

2.0 FEMA Individual & Households Program: Handling a FEMA Appeal for a Disaster Survivor

2.1 Overview

Individuals, families, and businesses may be eligible for federal assistance if they live, own a business, or work in a county declared a major disaster area. Help may also be available to those who have incurred sufficient property damage or loss and do not have insurance or other resources to meet their needs. **The most important thing a disaster survivor must do to obtain FEMA assistance is to register with FEMA.** To apply for assistance for individuals and households, individuals should register with FEMA toll-free at 1-800-621-FEMA (3362) (TTY number: 1-800-462-7585), online at www.disasterassistance.gov, on the mobile app, or at a local Disaster Recovery Center (DRC) within **sixty days of the declaration of the disaster**. The FEMA publication entitled [Individual Assistance Program Policy Guide](#) (IAPPG) includes information about what type of assistance is available under various FEMA programs, who is eligible, the process for obtaining assistance, and frequently asked questions.

The Individual Assistance Program and Policy Guide (IAPPG) is the best resource for information on individual assistance programs administered by FEMA.

While FEMA has many other disaster assistance programs, this chapter will only review FEMA's Individuals and Households Program. The Individuals and Households Program (IHP) consists of both Housing Assistance (HA) and Other Needs Assistance (ONA). HA and ONA provide aid for long-term repair or replacement of homes and critical personal property.

Small Business Administration (SBA) disaster loans—While not a FEMA program, the SBA interacts with individual's FEMA applications and is important to understand. SBA provides low-interest, long-term disaster loans for individuals and businesses to repair/replace real and personal property, excluding property for farm businesses. Once a disaster survivor applies for FEMA assistance, they will be evaluated for an SBA disaster loan. If SBA determines that an applicant is ineligible for an SBA loan or if the loan amount is insufficient, SBA refers the applicant back to FEMA for additional consideration.

For more information regarding Small Business Administration (SBA) disaster loans, see Chapter 16, Community Organizations/Small Businesses.

2.2 Individuals and Households Program Overview

Under the Individuals and Households Program (IHP), Housing Assistance (HA) and Other Needs Assistance (ONA) are available. FEMA assistance is not intended to make an applicant whole. Instead, it is intended to meet basic needs and supplement disaster recovery efforts. There are different types of HA and ONA depending on the applicant's circumstances (individuals vs. businesses, homeowners vs. renters, etc.), but all applicants start with the same FEMA application. HA and ONA each have their own max award amount that is adjusted by statute each year. FEMA assistance maximums are published annually in the federal register. Home repair assistance required for accessibility does not count towards the maximum cap for disaster survivors with disabilities.

A. *Housing Assistance*

Home Repair/Reimbursement is assistance provided to disaster survivors to help them make repairs to their home. FEMA awards this type of assistance if they find the survivor's home is "uninhabitable." A home is considered uninhabitable if the "dwelling...is not safe, sanitary, or fit to occupy." Safe and sanitary evaluations consider whether the occupants are subject to health risks, disaster-caused hazards, or threats due to damage caused by the declared disaster. Functionality is determined by whether an item or home is available for use for its intended purpose. In addition to the condition of the home or items, applicants may provide documentation of ability or illness if their needs impact habitability differently. Home Repair Assistance is intended to return the applicant's primary residence to a livable condition, but not to its pre-disaster condition.

HA also includes Temporary Housing Assistance which provides Lodging Expense Reimbursement, Rental Assistance, or Continued Temporary House Assistance. FEMA may also provide direct housing in the form of a Temporary Housing Unit (THU) or a Transportable Temporary Housing Unit (TTHU). TTHUs include readily fabricated dwellings such as an RV or mobile home owned or leased by FEMA. Most of these services are available for up to 18 months but will be subject to review upon the use of the initial disbursement.

B. *Other Needs Assistance*

Other Needs Assistance is funded by a combination of state and federal funds. Texas elects to administer the ONA portion of individual assistance through Texas Health and Human Services Commission (HHSC). While decisions are made by HHSC, the individual will still send the appeal documents to FEMA, and FEMA will forward the appeal to HHSC.

