2020 Wildfires Webinar
Strategies For Settling
(CA, CO, OR, WA)

Roadmap to Recovery™ Workshop
Zoom Q & A Webinar
June 9, 2021
About United Policyholders (UP)

• Reputable, established 501(c)3 not-for-profit charitable organization, Platinum Guide Star rating

• A trusted information resource and respected voice for insurance consumers in all 50 states

• 30 year track record and expertise in disaster recovery

• Not for profit…not for sale

• Funded by donations and grants
Team UP

• Professional staff
• Government and nonprofit partners
• Volunteers
  o Survivor to Survivor - previous catastrophic loss survivors paying it forward
  o Consumer oriented professionals
    • Damage and repair/rebuild cost estimators
    • Lawyers
    • Public Adjusters
    • Tax and Financial Planning experts
    • Construction and Real Estate professionals
Our Three Programs

Roadmap to Recovery™
– Guidance on insurance, restoring assets and getting back home after a catastrophic loss

Roadmap to Preparedness
– Helping households and communities reduce risk and be resilient to disasters and adversity

Advocacy and Action
– Enforcing insurance consumer rights and protections
R2R Guidance and Tools

“The Little Yellow Book”

Email info@uphelp.org to have a copy mailed to you.

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The Fine Print

• This workshop is intended to be general guidance only, not legal advice

• If you have a specific legal question, we recommend you consult an experienced attorney

• We do not endorse or warrant any of the sponsors or the speakers at our workshops

• We are not creating a professional/client relationship with any individual
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United Policyholders:
  Amy Bach, Val Brown, Kerri Waite, Elyse Hicks
Colorado Insurance Division:
  Tracy Garceau
Oregon Insurance Division:
  Nancy Yulli
Washington Insurance:
  Josh Culley
California Insurance Attorney:
  Ben Suter, Keesal, Young & Logan
Amy Bach, Esq.

• Dedicated to advancing the interests of insurance policyholders since 1984
• Published author, experienced trial and regulatory attorney
• Co-founder, UP
• Official consumer representative to NAIC since 2009
• Member, Federal Advisory Committee on Insurance (US Treasury)
Colorado Division Of Insurance
For Free, Personal Assistance With Your Claims Or Underinsurance Issues
To File a Complaint Online:  www.doi.colorado.gov
By Email:  dora_insurance@state.co.us
Or Call:  (303)894-7499

Welcome to the Colorado Division of Insurance
How to reach an advocate:

- **Call**
  888-877-4894 (toll-free)

- **Email**
  dfr.insurancehelp@oregon.gov

- **Visit**
  dfr.oregon.gov
Wildfire rebuild agreement

Division reached an agreement with several insurance companies to:

- Provide at least 2 years from date of loss for people to rebuild homes
- Provide ability for people to rebuild at a different location

[Wildfire rebuild agreement](dfr.oregon.gov) – Found at [dfr.oregon.gov](dfr.oregon.gov) and click
Josh Culley,
P&C Unit Supervisor, Consumer Protection
Washington State Office of the Insurance Commissioner

Joshua Martinsen
Compliance Analyst,
Washington State Office of the Insurance Commissioner
www.insurance.wa.gov/ask-us-insurance-question

To File a Complaint Online:  www.insurance.wa.gov
Or Call Consumer Hotline:  800-562-6900
By Live Chat:  www.insurance.wa.gov/chat-us

Our offices are closed and we have a limited capacity to receive postal mail. Please note that mailed documents may be delayed by several days. If you need to submit documents to us, please fax them to 360-586-2018. Questions? Call us at 1-800-562-6900 or live chat with us.

File a complaint or check your complaint status
Insurance claims after a fire

- Immediately contact your insurance company.
- Do NOT throw out any damaged items until your insurance company has a chance to inspect and advises you it is ok to do so.
- If your home is not livable, your policy may provide coverage for temporary housing. Ask your insurance company if they can help.
- Obtain a complete copy of your insurance policy, including your declaration page and any endorsements. Read and understand your policy’s coverages, especially the “Duties after Loss” section. If you do not understand your policy, get help from an insurance professional.
- You have a duty to protect your property from further damage, which may include mitigation, emergency repairs, or temporary repairs. You may need to retain a licensed professional for this work. Be sure to discuss the process with your insurance company, so don’t make any permanent repairs until after your insurance company has inspected your damaged property.
- Keep your receipts and organize them.
- Save all emails and electronic and paper documentation related to the claim.
- Document and support your claim with photos, details, estimates, etc. to prove your loss. Do not pad or exaggerate your claim – that is insurance fraud and you can be charged with a crime.
- And be sure to keep copies of everything!

