’s claims-handling practices.

State Farm, the largest home insurer in the state, has been the focus of complaints from Eaton Fire Survivors Network members, who say the insurer has resisted hygienic testing of smoke-damaged homes and offered lowball settlements for remediation.

The company also is facing multiple lawsuits related to the fires, including one filed last month by fire victims who accused the company of leaving them deliberately underinsured. State Farm denies any wrongdoing.

“State Farm takes every complaint seriously and our goal is to work with customers to resolve any of their concerns. We seek to provide every customer all benefits to which they are entitled within the terms of the insurance policy,” said company spokesperson Bob Devereux.

The department has announced the creation of a Smoke Claims and Remediation Task Force to set standards for insurers. This month, Lara appointed Cignarale to lead the panel.