Some types of ONA assistance are only available if the applicant applies for a Small Business Administration (SBA) Disaster Loan and does not qualify. This type of ONA assistance is referred to as SBA Dependent ONA. If an applicant is approved for an SBA loan, they may choose not to accept the loan. If an applicant decides to reject an SBA loan award, they will not necessarily be precluded from non-SBA dependent types of ONA. Still, it may be a contributing factor in FEMA's decision about approving or denying the applicant's application. Applicants may apply for non-SBA Dependent ONA whether they elect to apply for an SBA loan or not.

SBA Dependent ONA includes Personal Property Assistance (room furnishings, clothing, appliances, and essential tools for work or school, etc.), Transportation Assistance, and Group Flood Insurance Policy. These types of assistance are subject to a "pause" until an SBA application is submitted and decided. Non-SBA Dependent ONA programs are: Funeral Assistance, Medical and Dental Assistance, Child Care Assistance, Assistance for Miscellaneous Items, Critical Needs Assistance, Moving and Storage Assistance, and Clean and Removal Assistance. Please see FEMA's IAPPG Ch. 3 § VI for specific program requirements.

2.3 Eligibility

To be eligible for IHP assistance, applicants must show:

- Disaster-Caused Damage
- Eligible Immigration Status
- Occupancy
- Ownership (for homeowners requesting home repair assistance)

The inability to prove one of these factors is the primary reason for a denial of FEMA assistance following a disaster.

To be eligible for Housing Assistance and Other Needs Assistance from FEMA, a disaster survivors' primary residence must have been damaged by the disaster. The disaster survivor would need to show they had been living in the damaged home at the time of the disaster, provide proof of ownership and no or inadequate insurance coverage. Lastly, a disaster survivor must be a U.S. Citizen, Legal Permanent Resident or Qualified Alien as defined by FEMA in the IAPPG.

FEMA updated its Occupancy and Ownership Standards in 2021 but did not update the current IAPPG to include this information. You can view the updated standards for Expanded Assistance for Disaster Survivors by reviewing the [FEMA Fact Sheet on Updates to FEMA's Individual Assistance Program and Policy Guide, Version 1.1](#).

2.4 Applying to FEMA

Generally, the deadline to apply for FEMA assistance is sixty days after the disaster declaration. Counties designated for IA after the declaration may have an extension. Historically, FEMA has extended the application period often, typically at the state government's request. Pay attention to FEMA's website, local media, and press releases for deadline updates. FEMA may accept a late application for "good cause" with documentation proving the cause of the late application. "Good cause" can include but is not limited to records of hospitalization, illness, or disability of the applicant or an immediate family member; record of death for an immediate family member; or proof of personal or business travel that kept the applicant out of the area for the full application period." In theory, other good faith causes for late applications are acceptable, but in practice, if the applicant applied late for any reason other than the causes listed above, FEMA is likely to deny the applicant's request for FEMA assistance.

A copy of information FEMA will request when a disaster survivor registers for assistance can be viewed online [here](#).

A. Applying

Applicants living in a disaster area declared by the President and need disaster assistance may call 1-800-621-FEMA (3362) (hearing/speech impaired ONLY—call TTY number: 1-800-462-7585), visit a Disaster Recovery Center (DRC), or apply online [here](#) or through FEMA's app.

When applying, applicants will need their Social Security number, current and pre-disaster address, phone numbers, type of insurance coverage, total household annual income, a routing and account number from their bank if they want to have disaster assistance funds transferred directly into their bank account and a description of losses caused by the disaster.

Applicants should make copies of their application materials—and any subsequent communication they have with FEMA—in case FEMA makes a mistake or loses track of something, or if they are denied and need to prepare an appeal. If you are involved in the application phase, make one physical copy of the application for the applicant and one for yourself, and advise them to upload the application to a cloud-based drive for their records.

B. FEMA Inspection Process

FEMA will need to inspect the damaged home or personal property for an applicant to receive certain types of assistance. FEMA will call the applicant to schedule an inspection, and the applicant should try to meet the FEMA inspector at their damaged property. If they are unable to do this, they should make plans with the inspector to allow someone else to meet the inspector in their absence. This person should be either a relative or friend over the age of 18. If FEMA is unable to reach the applicant or unable to conduct the inspection, they will mark the application as withdrawn.

Practice Tip: To prepare for the inspection, have the applicant walk through their property room by room making a list of all the damage to their home and personal property. They can use the list as a guide during the inspection, and you can use it if there needs to be an appeal. FEMA inspectors do not go on roofs or under homes, so it is helpful to have photos or other proof that your client can show the inspector like an estimate of repair.