What you should know about insurance adjusters

There are three types of insurance adjusters:

- A staff adjuster is employed by your insurance company.
- An independent adjuster is contracted by your insurance company and represents the company.
- A public adjuster is someone you hire and they will charge you a fee to represent you.

Document all of your conversations with your insurance adjuster about your claim and policy limitations in a dedicated claim diary. If any adjuster says something is excluded, limited, or subject to certain conditions, ask the adjuster to point out the specific provision in your policy they’re citing.
FOR FREE, PERSONAL ASSISTANCE WITH YOUR CLAIMS OR UNDERINSURANCE ISSUES

CALL US AT: 1 800 927 4357

OR GO ONLINE: insurance.ca.gov
Ben Suter, Esq.

- Shareholder with Keesal, Young & Logan in its San Francisco office since 1987
- Experienced business litigator
- Has successfully helped underinsured wildfire survivors reach confidential settlements
Your California Wildfire Help Library
www.uphelp.org/2020Wildfires

- California Specific Help
- One Click Links to Sign UP for Events And Email Notifications
- Links to Pro-consumer Professional Help www.uphelp.org/findhelp
- Sample Letters & Claim Forms www.uphelp.org/samples
- Survivors Speak Tips www.uphelp.org/survivorsspeak
- Upcoming Workshops And Resources www.uphelp.org/r2r

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Your Colorado Wildfire Help Library
www.uphelp.org/colorado

• Colorado Specific Resources with Step by Step Guidance
• One Click Links to Sign UP for Events And Email Notifications
• Links to Pro-consumer Professional Help
  www.uphelp.org/findhelp
• Sample Letters & Claim Forms
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• Upcoming Workshops And Resources
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Your Oregon Wildfire Help Library
www.uphelp.org/ORwildfires

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- One Click Links to Sign UP for Events And Email Notifications
- Links to Pro-consumer Professional Help
  www.uphelp.org/findhelp
- Sample Letters & Claim Forms
  www.uphelp.org/samples
- Survivors Speak Tips
  www.uphelp.org/survivorsspeak
- Upcoming Workshops And Resources
  www.uphelp.org/r2r

The Almeda Fire, Beachie Creek Fire, Lionhead Fire, Riverside Fire, Archie Creek Fire, Slater Fire, and Holiday Farm Fire have affected thousands of Oregon residents. Through our Roadmap to Recovery program, you can access free, trustworthy help navigating the process of returning to a wildfire damaged area, repairing and replacing damaged and destroyed property, and collecting all available insurance funds.

If your property is damaged or destroyed, our guidance will help you get started on the road to recovery, make good decisions, and keep moving forward. United Policyholders is non-profit and has expertise based on nearly three decades of assisting in communities hit by wildfires. Our staff, disaster veteran and professional volunteers and our partnerships with public, private and non-profit partners, will help lighten your load. We’re rooting for you and here to help. No strings attached.

We encourage you to take advantage of wildfire recovery help that’s available through Oregon Insurance Commissioner’s office and his staff. This includes a toll free hotline, 800-877-4094, with insurance advocates available 8 a.m. – 5 p.m., and information on your rights as an insurance consumer. The Commissioner’s most recent Emergency Bulletin requires insurers to expedite claims handling for Oregon insureds affected by wildfires.

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Your Washington Wildfire Help Library
www.uphelp.org/WAwildfires

- Washington Specific Resources with Step by Step Guidance
- One Click Links to Sign UP for Events And Email Notifications
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- Upcoming Workshops And Resources www.uphelp.org/r2r

DISASTER RECOVERY HELP

2020 Washington Wildfires - Insurance Claim and Recovery Help

Through our Roadmap to Recovery program you can access free, trustworthy help navigating the process of returning to a wildfire damaged area, repairing and replacing damaged and destroyed property, and collecting all available insurance funds.

If your property is damaged or destroyed, our guidance will help you get started on the road to recovery, make good decisions and keep moving forward. United Policyholders is non-profit and has expertise based on nearly three decades of assisting in communities hit by wildfires. Our staff, disaster veteran and professional volunteers and our partnerships with public, private and non-profit partners will help lighten your load. We're rooting for you and here to help. No strings attached.

