

# FREQUENTLY ASKED QUESTIONS

(updated November 1, 2012)

## GENERAL QUESTIONS

### 1. What is the Disaster Mediation Program?

The General Assembly of North Carolina has enacted a law to facilitate fair and timely handling of disputed residential property insurance claims arising out of certain natural disasters. The law gives a consumer the right to attend a mediation conference with his/her insurance company, in order to resolve such claim disputes. An independent mediator, who has no connection with the insurance company, will be in charge of the mediation conference.

Mediation is a non-adversarial, alternative dispute resolution procedure designed to facilitate the resolution of disputed claims as fairly and quickly as possible. During the mediation conference, a neutral mediator attempts to help the consumer and insurance company agree on an acceptable resolution to the disputed claim. The mediator cannot, however, make a decision on the claim.

### 2. What is considered a “disaster”?

A disaster is an event for which (i) a state of emergency is proclaimed (within 60 days of occurrence) for the State, or for an area within the State, by the Governor or by a resolution of the General Assembly under G.S. 166A-19.20; or (ii) the President of the United States issues a major disaster declaration for the State or for an area within the State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended; **and** (iii) the Commissioner issues an order establishing the mediation procedure authorized by this Part."

### 3. Which Claims are Eligible for Mediation?

To be eligible for a mediation conference, all of the following criteria must be met:

- The disputed claim must have arisen from a proclaimed state of emergency or a declared state of disaster, and the Commissioner must have activated the Mediation Program.
- The insurance company has denied all or part of the claim.
- The dispute must be over the amount of the loss, or the insurance company's findings on the cause of loss.
- The total amount of the claim is more than the consumer's deductible.

The total amount of the claim, or the difference in position between the consumer and insurance company, must be at least \$1,500 unless both parties agree to mediate a smaller claim. Disputed claims do not include those for which the insurance company has reported allegations of fraud, or claims that have been denied on the basis of policy exclusions, policy terms or conditions, or policy not being in effect at the time of loss.

*Example 1:* Consumer disputes insurance company's decision on a claim for which he/she is requesting a total settlement of \$1,300. ***THIS DOES NOT MEET THE DEFINITION OF "DISPUTED CLAIM", BECAUSE THE TOTAL AMOUNT OF THE CLAIM IS LESS THAN \$1,500.***

*Example 2:* Consumer disputes insurance company's decision on a claim for which he/she is requesting a total settlement of \$10,000. The insurance company is offering \$8,000. ***THIS DOES MEET THE DEFINITION OF "DISPUTED CLAIM", BECAUSE THE TOTAL AMOUNT OF THE CLAIM IS MORE THAN \$1,500, OR BECAUSE THE TWO PARTIES ARE MORE THAN \$1,500 APART.***

#### **4. What types of insurance coverages are subject to the Program?**

Any consumer that has a disputed disaster-related residential property insurance claim may request mediation. Commercial insurance claims, National Flood Insurance Program claims, motor vehicle insurance or liability coverage contained in property insurance policies will not be eligible.

#### **5. How does a consumer request mediation?**

Within 60 days after the consumer's eligible claim is denied in whole or in part, he/she may request mediation by:

- Notifying his/her insurance company that you dispute the company's denial or settlement offer, and request mediation.

Or

- Notifying the Program Administrator that he/she requests mediation.

Once the insurance company is notified of the dispute, it must (within 5 days) mail the consumer a written notice of his/her right to mediate. This notice must include:

- Detailed instructions on how to request mediation; including name, address and phone and fax numbers for the Program Administrator
- The insurance company's address and phone number for requesting additional information.

#### **6. What if the consumer has appealed the insurance company's findings through the company's appraisal or appeals process, or has filed legal action against the company?**

A consumer that is in the insurance company's appeal or appraisal process can participate in the Mediation Program at the conclusion of that process. However, if a consumer has initiated pending legal action against the insurance company, he/she will not be eligible for the Mediation Program.

#### **7. What is the Administrator's Role?**

The Administrator will handle all administrative duties for this Program, including accepting and reviewing the requests for mediation, scheduling the mediation conferences, and selecting the mediators.

#### **8. Who will be the mediators?**

Mediators will be selected by the Administrator. In order to be approved, a mediator must be certified by the Dispute Resolution Commission; or, if not, shall be approved at the discretion of the Administrator only if the parties agree on the selected mediator and the selected mediator is a licensed attorney in North Carolina in good standing with the North Carolina State Bar.

#### **9. Are surplus lines carriers, underwriting associations and the National Flood Insurance Program subject to the mediation requirements?**

Surplus lines carriers and underwriting associations are subject to the requirements. However, the National Flood Insurance Program is not subject to the requirements.

#### **10. What does the program cost?**

There is no cost to consumers. Insurance companies will bear the cost of the program. With the interim Administrator the fee is \$375 per case. Out of the fee, \$250 is to go towards reimbursement to the mediator and the remaining \$125 is the administrative cost.

#### **11. Does North Carolina have a program brochure?**

A brochure is not available.