Practice Tip: If the applicant's home was flooded and they took photos of the water inside the home, they can show those to the inspector. We also suggest having pictures of the waterline in their home once the water has receded. It is best to include a ruler or measuring tape for reference in the photo so you can show FEMA the inches or feet of water that was in their home.

If the applicant speaks a language other than English, they should request an inspector who speaks their preferred language. It is imperative that they are able to communicate with the inspector during the inspection. If the inspector doesn't speak their preferred language, they should ask them to call for a telephone translation service. Lastly, they should also have someone they trust who is able to translate for them during the inspection. If the FEMA inspector does not accommodate their language needs, they should get their name and identification number and report them to FEMA.

C. Decision Letter

After the inspection, FEMA will notify the applicant of its decision regarding eligibility for assistance. If they qualify for assistance, FEMA will issue a check by mail or direct deposit. FEMA will also send the applicant a letter describing how they are to use the money.

If FEMA decides that a disaster survivor does not qualify for assistance, FEMA will send them a letter explaining why they were denied. FEMA must provide vital documents, like a determination letter, in the applicants preferred language.

Practice Tip: Throughout the entire application process, even if an applicant is receiving assistance from an attorney, FEMA will only issue notices of decisions or requests for additional information to the client and will not send mail or email to the attorney representing the applicants, so attorneys must ensure that their clients can and do receive all communications from FEMA.

D. *Staying in Contact with FEMA*

The applicant must keep FEMA up to date on their contact information. Some information, such as current phone number, mailing address, or insurance policy number, can be updated [online](#) by clicking Check Status and logging into their online account or creating an account. To update other file information, applicants need to call the FEMA Disaster Helpline toll-free at 1-800-621-FEMA (3362) (hearing/speech impaired ONLY—call TTY number: 1-800-462-7585), visit a Disaster Recovery Center, or write to FEMA at the address provided on any correspondence they have received. Even if they update the information by phone or in person at a Disaster Recovery Center, it is best to confirm all requests to FEMA in writing.

E. *Make an Insurance Claim*

If the applicant has insurance that may cover their disaster-caused damages, advise them to apply for FEMA anyway. FEMA cannot duplicate insurance payments, but underinsured applicants may receive assistance after their claims are settled. The applicant should make it clear to FEMA that they have insurance and that they are making a claim, or they must explain why they cannot make a claim on that insurance. The applicant must also provide FEMA all relevant documentation related to their insurance. This proof may include documentation showing relevant coverage, as well as any settlement decisions the applicant has received. Relevant coverage includes any insurance that can be used to recover from the particular peril that resulted in the damage. For example, there is no need to provide fire insurance documentation for a flood-only disaster. While the applicant is waiting for their insurance company to make a decision, FEMA will likely deny the applicant assistance. If the applicant's insurance later denies coverage, they may then appeal the FEMA decision.

Practice Tip: Late applications to FEMA are often unsuccessful. Applying to FEMA late because the applicant was waiting on an insurance decision is not likely to be an acceptable reason for a late application and may lead to a denial of benefits. Always recommend that the applicant submit a timely application to FEMA clearly describing the status of their insurance claim.

If the insurance company does not reach a settlement in a timely manner, FEMA may allocate funds in the meantime. Upon receipt of an insurance settlement, the applicant must send FEMA documentation of their insurance settlement and will need to pay back any duplicate funds. Please note, however, that

FEMA funds generally cannot be used to cover insurance deductibles. For more specifics about FEMA's relationship with insurance, please see Chapter 9: Insurance Issues.

F. *Avoid Duplicate Benefits*

FEMA cannot award assistance for a disaster need that an applicant has already received assistance for, regardless of the source of the assistance. If the applicant receives FEMA assistance and FEMA later determines there was a duplication of benefits, it may result in recoupment. Generally, recoupment means that the applicant will have to pay some or all of their award money back to FEMA in the future. Disaster survivors are not excluded from seeking assistance from more than one source; however, each form of assistance must cover a different need. Survivors may also receive multiple forms of assistance for the same need so long as the resources do not exceed the approved cost for that need.

2.5 Appealing FEMA Decisions

Deadlines for FEMA appeals are almost always 60 days from the date on the denial letter. Occasionally, FEMA will request additional information from the applicant, and those requests typically have a deadline of 21 days.