We encourage you to take advantage of wildfire recovery help that's available through the Washington State Insurance Commission. This includes a toll-free hotline, 800-562-6900.

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Knowing Your Rights

There are three primary sources that dictate how your insurance company must behave regarding claim handling:

1. Your State’s Insurance Laws (Statutes and Case Laws that relate to fair/unfair claim handling)
2. Your State’s Regulations, Bulletins and Notices (Often more specific than laws)
3. The language in your specific policy (including endorsements, exclusions and declarations)
4. The Covenant of Good Faith and Fair Dealing (read into insurance policies)
Journaling and a good paper trail

• Your communications with insurer should:
  – Confirm you are cooperating with their investigation
  – Tell them what you need/want and why
  – Ask what they need from you to resolve your claim
  – Point out specific things they have/haven’t done that are holding up resolution of your claim
  – Politely remind them about your challenging situation
  – Give them a specific time frame to reply/comply
  – Follow up…follow up….follow up again…
Negotiation - Best Practices

• Keep it professional
• Be concise and specific
• Bold or bullet point your requests
• Avoid long paragraphs
• Use good grammar and punctuation
• Promptly respond to reasonable requests
• Confirm your willingness to cooperate, explain why you can’t fulfill an unreasonable request
• Avoid venting frustrations and emotions
Your personal leverage

- Sudden tragedy turned your life upside down
- You’re doing your best with the MANY details
- Special circumstances (Senior Citizen, commuting worker, working parent, young kids, business owner, disabled/illness, etc.)
- You lost a lifetime of possessions and memories
- Good help is extra hard to find now, labor and material prices are high
- Records are all gone and painstaking to recreate
- Insurers have made concessions to others
Go “up the chain” … to get attention and results

• If you are unable to resolve an issue with your adjuster, go above their head
• The higher you go…the greater your chances of success in resolving your dispute
• At the same time, open a complaint/RFA with your state Insurance oversight agency
• Vague threats to sue are rarely effective
Filing a complaint with the DOI boosts your leverage

Elevates your situation, “squeaky wheel”

48% of UP survey respondents reported having a problem with their insurance company.
Of those respondents only 16% have filed a complaint with Department of Insurance.

Insurers are subject to fines and penalties, Market Conduct Exams
Underinsurance

• My rebuilding estimate is 120,000 over my policy limit. A great deal of the gap is due to increased material costs. Will insurance companies cover these costs? (Paul H, CO)

• https://uphelp.org/claim-guidance-publications/underinsurance-101/
Code Upgrade

• Should code upgrades be included in RCV? Nationwide is denying inclusion until "cost is incurred" which will hurt our settlement figure. (We intend to repurchase not rebuild). (Jane C, CA)

• https://uphelp.org/claim-guidance-publications/building-code-ordinance-or-law-compliance/
Actual Cash Value

• Once RCV and ACV have been agreed upon with insurance co, is it possible to negotiate a higher ACV payout by offering to not go the replacement route? e.g., "We're leaning towards using the $1.5 million RCV to replace our home, but if you'd be willing to split the difference between our ACV and RCV, we'd save you the other half of that difference and go the ACV route." (Jane C, CA)
ALE

• I’ve been asking for my insurance to give us detailed breakdown of the ALE payments so we can track the reimbursements but the request is being ignored. What is our next move? (Linda R, CA)

Public Adjusters

- We received an inaccurate Xactimate estimate in January, then were assigned to a new adjustor on the CA Wildfire Team in February. For months he insisted Xactimate was accurate and left it to me to research differences between it and the builder's estimate. I have since found many items missing. Two weeks ago, we had a meeting and agreed on scope, and he was to update Xactimate. On Friday, I requested an update on Xactimate with the missing items and re-costed for June and he again became belligerent, condescending, raised his voice. We are ready to rebuild but he is a big bully. Aren't we entitled to an estimate per 2695.9? I'm worried requesting a new adjustor will cause delays. Should we contact his supervisor? (Rina W, CA)

- https://uphelp.org/claim-guidance-publications/making-
Underinsurance

• Construction costs have increased dramatically since the fire. Even if we are not dramatically under insured when the fire happened, many of us are now dramatically and underinsured due to increasing construction costs. Are there any repercussions for this? (Betsy F, CA)

• https://uphelp.org/claim-guidance-publications/underinsurance-101/
Contents and Inventory

• Is there any strategy for getting the final 25% of our contents money without doing the complete inventory? (Gary S, CA)

