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FEMA Issues & Appeals

Presented by:
Kendall Jarvis,
Legal Aid of Sonoma County



After this learning experience, trainees will:


- Learn about six phases of a FEMA appeal and where in the process attorneys can assist.
- Learn how the Disaster Reform and Recovery Act impacted the monetary distribution of government funds.



- Common Issues
- Attorney Assistance
- Disaster Recovery Reform Act of 2018



Common Issues



Stafford Act prohibits duplication of benefits or services.

FEMA mistakenly determines they do not have an outstanding unmet need.

- To obtain assistance from FEMA, an individual must establish:
 - Eligibility to receive benefits.
 - Current unmet need not covered by insurance.
 - Assistance requested can be provided by FEMA.



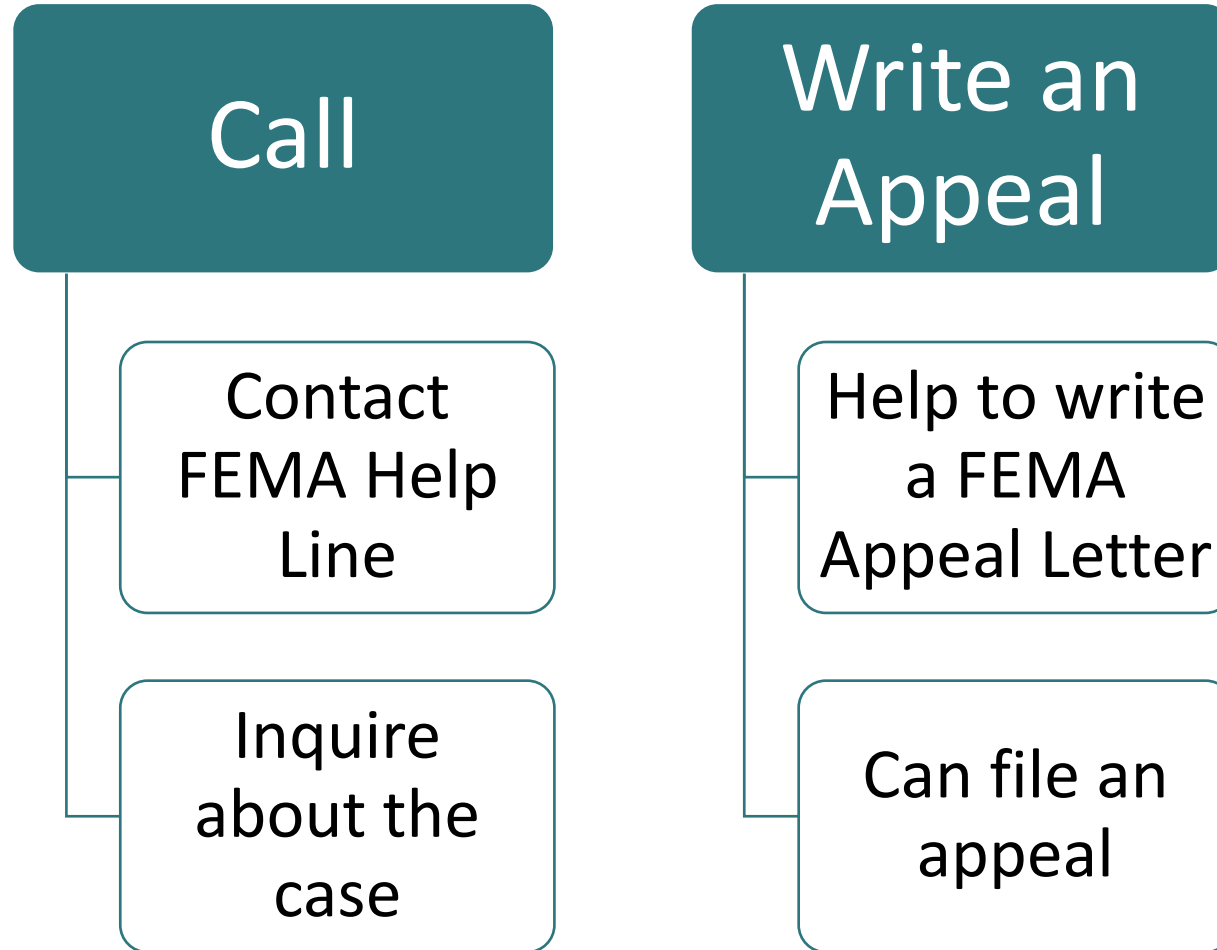
- Common Issues:
 - Establishing eligibility.
 - Lack documentation to satisfy eligibility
 - Do not know what documents are needed.