Practice Tip: FEMA has a deadline for its appeals but generally accepts appeals submitted after the deadline for a good cause reason. Generally, even if the applicant's only reason for a late appeal is a lack of knowledge about the deadline, FEMA may consider the appeal. Consider appealing FEMA denials for applicants who are past the deadline if they have an otherwise strong case.

Practice Tip: You should follow up with FEMA within 3 days to confirm receipt of the appeal. Applicants can check the status of their application by creating an account [here](#) and clicking Check Your Status or by logging in through the FEMA mobile app.

A. *Investigate the status of the FEMA application and obtain a written consent form.*

First, you should determine what they have already submitted to FEMA, what communication they have received from FEMA, and, most importantly, what assistance they are qualified for.

If the applicant has decision letters from FEMA, ask for copies and review them. Denial letters will provide the denial reason. FEMA may list multiple denial reasons in the same letter. For example, the applicant may have received a letter denying them for home repair assistance because the "home is safe to occupy" and because they did not successfully prove ownership.

Practice tip: If the applicant requests legal assistance months after an application to FEMA for assistance and has not received any decision letters from FEMA, check to see if they have set up an online account and received decision letters there. Sometimes applicants who do not have reliable access to the internet set up online accounts because a family member or friend helps them and then later cannot access the online account.

Practice Tip: Always get written, signed consent from the applicant to release their FEMA disaster assistance records to a third party and a copy of the applicant's ID at the beginning of the representation. Both documents must be submitted with all appeals to FEMA, so having them ready will save time in the future.

FEMA has a standard written consent form available [here](#). The written consent should include the following information:

- The applicant's full name
- The applicant's date and place of birth
- The applicant's current mailing address
- The applicant's damaged address
- The last four digits of the applicant's Social Security number
- The applicant's signature (dated)
- A notarization of the statement "I hereby declare under penalty of perjury that the foregoing is true and correct."
- The applicant's FEMA Application Number and the relevant disaster number
- Specific indication of what information can be released (likely all information relevant to the applicant's case)
- Specific third-party designation identifying the individuals, entities, or organizations to whom information may be released

B. *Request a copy of the applicant's FEMA file*

After determining the status of the applicant's application with FEMA, request the FEMA file. To request a FEMA file, submit a cover letter making the request for the FEMA file, a copy of the applicant's government-issued ID, and a written consent. Throughout the entire FEMA application process, FEMA will not communicate with an attorney or third party unless the applicant has submitted signed written consent authorizing FEMA to release the applicant's information to the advocate.

Submitting a FEMA file request early into the representation of the applicant's case is helpful for several reasons. First, FEMA files should contain all the documents both that the applicant has provided to FEMA and that FEMA has sent to the applicant. Secondly, the FEMA file may contain some notes from the caseworkers who made the decision in the applicant's case. This information may be helpful while putting together an appeal of FEMA's decision. Lastly, for the advocate to speak to FEMA on the applicant's behalf, FEMA must have a copy of the signed written consent on file. Requesting a FEMA file is an easy way to provide a copy of the written consent to FEMA early in the case.

FEMA files can sometimes arrive only a few weeks after requested but may also take several months or more. Advocates should not wait to receive the FEMA file to submit a timely appeal to FEMA.

C. *Contact FEMA*

The FEMA helpline number is 1-800-621-3362. If you need more information about an applicant's case quickly, contact FEMA directly for more information. To avoid delays, contact FEMA directly once written

consent is on file or join in on the call with the applicant. After a disaster, survivors may experience trauma, and trying to navigate FEMA may cause additional pain or confusion. Furthermore, FEMA hotline agents, DRC staff, and inspectors are not the decision-makers, so they may give conflicting or even incorrect information or agree to things they have no authority to give (such as ordering another inspection).

2.6 Common Appeals

A FEMA applicant can appeal any initial eligibility determination for assistance, including the amount of assistance awarded. Even if the applicant did receive some assistance from FEMA, they can appeal and request more assistance if they believe their disaster damages are more than the amount of assistance they received.

All appeals should follow the same outline and contain the following elements:

- A cover letter written by the attorney
- Signed written consent
- A copy of the applicant's ID
- A signed declaration from the FEMA applicant explaining the facts of the case and requesting the appeal of the FEMA decision
- Supporting documents

The contents of the cover letter, the applicant's declaration, and the supporting documents will change depending on the type of appeal, but the general format is the same. FEMA may not consider an appeal from a third party without including a copy of the applicant's ID and the signed written consent. Never send a FEMA appeal without these two documents.