Replacement Cost v. Actual Cash Value

• Can you please clarify the difference between Replacement Cost and Actual Cost regarding Dwelling, and how insurance companies arrive at the figures? (Astrid B, CA)

• [https://uphelp.org/events/how-to-read-and-understand-your-insurance-policy-2/](https://uphelp.org/events/how-to-read-and-understand-your-insurance-policy-2/)
Replacing by Buying

• If I choose to buy elsewhere instead of rebuild - thereby receiving the same amount of proceeds that it would cost me to rebuild - could I hold onto that money to better time it with local condo market prices? Who will regulate how I've spent those funds? I fully intend to use the funds for housing, I'm just trying to understand how it works. (Luke B., CA)
Laws and Regulations in Your State

https://uphelp.org/recovery/state-by-state-help/
In an effort to assist survivors, displaced residents, and businesses affected by the current and recent wildfires throughout the state, and in recognition of Governor Gavin Newsom’s declared state of emergency on August 18, 2020, related to the July-August 2020 wildfires, I am calling on all property and casualty insurance companies to implement emergency expedited claims handling procedures and billing grace periods to assist residents and businesses to recover more quickly.

**Personal Property (Contents):** Insurers should provide an initial contents advance payment of at least 25% of policy limits for a total loss of the primary residence in a wildfire disaster without the completion of an inventory. Additional contents payments should be available upon proper proof provided by and upon request of the policyholder.
In an effort to assist survivors of the 2020 California wildfires, I request all admitted and non-admitted residential property insurers to, consistent with past practice, provide relief to policyholders who suffered a total loss in the recent California wildfires by waiving the requirement of completing a personal property inventory to collect all or a significant portion of their personal property (or contents) policy coverage limits. In the past few years, the Department has sent similar requests and most residential property insurance companies provided at least 75%, and up to 100%, of Contents (Personal Property) coverage limits without requiring the policyholder to complete the onerous task of preparing a detailed personal property inventory.

On September 29, 2020, Governor Gavin Newsom signed SB 872 and AB 3012 that provide, among other things, protections for policyholders who suffered a covered total loss resulting from a wildfire state of emergency. Portions of AB 3012 will be effective on July 1, 2021 and will require residential property insurance companies to offer a payment under the Contents (personal property) coverage in an amount no less than 30% of the policy limit applicable to the covered dwelling structure, up to a maximum of two hundred fifty thousand dollars ($250,000), without requiring the policyholder to file an itemized personal property inventory. Although this provision in AB 3012 will not become effective until July 1, 2021, I request all residential property insurers, at a minimum, to offer current wildfire claimants this same option.
“When the amount claimed is adjusted because of... depreciation... all justification for the adjustment shall be contained in the claim file.

Any adjustments shall be discernable, measurable, itemized, and specified as to dollar amount, and shall accurately reflect the value of the... depreciation...

Any adjustments for... depreciation shall reflect a measurable difference in market value attributable to the condition and age of the property and apply only to property normally subject to repair and replacement during the useful life of the property.

