

Addressing Housing Issues Facing Older Adults Following a Natural Disaster

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February 9, 2022

Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About NHLP

National Housing Law Project (NHLP) is a legal advocacy center focused on increasing, preserving, and improving affordable housing; expanding and enforcing rights of low-income residents and homeowners; and increasing housing opportunities for underserved communities. Our organization provides technical assistance and policy support on a range of housing issues to legal services and other advocates nationwide.

Key Lessons

- Older adults can prepare now for future natural disasters.
- To access FEMA's housing assistance, homeowners and renters impacted by a disaster need to register with FEMA and establish their eligibility.
- Legal services organizations are available to help older adults with a wide range of legal issues that can arise after a natural disaster.

Preparing for the Next Disaster

2021 Disasters

- 100+ disasters declared
 - Wildfires
 - Severe storms
 - Flooding
 - Tornadoes
 - Hurricanes
 - Tropical Storms
 - Winter Storms
- 41 states impacted

Make a Plan (1 of 2)

- What types of natural disasters are likely to occur in my area?
- Do I have originals or copies of important documents?
 - Identification (license, state ID, social security card, etc.)
 - Property records (deed, lease, insurance policies, etc.)
- What is my shelter or evacuation plan?
 - Sign up for emergency alerts or warnings
 - Sign up for special needs registry
 - List of emergency contacts and numbers

Make a Plan (2 of 2)

- What are my specific needs?
 - Medical needs, including prescriptions, ongoing treatments, or medical devices
 - Pets
 - Service animals
 - Communication and/or language needs
 - Monthly Benefits (social security checks, etc.)
- Visit [ready.gov](https://www.ready.gov) for more tips on how to prepare for a natural disaster

Overview of the Federal Disaster Declaration Process

Applicable Federal Law and Policy

- The Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207
- Federal Disaster Assistance, 44 C.F.R. § 206
- Disaster Recovery Reform Act of 2018, Pub. L. No. 115–123, §§ 1201-1246
- [FEMA Individual Assistance Program and Policy Guide](#) (IAPPG) v. 1.1, FP 104-009-03 (May 2021), and [Fact Sheets](#)

The Federal Disaster Declaration Process, 42 U.S.C. § 5170

- Natural disaster occurs
- State and federal officials conduct a Preliminary Damage Assessment (PDA)
- Governor of the affected state (Chief Executive of an affected Indian tribal government) requests disaster declaration through the regional FEMA office
- The President issues a disaster declaration (PDD)
- [List of current disaster declarations](#)

Overview of FEMA Housing Programs

Categories of FEMA Assistance

- Individual Assistance
 - Provides assistance to individuals and households
- Public Assistance
 - Provides assistance to public entities (and certain private non-profits) for debris removal, emergency protective measures, and the restoration of disaster-damaged public facilities
- Hazard Mitigation Assistance
 - Provides assistance for measures designed to reduce future losses to public and private property

FEMA Individual Assistance

- FEMA Individuals and Households Program, 42 U.S.C. § 5174
- Housing Assistance
 - Assists homeowners and renters whose homes were damaged due to disaster to have somewhere to stay
- Other Needs Assistance
 - Provides financial assistance to individuals and households who have other disaster-related expenses or needs and don't qualify for an SBA loan
- NOTE—assistance under this program should not be counted as income in determining eligibility for welfare, income assistance, or income-tested benefit programs funded by the federal government, 42 U.S.C. § 5155 (d)

FEMA Registration, 44 C.F.R. § 206.112

- The standard FEMA registration (application) period is 60 days following the date of the PDD
- State can request extension of the registration period
- Late registration will be accepted by FEMA up to 60 days after registration period closes with “suitable documentation to support and justify the reason for the delay in their registration”

FEMA Registration (Cont.)

