

Bulletin No. B- 5.43

Division Position Concerning Policyholder Relief in the Immediate Aftermath of the Marshall and Middle Fork Fires

I. Background and Purpose

The December 30, 2021 Marshall and Middle Fork Fires were the most devastating fires in Colorado history. While some fires were still burning or smoldering, subsequent heavy snowfall and freezing temperatures may have caused additional damage to the homes.

With more than 1,000 residential and commercial structures damaged or destroyed, the recovery process will be lengthy with Colorado consumers being displaced for an extended period of time.

The purpose of this Bulletin is to inform insurers of the Division's position concerning claim handling for policyholders who have suffered a loss from these fires.

Bulletins are the Division's interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

II. Applicability and Scope

This Bulletin is intended for all insurers issuing homeowner insurance policies in Colorado that have claims resulting from the December 30, 2021 Marshall and Middle Fork fires.

III. Division Position

With the current initial estimate of almost 1,000 structures destroyed, and with subsequent subfreezing temperatures and power, gas and water shut offs for public safety, our communities are facing extensive total and partial losses, the extent of which cannot be determined while we are in the immediate aftermath with continuing mandatory evacuation status. As a consequence, the Division is directing that all insurance companies expeditiously facilitate handling policyholders' immediate claims such as for Additional Living Expenses (ALE) and to make preparations and arrangements for helping consumers rebuild or repair their homes and lives. To provide guidance:

- In the event a fire damaged home suffers additional damage from frozen pipes, water or other weather-related damage, the Division directs insurers to consider this damage related to the fire and treat such losses as one claim, subject to one deductible.

- Many of the homes that were not completely destroyed by fire continue to be uninhabitable due to loss of power, potable water and safety concerns. The Division directs insurers to waive any waiting periods related to Additional Living Expense (ALE) coverage for those policyholders that were evacuated but whose homes were not destroyed.
- Warping and structural integrity concerns due to extreme heat and/or particulate infiltration and contamination must be addressed.
- When handling the smoke, soot, ash, or water damage claims, the Division directs insurers to consider the related long-lasting effects on electronics, furniture and other property when estimating the total damage. Merely cleaning the walls and property will not necessarily return the property to pre-loss condition. Companies must consider their policyholders' concerns about faulty wiring, inoperable electronics, and soft material contamination. Health related issues, including respiratory difficulties, directly caused by exposure to smoke, soot, ash, or mold are damage and loss, and insurers shall consider reasonable substantiation to make appropriate coverage decisions.
- Additionally, due to the housing shortage and other challenges, we anticipate that meeting the housing needs for the displaced policyholders will be difficult. The Division directs insurers to consider all available options for both short- and longer-term housing, including Airbnb, VRBO and individual rooms for rent. The Division encourages insurers to allow agreed upon monthly housing allowances for those policyholders who move in with relatives or friends during the claim and rebuilding period.

V. History

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