The basis for any adjustment shall be fully explained to the claimant in writing.”
<table>
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<tr>
<th>Insurance companies that agreed to offer at least the minimum amount of advance payment on contents coverage without an inventory&lt;sup&gt;(1)&lt;/sup&gt;</th>
<th>Continued from Column One --- Agreed to at least the minimum amount of contents without an inventory&lt;sup&gt;(1)&lt;/sup&gt;</th>
<th>Insurance Companies that Offered Less than the requested minimum amount of Contents without an inventory&lt;sup&gt;(2)&lt;/sup&gt;</th>
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<td>Aegis Security</td>
<td>Mercury Casualty</td>
<td>Allstate</td>
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<tr>
<td>AIG Property Casualty</td>
<td>Nationwide</td>
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<td>AIG Specialty Insurance</td>
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<td>American Family Connect P&amp;C</td>
<td>Oregon Mutual</td>
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<td>American Modern &amp; Affiliates</td>
<td>Pacific P&amp;C</td>
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<td>American National P&amp;C</td>
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<td>Amica Mutual</td>
<td>Praetorian Insurance</td>
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<td>Armed Forces</td>
<td>Privilege Underwriters Ins. Exchange (PURE)</td>
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</tr>
<tr>
<td>California Auto Insurance Co.</td>
<td>QBE Insurance Corporation</td>
<td>Kemper</td>
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<tr>
<td>California Casualty</td>
<td>Regent Insurance</td>
<td>KW Specialty</td>
</tr>
<tr>
<td>CHUBB</td>
<td>Residence Mutual</td>
<td>Liberty Mutual/Safeco</td>
</tr>
<tr>
<td>Cincinnati Insurance Co.</td>
<td>Seaview Insurance</td>
<td>Metropolitan Direct P&amp;C</td>
</tr>
<tr>
<td>DB Insurance Company Ltd.</td>
<td>Stillwater Insurance</td>
<td>Pharmacists Mutual</td>
</tr>
<tr>
<td>Electric Insurance</td>
<td>Stonington Insurance</td>
<td>Response Indemnity</td>
</tr>
<tr>
<td>Farmers Group</td>
<td>Unigard Insurance</td>
<td>The Hartford</td>
</tr>
<tr>
<td>General Casualty Co of WI</td>
<td>Universal North American Ins.</td>
<td>Topa Insurance Group</td>
</tr>
<tr>
<td>Grange Insurance Assn.</td>
<td>USAA</td>
<td>Travelers</td>
</tr>
<tr>
<td>Homesite Ins. Co of California</td>
<td>Wawanesa</td>
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</tr>
<tr>
<td>Horace Mann P&amp;C</td>
<td>Western Mutual</td>
<td></td>
</tr>
<tr>
<td>Interinsurance Exchange of the Automobile Club</td>
<td>Zurich North American</td>
<td>California Capital Insurance Company</td>
</tr>
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</table>


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Is there a time limit to collect RCV benefits in California?

YES – California - 36 Months

*California Insurance Code 2051.5*

(b)(1)(A)(ii) “...In the event of a loss relating to a “state of emergency,” as defined in Section 8558 of the Government Code, a time limit of less than 36 months from the date that the first payment toward the actual cash value is made shall not be placed upon the insured in order to collect the full replacement cost of the loss, subject to the policy limit.” (emphasis added)
§10-3-1104(1)(h), C.R.S.

• **(h) Unfair claim settlement practices:** Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:
  
  • **(I) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;** or
  
  • **(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;** or
  
  • **(III) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;** or
  
  • **(IV) Refusing to pay claims without conducting a reasonable investigation based upon all available information;** or
  
  • **(V) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;** or

*Note: This is a partial list of relevant regulations....*
§10-3-1104(1)(h), C.R.S.

• (VI) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear; or

• (VII) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds; or

• (VIII) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application; or

• (IX) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured; or

• (X) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made; or

Note: This is a partial list of relevant regulations....
Your insurance company cannot require you to have your property repaired by a specific individual or entity.

The law prohibits an insurance company or its agent from:

- Requiring that appraisals or repairs to the real or personal property be made or not be made by a specific repair business
- Representing to a claimant that the use of or the failure to use a particular repair business may result in nonpayment or delayed payment
- Requiring the beneficiary or claimant to travel an unreasonable distance to choose a repair business
- Misinforming a beneficiary or claimant to induce the use of a particular repair business and
- Requiring a third-party claimant to have repairs done by a particular repair business

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What does the CO law require?

Bulletin B-5.4 Summary of § 10-4-120, Colorado Revised Statutes

The law requires an insurance company or its agent to:

• Inform the beneficiary or claimant that they may select any repair business of their choosing

• Supply the beneficiary or claimant with a copy of the estimate upon which a settlement is based, when partial losses are settled based on an estimate prepared by or for the insurance company

• Confirm that any estimate prepared by or for the insurer to repair damages that are visible or evident at the time of inspection is adequate to restore the real or personal property within a reasonable time to its condition before the loss, in accordance with applicable policy provisions

• Promptly pay the cost of the real or personal property repair less the deductible according to the terms of the insurance policy at no less that the prevailing competitive market price in the same geographic area

• Disclose any ownership interest in, or affiliation with, a recommended repair business

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Does CO have laws regarding depreciation?

“To determine depreciation, Colorado follows the broad evidence rule which requires that all relevant factors must be considered to determine appropriate depreciation. This requires looking beyond just wear and tear or market value, and includes looking at all facts and circumstances which would lead to a correct estimate of the value of the particular item.”

Quoted from Merlin Law Blog
Colorado Revised Statutes § 10-4-110.8 (11) (a): required initial advance of contents coverage without completing an inventory

Request and deposit the mandatory initial 30% of the policy limits for “C” that Colorado law requires all insurers to pay (write “partial settlement” on the check before depositing).