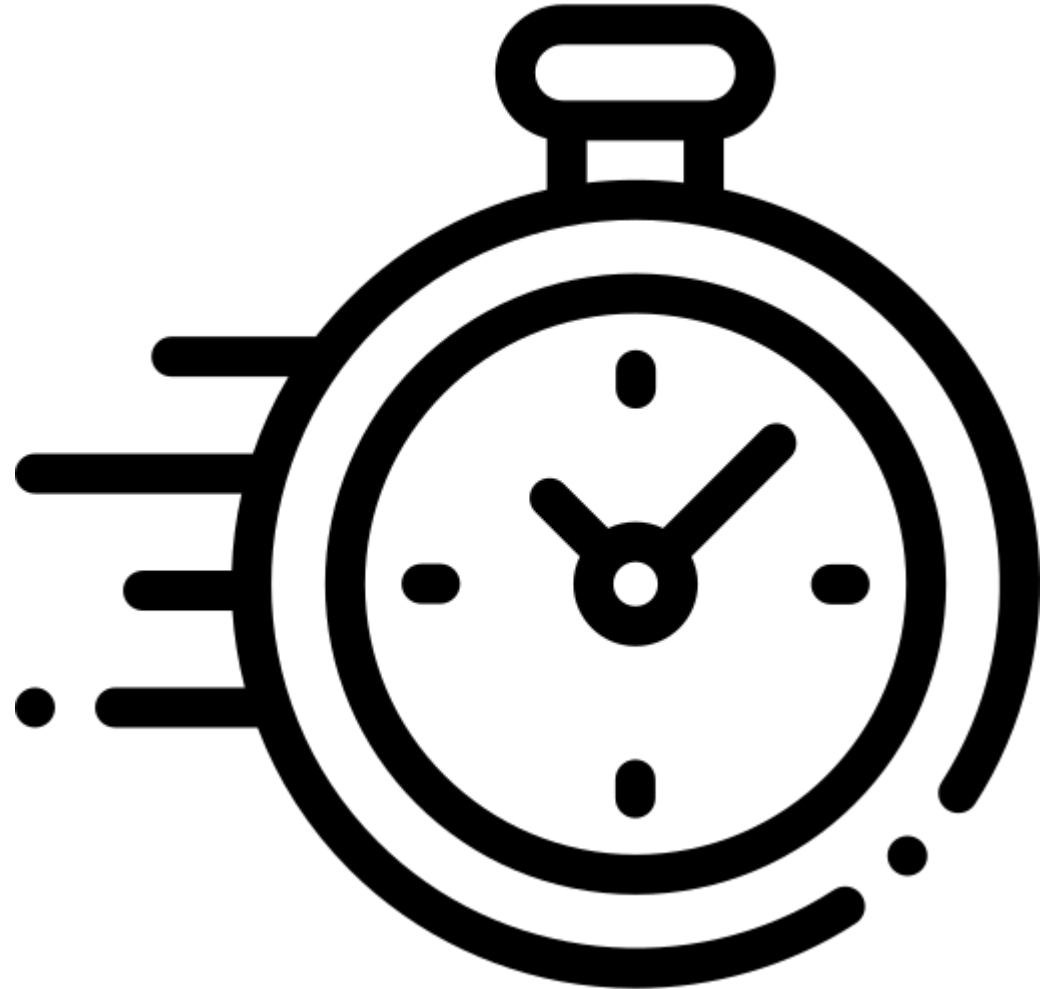
Attorney Assistance



Attorney Assistance



- Can file an appeal within 60 days.
- Can file after 60 days
 - Need to include why it was late