- Disaster survivors can apply:
 - Online at www.disasterassistance.gov
 - Visit a Disaster Recovery Center
 - Call 800-621-3362, TTY 800-462-7585.
 - Through the [FEMA app](#)
- Applications available in different languages and accessible formats

FEMA Housing Assistance, 42 U.S.C. § 5174

- Temporary Housing
 - Financial assistance to rent alternate housing resources, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings
 - Direct assistance, FEMA-provided or funded housing
- Repair of owner occupied home (BUT not to pre-disaster condition)
- Replacement housing (very rare)
- Housing Construction (very rare)

FEMA Housing Assistance Eligibility, 44 C.F.R. § 206.113

- “The President may provide financial or other assistance under this section to **individuals and households** to respond to the disaster-related housing needs of individuals and households who are **displaced from their pre-disaster primary residences** or whose **pre-disaster primary residences are rendered uninhabitable**, or with respect to individuals with disabilities, rendered **inaccessible** or uninhabitable, **as a result of damage caused by a major disaster.**”

FEMA Assistance Eligibility for Immigrant Families

- All immigrants, regardless of status, are eligible to receive short-term, non-cash disaster assistance (e.g. crisis counseling, disaster legal services, etc.) and other non-monetary, in-kind emergency disaster relief programs (i.e. medical care, emergency shelter, food and water)
- Restrictions on eligibility for some FEMA assistance, including housing assistance, pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)
- For cash assistance programs, households with non-qualified individuals can receive cash assistance if an eligible adult or eligible minor child in that household applies for assistance

Other Needs Assistance, 44 C.F.R. § 206.119

- Money for necessary expenses and serious needs arising out of the disaster, such as funeral, medical, dental, child care, personal property, etc.
 - Personal property (e.g., clothes, household items, furnishings or appliances; cleaning or sanitizing any eligible personal property item)
 - Medical expenses (e.g., medical costs, dental costs, repair or replacement of medical equipment)
 - Moving and storage expenses
- Generally, applicant must first apply for SBA loan and be declined or not receive sufficient funds from SBA

Transitional Sheltering Assistance (TSA)

- [FEMA Policy FP 104-21-0008](#)
- Provides for short-term, non-congregate sheltering for displaced disaster survivors when:
 - Current shelter capacity does not meet the needs of the displaced population
 - Congregate shelters cannot sustain existing shelter needs
 - Facilities serving as congregate shelters need to return to their pre-disaster use (i.e. schools, arenas, etc.)
 - Rental resources are not sufficiently available and/or priced within FMR standards to meet the needs of the displaced population

TSA (Cont.)

- Authorized for at least 30 days and up to 180 days from the PDD
- Assistance usually provided through direct payments to hotels and motels BUT doesn't cover additional fees charged (i.e. pet fees, resort fees, etc.)
- Must have a primary residence in TSA designated area; primary residence is inaccessible, damaged or unsafe to occupy; and be currently staying at mass shelter, hotel/motel, car, work, or tent

Common Post-Disaster Housing Issues

Title Issues

- FEMA verification of home ownership and occupancy for IHP
- Homeowners in communities of color, low-income homeowners, mobile home owners and others may not have title documents or don't have clear, legal title to their homes
- As of Aug. 2021, FEMA has expanded the types of documents it will accept from disaster survivors to prove ownership or occupancy and the date range for those documents

Documents to Verify Ownership (1 of 2)

- Documents dated from within 1 year of disaster or assistance period:
 - Mortgage statement or escrow analysis
 - Insurance document, bill, or payment record
 - Court docs re: property where ownership is in dispute
- Receipts for major repairs or improvements to the home (i.e. roof, HVAC, plumbing, etc.) that are dated within five years prior to the disaster period
- Docs that are current/effective during disaster period can be dated within assistance period:
 - Original deed or deed of trust to the property
 - Manufactured home certificate of title
 - Will or affidavit of heirship

Documents to Verify Ownership (2 of 2)

- **Self-declarative statement** signed by the applicant containing their name, address, length of time lived there, and
 - “I have made a good faith effort, in coordination with FEMA, to obtain and provide a copy of acceptable ownership documentation. I do meet FEMA’s definition of an owner-occupant because I am (A) the legal owner of the home, (B) pay no rent, but am responsible for the payment of taxes or maintenance for the residence, or (C) hold lifetime occupancy rights. I was unable to obtain this documentation because [provide an explanation of the circumstances that prevent standard ownership verification of the appropriate owner-occupant category]. I hereby declare under penalty of perjury that the foregoing is true and correct.”

Documents to Verify Occupancy (1 of 2)

- Dated within one year prior to the disaster or within period of asst. and reflect the applicant's name and disaster-damaged residence address
 - Utility bills
 - Other bills
 - Employer documents (pay stubs before disaster, or written statement prepared after disaster)
 - Rent receipts
 - Local school documents
 - Federal or state benefit documents
- And more...