In accordance with C.R.S. 10-4-110.8 (11) (a), in the event of a total loss of an owner-occupied primary residence that was furnished at the time of loss, the insurer shall offer the policyholder a minimum thirty (30) percent of contents coverage without completing an inventory. In order to receive up to the full value of contents the policyholder must complete the inventory.
Colorado Revised Statutes § 10-4-110.8 (11) (c) (I) and (II):
Contents claims deadlines

• 365 days after total loss claim to submit inventory
• 365 days from expiration of ALE coverage to replace property and receive recoverable depreciation

In accordance with C.R.S. 10-4-110.8 (11) (c) (I) and (II), an insurer shall:

- Allow the policyholder 365 days after a total loss claim to submit an inventory of lost or damaged property; and,
- Allow the policyholder 365 days from the expiration of the Additional Living Expense coverage to replace property and receive recoverable depreciation.
Homeowners Insurance Reform Act of 2013 (HB 13-1225) Requires Insurers to ….

- Offer Extended Replacement Cost of at least 20% of dwelling coverage
- Offer Law and Ordinance Coverage of at least 10% of dwelling coverage
- Offer at least 24 months of ALE vs standard 12 month limit
- Consider a RC estimate from a licensed contractor or architect, subject to UW approval
- Provide a copy of policy within 3 days of request, 30 days for a certified copy
- Issue 30% of contents without an inventory if dwelling is a total loss
- Allow 365 days after ALE expires to replace contents and receive withheld depreciation

Note: This is a partial list of relevant bulletins

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Dora Division of Insurance - Bulletins

- Equitable Payment of Claims Resulting from Natural Disasters –B 5.28
- Homeowners’ Right to Obtain Additional or Enhanced Coverages –B5.35
- Notice of the Provisions Pertaining to the Payment of Claims for the Repair of Damaged Property –B5.04
- Actions to Protect Consumers with Property and Casualty Insurance Policies During the COVID-19 Public Health Emergency in Colorado –B5.38

More Info at: www.doi.colorado.gov

Note: This is a partial list of relevant Colorado DOI bulletins....
2020 Colorado Wildfires
Online County Resource Links

• Larimer County
  ➢ https://www.larimer.org/wildfire-resources
  ➢ https://www.larimer.org/building/codes

• Grand County
  ➢ https://www.co.grand.co.us/1357/Disaster-Assistance-Center
  ➢ https://www.co.grand.co.us/1117/Codes-Amendments

• Boulder County
  ➢ https://www.bouldercounty.org/disasters/wildfires/calwood-lefthand-canyon/
  ➢ https://www.bouldercounty.org/property-and-land/land-use/planning/land-use-code/
(1) An insurer shall, not later than the 30th day after its receipt of properly executed proofs of loss from a first party claimant, advise the claimant of the acceptance or denial of the claim. An insurer shall not deny a claim on the grounds of a specific policy provision, condition or exclusion unless the denial includes reference to the provision, condition or exclusion. A claim denial must be in writing, with either a copy or the capability of reproducing its text included in the insurer's claim file.

(3) If a claim is denied for reasons other than those described in section (1) of this rule and is made by any other means than in writing, an appropriate notation shall be made in the insurer's claim file.

(4) If an insurer needs more time to determine whether the claim of a first party claimant should be accepted or denied, it shall so notify the claimant not later than the 30th day after receipt of the proofs of loss, giving the reason more time is needed. Forty-five days from the date of such initial notification and every 45 days thereafter while the investigation remains incomplete, the insurer shall notify the claimant in writing of the reason additional time is needed for investigation.

(5) An insurer shall not fail to settle claims of first party claimants on the grounds that responsibility for payment should be assumed by others, except as may be provided otherwise by the provisions of the insurance policy issued by the insurer.

Note: This is a partial list of relevant regulations…
WAC 284-30-380

• (1) Within fifteen working days after receipt by the insurer of fully completed and executed proofs of loss, the insurer must notify the first party claimant whether the claim has been accepted or denied. The insurer must not deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to the specific provision, condition, or exclusion is included in the denial. **The denial must be given to the claimant in writing and the claim file of the insurer must contain a copy of the denial.**

• (2) If a claim is denied for reasons other than those described in subsection (1) and is made by any other means than in writing, an appropriate notation must be made in the claim file of the insurer describing how, when, and to whom the notice was made.