In some cases, the applicant may be denied because they are missing a document. For these applicants, you may decide to send and appeal with a copy of the relevant document and no declaration from the applicant. FEMA will often accept an ownership or occupancy document without a declaration and approve the applicant for assistance. However, under FEMA's rules, an appeal must include a signed declaration to be considered an appeal of a decision.

Fax FEMA appeals to FEMA at 1-800-827-8112.

A. *Immigration Status*

Eligible immigration statuses for IHP include United States Citizen, a non-citizen national, or a "qualified alien." The IAPPG contains a more in-depth explanation of the types of "qualified aliens" eligible for IHP. Applicants may be eligible for mass care/emergency assistance, crisis counseling, disaster case management, and disaster legal services even if they do not have a valid immigration status for other types of assistance.

Practice Tip: For mixed-status families, a US citizen minor child of undocumented parents may be the applicant to FEMA, even though minor children are typically not permitted to apply to FEMA. The undocumented parent must register as a co-applicant.

FEMA often cannot verify the identity of these minor children because they do not have government-issued IDs, which are the primary method used to verify identity. To show the identity of minor children, the easiest method is typically to submit a copy of the child's birth certificate and social security card or other documentation from the Social Security Administration showing the child's social security number.

B. *Ownership*

Only applicants who are requesting home repair or replacement assistance must show ownership of their home at the time of the disaster. Once the applicant represents that they are the owner of their home, FEMA will try to verify the applicant's ownership by looking at the applicant's county or other local government's records. If the records are incorrect, FEMA may deny the applicant for homeownership even if the applicant is the legal owner of the home. Additionally, if the title documents are state-specific or uncommon, FEMA caseworkers, (who are not attorneys), may need you to interpret the law in the relevant state and explain how the applicant owns the home, this will need to be done in writing.

FEMA also has an alternate ownership standard if the applicant does not have legal title to the property. If an applicant does not pay rent to live in the home and can show that either they pay the property taxes or are responsible for maintenance to the home, then they are the owner for the purposes of FEMA home repair assistance.

As a last resort, FEMA may accept a sworn statement from applicants with heirship property or those who own mobile homes or travel trailers. For a full explanation of the list of ownership documents see the IAPPG. A self-declarative statement for proof of ownership must include the following items:

1. The address of the disaster-damaged residence
2. Length of time you lived in the disaster-damaged home, as your primary residence, prior to the Presidential disaster declaration
3. Your or your co-applicant's name and signature
4. The major elements of the following statement and additional explanation:

"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 either [(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."

Or

A self-declarative statement for proof of ownership passed down via heirship must include all the below items:

1. The address of the disaster-damaged residence
2. Length of time you lived in the disaster-damaged home, as your primary residence, prior to the Presidential disaster declaration
3. Your or your co-applicant's name and signature
4. A copy of the decedent's death certification
5. The major elements of the following statement and additional explanation:

"I have made a good faith effort, in coordination with FEMA, to obtain and provide a copy of acceptable ownership documentation. I was unable to obtain this documentation because [provide an explanation of the circumstances that prevent standard ownership verification]."

AND, the major elements of the following statement:

"As the nearest relative of the deceased in the line of succession, my ownership includes all the rights and obligations of the deceased. The decedent's name is _____, and they died on _____. I understand I must submit the death certificate along with this declaration. I hereby declare under penalty of perjury that the foregoing is true and correct."

Practice Tip: If FEMA awards an applicant rental assistance, this means the applicant has met the general qualifications for FEMA assistance. If the applicant has also been denied home repair assistance, the last thing they need to prove is ownership.

For ownership appeals, as with all FEMA appeals, draft a cover letter and declaration for the applicant explaining the ownership of their property.

Submit the cover letter and declaration to FEMA with any applicant documents that clarify the title. If the applicant is attempting to show ownership under FEMA's alternate ownership standard, submit proof that the applicant is responsible for the property tax or maintenance of the property, as well as a sworn statement that they do not pay rent. A notarized statement from the legal owner confirming the applicant does not pay rent and is responsible for the property taxes or pays for maintenance is not required but is helpful.