- Full name,
- FEMA registration number,
- Disaster Number,
- Address of the individual's pre-disaster primary residence,
- Current phone number and address,
- Individual's signature,
- Reason for the appeal,
- Exhibits supporting the contention in the appeal



- Penalty of perjury language.:
 - “I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.”



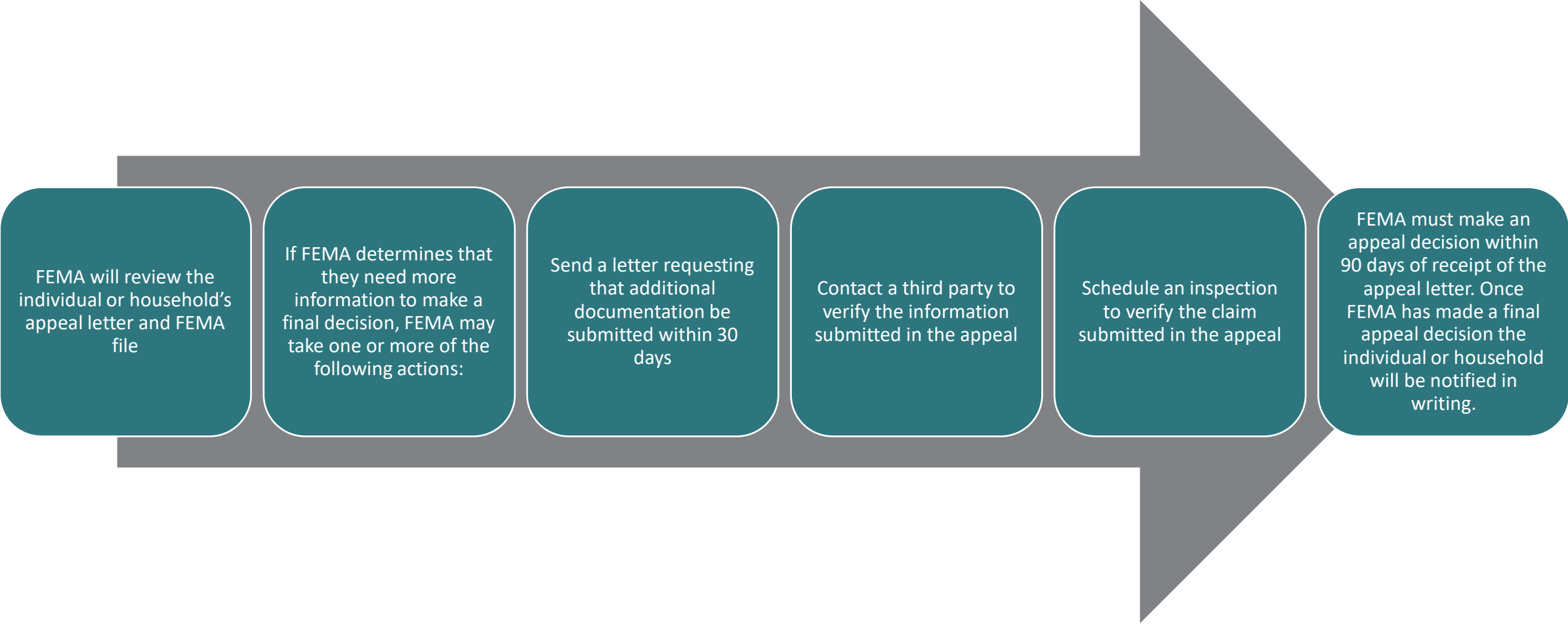
A Note on Documenting Evidence

- Can be hard to get documents due to damage
- Potential Document Alternatives:
 - Utilities Bill
 - Neighbor's Statement
- Think outside the box when collecting