Documents to Verify Occupancy (2 of 2)

- **Self-Declarative Statement** signed by the applicant containing their name, address, length of time lived there, and statement and additional explanation,
 - “I have made a good faith effort, in coordination with FEMA, to obtain and provide a copy of acceptable occupancy documentation. I was unable to obtain this documentation because [provide an explanation of the circumstances that prevent standard occupancy verification to include why the other document types were not available to the applicant or how the available documents do not meet FEMA’s requirements]. I hereby declare under penalty of perjury that the foregoing is true and correct.”

Denial of FEMA Assistance, 42 U.S.C. § 5189a

- FEMA Appeals must be filed within 60 days after the date FEMA notifies the applicant of the award or denial of assistance, 44 C.F.R. § 206.115
- Appeals must be in writing and explain the reason(s) for the appeal
- Appeals are made to the FEMA Regional Administrator, who has 90 days to issue decisions

Damage to Rental Homes (1 of 2)

- Is it habitable? Who is responsible for repairs?
- Does the tenant have to pay rent? Can the rent be withheld?
- Can the landlord or the tenant terminate the lease?
- The answers to these questions will depend on the lease and state laws.

Damage to Rental Homes (2 of 2)

- Possible Solutions
 - Will the landlord accept reduced rent until the unit can be repaired?
 - Does the landlord have another unit you can move to?
 - Does the tenant have renter's insurance?
 - Apply for FEMA assistance
- Tenants in federally assisted housing have additional rights depending on the program, including the right to transfer to another unit, right to relocate to another assisted property, etc.

Damage to Mobile Homes

- If the mobile home is destroyed
 - Does the owner still have to pay lot rent?
 - Can the lease be terminated?
- Who is responsible for cleaning up debris on the mobile home lot? In the park (i.e. roads, common areas, etc.)?
- The answers to these questions will depend on the lease and state laws.

Shelter Accessibility

- Stafford Act prohibits discrimination in Disaster Assistance on the basis of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status, 42 U.S.C. § 5151
- Title II of the Americans with Disabilities Act (ADA) requires shelters to be accessible to people with disabilities
 - Shelters are required to be physically accessible to people with disabilities
 - Service animals must be allowed in all shelters
 - May require reasonable accommodations to policies and procedures

Duplication of Benefits, 42 U.S.C. § 5155

- Prohibition on receiving federal assistance to cover the same loss or need that has already been covered by another source, i.e. insurance, donations from a charity or private party, etc.
- Receipt of partial benefits does not preclude receipt of additional federal assistance for any part of a loss or need for which benefits have not been provided

Tips for FEMA Recipients

- Only use the money for what FEMA authorized
- Keep your receipts
- FEMA funds cannot be garnished or seized, 44 C.F.R. § 206.131
- FEMA can't recoup funds if it's been more than 3 years from the date assistance received, unless there's evidence of fraud

Resources

Disaster Relief and Consumer Issues

- [Legal Challenges After a Natural Disaster: Helping Older Adults Face the Aftermath](#) – NCLER webinar addressing homeowner and consumer issues
- NCLC's [Disaster Relief & Consumer Protection Site](#), Addresses wide range of consumer issues post-disaster, including hiring contractors to complete home repairs, avoiding insurance problems, requesting forbearance or other mortgage payment relief
- PLI, Pro Bono Net, Equal Justice Works, & Lone Star Legal Aid Training: [Current and Emerging Issues in Disaster Response: Legal Strategies and Practices for Helping Survivors](#) (free through November 2022)

Free Legal Help

- [Eldercare Locator](#), includes OAA-funded legal assistance
- [Legal Services Corporation](#)
- [ABA Free Legal Answers](#)
- [State Law Help Web Sites](#)
- [Disaster Legal Services Hotline](#), goes live following a PDD

National Disaster Legal Aid Advocacy Center

- Pro Bono Net and Lone Star Legal Aid developed [this website](#) to connect advocates working in disaster legal aid
- [25 Pro Tips for Working with the Federal Emergency Management Agency \(FEMA\): COVID-19 Edition \(2021\)](#)

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Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.