C. *Occupancy*

To be eligible for all types of IHP assistance, an applicant must have occupied the home at the time of the disaster. FEMA typically uses the applicant's government-issued ID to verify occupancy. If the applicant does not have a state-issued ID or the address on their ID does not match their home address, FEMA may deny them until they can show that they occupied the home at the time of the disaster. The most common documents to show occupancy include utility bills, bank statements, credit card statements, pay stubs,

rent receipts and rental/residency agreements. These documents must be dated within the three months prior to the disaster. The complete list of documents to prove occupancy is in the IAPPG.

A self-declarative statement for proof of occupancy must include all of the below items:

1. The address of the disaster-damaged residence
2. Length of time you lived in the disaster-damaged home, as your primary residence, prior to the Presidential disaster declaration
3. Your or your co-applicant's name and signature
4. The major elements of the following 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."

D. *Disaster Caused Damage*

FEMA's standard for habitability is whether the home is safe, sanitary, and fit for occupancy. To appeal a "home is safe to occupy" denial, provide a declaration from the applicant explaining the damage to their home, identify any damages missed by the original inspector, and then explain how the damage was caused by the disaster. List repairs that have been made and why more financial assistance is necessary to make the home habitable. If the applicant has already received some repair assistance and spent that money on repairs, provide receipts to show how they spent the money.

The applicant must get a repair estimate. Without a repair estimate, FEMA will likely deny the applicant immediately. The estimate should be itemized and should contain the contractor's name and contact information. FEMA will contact the contractor to confirm they inspected the home, and that the disaster caused the damage. If the contractor does not respond, FEMA will likely deny the applicant's request for a second inspection.

Practice Tip: FEMA does not make decisions about home repair assistance amounts based on estimates or receipts from the applicant. FEMA awards money based on the inspection reports from their own inspectors. The purpose of appealing a home repair assistance decision is to ask that FEMA issue a new inspection. Hopefully, the second inspector will determine there is more damage.

Disaster survivors with disabilities who are denied FEMA benefits and whose underlying health conditions were not taken into account while determining eligibility should have a right to appeal and may be eligible for reasonable accommodation.

E. *Rental Assistance/Continued Rental Assistance*

Rental assistance is available both for renters and homeowners. Homeowners may receive rental assistance if the home was damaged in the disaster and the applicant wants to relocate while the repairs to the home are made. Renters may receive rental assistance when the renter's unit was damaged or is no longer accessible.

Practice Tip: To determine whether an applicant needs rental assistance, FEMA asks the applicant if they are willing to relocate. Applicants often misunderstand this question and believe that FEMA is asking whether they want to relocate permanently. If the applicant does want rental assistance to temporarily relocate while repairs are being made but have told FEMA they do not want to relocate, submit a declaration from the applicant requesting rental assistance. If FEMA has already found that the home was damaged, this request will likely be approved.

In theory, continued rental assistance is available for 18 months following the disaster. However, in practice, continued rental assistance is much harder to receive than the original rental assistance disbursement. To receive continued rental assistance, an applicant must fill out and submit the continued rental assistance form. The rental assistance form must also contain the following documents: a copy of the current lease, proof that prior rental assistance from FEMA was properly spent, proof of pre-disaster housing costs including property taxes and utility bills, and proof of pre- and post-disaster income for all adults in the home.

Most importantly, the applicant will have to show that their pre-disaster residence is uninhabitable, inaccessible, or not available due to the disaster. For homeowners, if FEMA determines they have provided funds to make the applicant's home habitable, FEMA will likely decide that the applicant should return to their pre-disaster home, even if applicant believes the home is still unsafe to live in. For renters, if there are rental properties in the area charging rent comparable to pre-disaster rent prices, FEMA will likely conclude the applicant is in the same position they were in prior to the disaster. Therefore, the applicant no longer needs continued rental assistance.

Appealing continued rental assistance denials is possible but is often unsuccessful in practice. To bolster the appeal, include complete documentation that the original FEMA award was spent on rent for another residence and documentation as to why the original residence remains uninhabitable.

2.7 After Submitting the Appeal

After you submit the FEMA appeal on the applicant's behalf, be sure to check on the status periodically to see if FEMA has made a decision. FEMA will not send appeal decisions to you, even with written consent on file. Be sure to remain in contact with the applicant. Contact FEMA directly to get status updates if it has taken more than 30 days for FEMA to reach a decision.