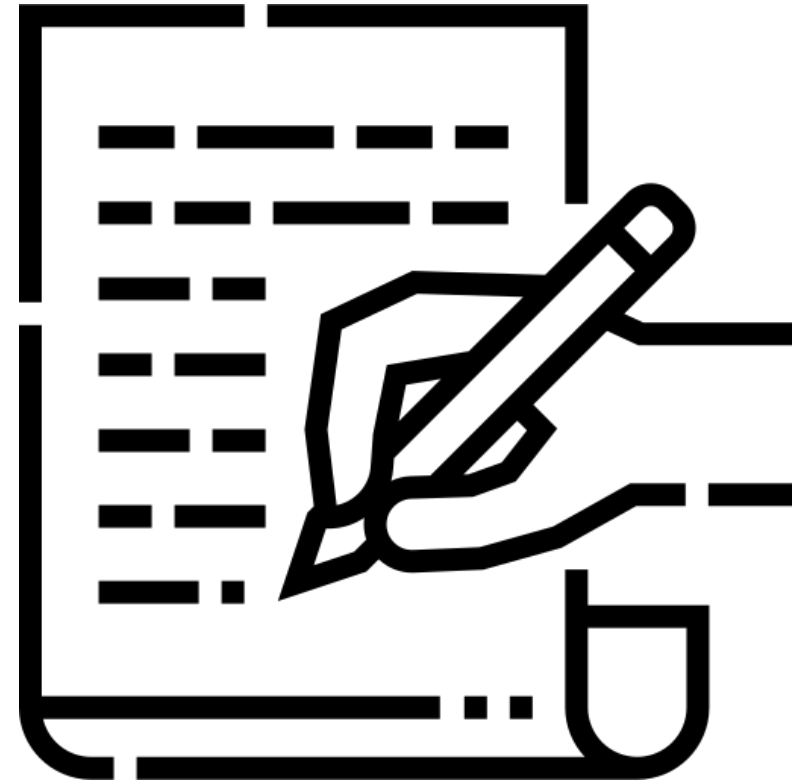
FEMA Appeal Letter Process





FEMA Appeal Letter Process

- Can send a secondary appeal.
- Especially if new information has come to light while the letter has been submitted.
- Send an additional letter if FEMA has not responded within 90 days.

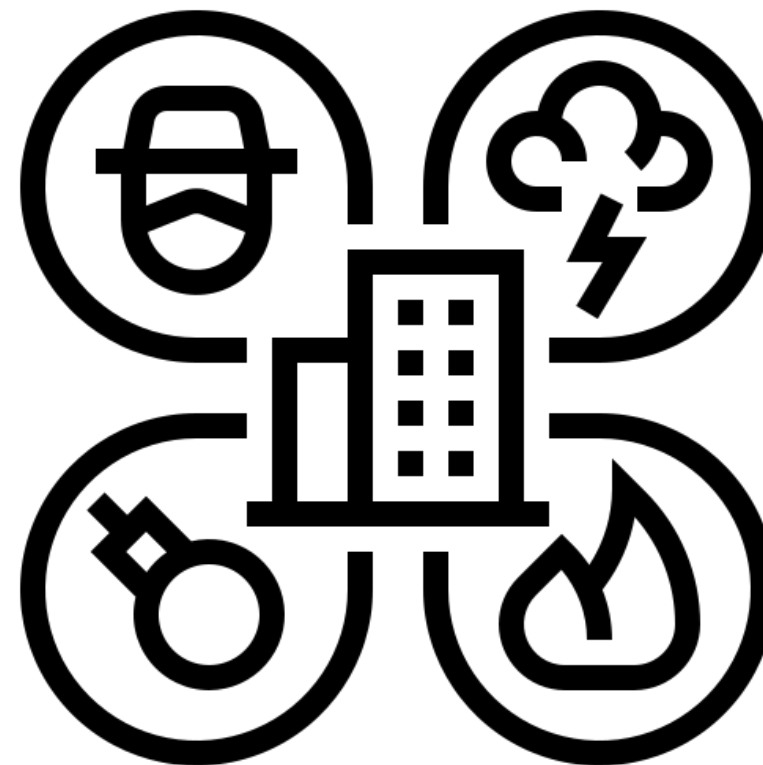




Disaster Recovery Reform Act of 2018

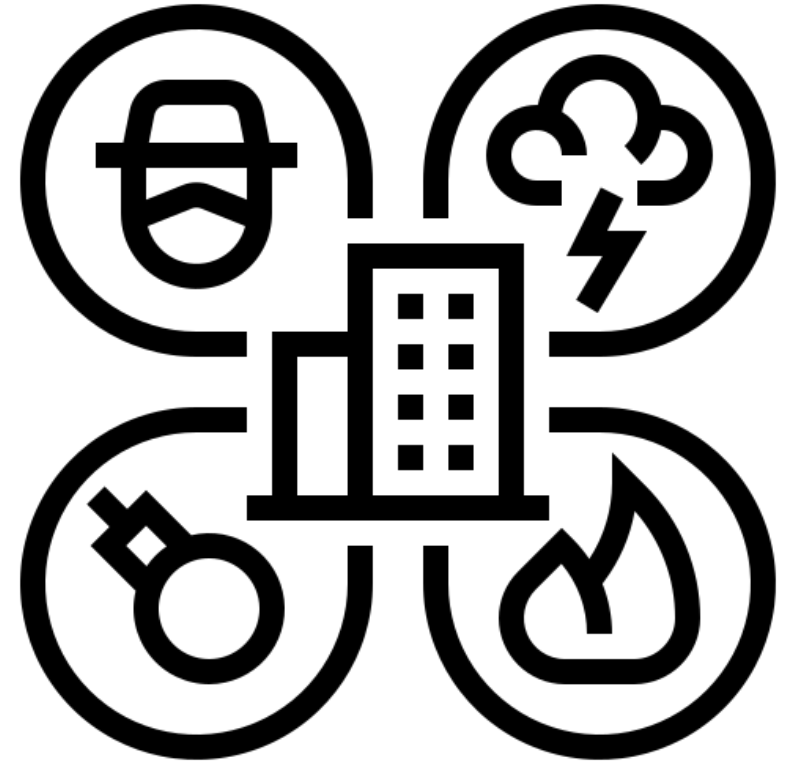
Disaster Recovery Reform Act (DRRA) of 2018

- The DRRA is the most comprehensive reform of FEMA's disaster assistance program since the Sandy Improvement Recovery Act of 2013
- The DRRA creates new authority and amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act
- The intent of the DRRA is to improve pre-disaster planning, mitigation, response, recovery, and increase FEMA's accountability.



Disaster Recovery Reform Act (DRRA) of 2018

- There are more than 50 distinct reforms implemented by the DRRA such infrastructural programs.
- While all DRRA reforms are important to consider, but will primarily focus on the reforms that impact disaster survivors.



- The highlights of the DRRA changes will be broken down into 3 categories:
 - Individuals and Household Assistance Improvements,
 - Duplication of Benefits Limitations,
 - Arbitration Right During Appeals Process.



Individuals and Household Assistance

- Increases the amount of overall financial assistance by:
 - Separating the maximum allowable amount of financial assistance by category with separate maximums for Housing Assistance and Other Needs Assistance.
- Before, individuals and households were limited to a combined financial assistance maximum, whether such assistance was categorized as Individual Assistance and/or Other Needs Assistance

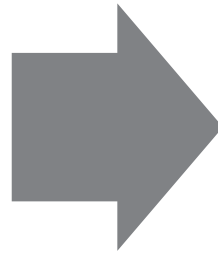




Example: Individuals and Household Assistance

Before:

- An individual or household would only be eligible to receive a maximum financial assistance award of \$34,900.
- This was the overall maximum whether the assistance was paid as Housing Assistance or Other Needs Assistance.