Warn the applicant that any funds received must be used for the exact purposes specified in the award letter. Be sure to tell the applicant to keep documentation proving they were eligible for the assistance

when they received it, and proof of how they spent the assistance, as FEMA may demand reimbursement for up to three years if they determine afterwards that an applicant wrongfully received FEMA assistance. Advise the applicant to make extra copies to keep or suggest creating electronic copies.

2.8 Other Needs Assistance Fair Hearings

After two appeals for ONA assistance have been denied or the applicant disagrees with the amount of ONA benefits received from Texas Health and Human Services, the applicant may challenge the decision regarding the amount of benefits by filing an appeal and requesting a fair hearing by fax at 1-800-827-8112. The request should include the applicant's FEMA registration number, the applicant's name, and the last four digits of the applicant's Social Security number. A person generally has sixty (60) days to file an appeal from the date on the last denial letter from ONA. For detailed information on what to include with an appeal, see section 2.5 and 2.6.

Legal counsel may represent the applicant in the hearing for ONA benefits, or the applicant can do the hearing pro se. If an attorney is representing a disaster survivor in a fair hearing, the attorney will need to submit TxHHSC Form H1003, Appointment of an Authorized Representative to Allow Another Person to Act for You, and Form H1826, Case Information Release, along with a request for a Fair Hearing.

Once TxHHSC ONA receives the request for a hearing, the applicant will be notified of the date of a hearing. If needed, the applicant may request that a translator be present during the hearing and the documents be provided to the applicant in their primary language. TxHHSC ONA must provide the applicant with the evidence that the agency used to make its decision. If the applicant does not receive this, the applicant should ask for the evidence packet. The applicant should submit any evidence they have supporting their claim for assistance to TxHHSC ONA before the hearing. If there is an Opposing Counsel representing the Agency, the applicant's evidence packet will need to be submitted at least twenty (20) days prior to the hearing. Additionally, the applicant can request interrogatories. The notice will have a phone number to call for the hearing. There will be a Hearings Officer and a representative from TxHHSC ONA on the line. The applicant will have the opportunity to present the reasons why they believe they are eligible for ONA benefits to a hearing officer. The applicant has the right to call witnesses and the right to ask the TxHHSC ONA representative and their witnesses questions. Additionally, the applicant can request that TXHHSC ONA produce a FEMA witness for cross-examination. The TxHHSC ONA representative will also have a chance to explain why they believe that the applicant is not eligible for more benefits. After the hearing, the applicant will receive a decision from the Hearings Officer containing the decision about the applicant's case. If the applicant disagrees with the Hearings Officer's decision, they may appeal and request a Procedural Review of the case.

[Section 1000 of the Texas Health and Human Services Fraud and Fair Hearings Handbook](#) provides information on the appeals process, including the rules governing hearings procedure, evidence, and 'appellants' rights. Texas Rules of Evidence and Texas Rules of Civil Procedure do not apply to THHSC ONA Fair Hearings. In addition to relying on the THHSC Fraud and Fair Hearings Handbook, consult the State Administrative Plan regarding HHSC policy and guidance for ONA benefits.

Importantly, Personal Property Assistance, Transportation Assistance, and Group Flood Insurance Policy are “SBA-dependent.” Applicants seeking this type of assistance must apply and be found ineligible for Small Business Administration disaster loans or have unmet costs remaining after SBA loan awards before those aspects of their ONA applications will be considered further.

2.9 Conclusion

If your area has been impacted by a disaster, consider taking FEMA appeal cases pro bono to help your community recover. FEMA assistance is typically some of the earliest financial help to arrive in a disaster-impacted area. Getting FEMA assistance can be vital to preventing the damage from becoming worse and making recovery faster.

After a major disaster, it can be overwhelming for attorneys to know how to assist their communities. Learning a new area of law can be daunting, but your legal expertise in other practice areas can be just as helpful as a FEMA appeal. As discussed above, FEMA may rely on supplemental documentation for eligibility. Consider volunteering with your local legal services organization by taking on a probate or title clearing case, assisting a survivor in replacing lost documents, or an insurance case.

*This chapter was written utilizing the [FEMA IAPPG](#), [FEMA’s Website](#), and the [National Disaster Attorney Guidebook chapter on FEMA assistance](#) and revised to include state specific information for Texas Attorneys.¹

¹ This chapter was inspired by the [National Disaster Attorney Guidebook](#) chapter on FEMA assistance and revised to include state specific information for Texas Attorneys.