After:

- Individual or household is eligible to receive up to \$34,900 in Housing Assistance payments and \$34,900 in Other Needs Assistance.
- Increased the overall maximum for such assistance from \$34,900 to \$69,800

Maximum assistance is increased annually - Check [disasterassistance.gov](https://www.disasterassistance.gov) to find the current max

Individuals and Household Assistance

- Excludes costs related to the maximum allowable assistance paid to individuals with disabilities for:
 - The repair or replacement of property as it relates to accessibility under FEMA's Permanent Housing Construction, Repair Assistance, and Replacement Assistance Programs.
 - The repair or replacement of personal property as it relates to accessibility under FEMA's Other Needs Assistance program.
- Prior to this change, such costs were included in the maximum allowable assistance provided by FEMA of \$34,900.

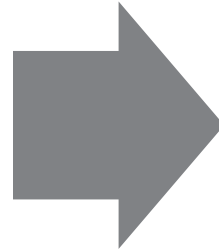




Example: Individuals and Household Assistance

Before:

- the cost to replace a wheelchair was an eligible cost potentially covered by FEMA
- However, payment provided to replace the wheelchair would have been counted against the combined maximum allowable financial assistance.

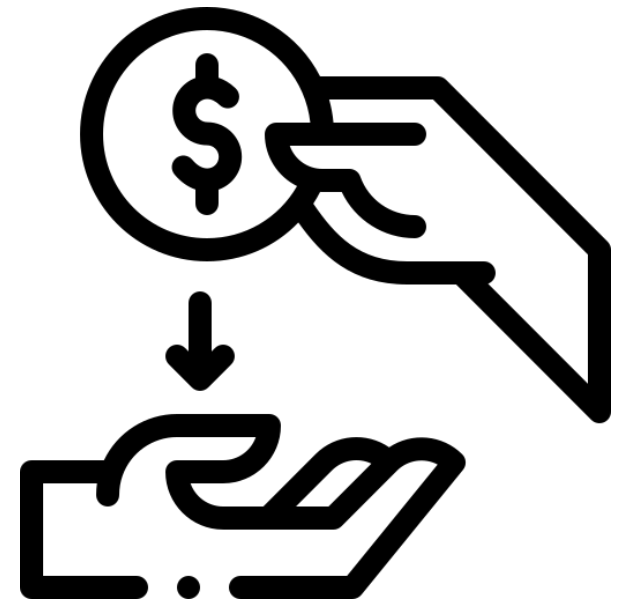


After:

- Financial assistance payments related to the repair or replacement of the wheelchair would not reduce the overall combined maximum of \$34,900 per category or \$69,800 overall.

Duplication of Benefits Limitations

- Limits the collection of duplication of benefits payments by allowing FEMA to waive debts owed under the Individuals and Households Program, if:
 - The debt was erroneously distributed by FEMA,
 - The debt was not the fault of the recipient, and
 - Collecting the debt would be against equity and good conscience.
- Limiting FEMA's ability to initiate a debt collection action more than three years after the final payment of such assistance has been made.





Arbitration Right During Appeals Process

- Allow for a more accountable appeals process by:
 - Providing for a right of arbitration during the appeals process when the initial written appeal of an individual or household has been denied.

Before

- Individuals and households had a right to submit a written appeal as it related to their assistance eligibility within 60 days of receipt of the decision from which the individual or household is appealing.
- The appeals process was internally overseen by FEMA.



After

- Individuals and households have a right to file a second appeal or request arbitration within 60 days of receipt of FEMA's initial appeal decision or 180 days after submission of the first appeal, if FEMA does not provide a valid final appeal decision.
- The arbitration process shall be overseen by the Civilian Board of Contract Appeals and their final decision shall be binding.



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Thank you for joining us

Have a nice day!