• (3) If the insurer needs more time to determine whether a first party claim should be accepted or denied, it must notify the first party claimant within fifteen working days after receipt of the proofs of loss giving the reasons more time is needed. If after that time the investigation remains incomplete, the insurer must notify the first party claimant in writing stating the reason or reasons additional time is needed for investigation. This notification must be sent within forty-five days after the date of the initial notification and, if needed, additional notice must be provided every thirty days after that date explaining why the claim remains unresolved.

*Note: This is a partial list of relevant regulations…*
(4) Insurers must not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

(5) Insurers must not continue negotiations for settlement of a claim directly with a claimant who is neither an attorney nor represented by an attorney until the claimant's rights may be affected by a statute of limitations or a policy or contract time limit, without giving the claimant written notice that the time limit may be expiring and may affect the claimant's rights. This notice must be given to first party claimants thirty days and to third party claimants sixty days before the date on which any time limit may expire.

(6) The insurer must not make statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a specified period of time unless the statement is given for the purpose of notifying the third party claimant of the provision of a statute of limitations.

(7) Insurers are responsible for the accuracy of evaluations to determine actual cash value.
What do I do with this information?
You can:

• Use these resources as a tool to get your claim paid promptly and fairly

• Politely and professionally remind your adjuster of these regulations and code sections if need be (quote in support of your claim request…)

• Provide proof of violations of the regulations which may allow the Commissioner to assess penalties on insurers

Note: Not meant to be a litigation springboard…
Mediation

• Mediation is an informal, voluntary, non-binding process for conducting settlement negotiations between you and your insurance company.

• Can be fast and inexpensive if your dispute is ripe for mediation and you’re prepared and empowered
Mediation “Pros”

• Inexpensive

• If you don’t like the result, you can walk away

• Efficient way of putting the dispute behind you and moving forward

• Educates both sides about the strengths and weaknesses of their positions
Mediation “Cons”

• Insurance company may not be seriously interested in settling, but uses mediation to gather evidence and test the strength of your legal case
• Mediator may inappropriately discourage/scare the policyholder to force a settlement
• Mediator may tell insurance company things you ask them to keep secret
• Insurance rep may take advantage of your inexperience with the mediation process and legal concepts
• You may leave the mediation feeling it was a waste of time and money
Appraisal

- Most property insurance policies contain wording that allows disputes over the amount/value of a loss to be resolved by a process called "appraisal." Public adjusters often use appraisal for leverage and to settle.

- An insurance appraisal is a mini-arbitration of sorts. Each side picks an appraiser then there’s one umpire.

- An insurance appraisal can determine the scope and severity of a loss (what was damaged and how badly) and the value of the loss (how much repairs should cost). You wouldn’t use appraisal to determine fault for underinsurance, e.g.
Insurance Appraisal Simplified

STEP 1 → A dispute arises over the VALUE and/or EXTENT of an insured loss

STEP 2 → Each side (insurer and insured) picks an appraiser, the appraisers pick the umpire/neutral

STEP 3 → The two appraisers try to reach agreement on some or all items in dispute

STEP 4 → As to remaining issues, the appraisers and umpire review documents, photos, evidence

STEP 5 → Deliberations/Voting

STEP 6 → 2 out of 3 agree and write up and sign their decision OR 3 out of 3 agree (unanimous)

STEP 7 → DECISION/"AWARD"

STEP 8 → Deliver Decision/Award to carrier and insured to trigger payment or enforcement of the award

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Types of Professional Help

- Licensed Attorney
- Licensed Public Adjuster
- Licensed Contractor
- Licensed or Unlicensed Construction Estimator/Consultant/Scope preparer
  - Fees range from free to $4k to % of project
  - Can they defend/negotiate on your behalf?
  - Is their work better than Xactimate, how/why?
Litigation

Multi-plaintiff/class action/unfair practice/fraud

• Systematic underinsurance, improper software
• Systemic fraud
• Improper depreciation
• Disparate treatment
• Utility negligence/liability

Individual

• E & O claim vs. agent/broker
• Breach of contract/covenant of GFFD

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UP Claim Help Library

www.uphelp.org/disputeresolution

– Speak UP: Going up the chain of command
– Insurance Appraisal Simplified
– A Policyholders Guide to Mediation
– Hiring Professional Help
– Sample Letters (www.uphelp.org/sample)
Help us pay it forward
LAST CALL - Take the survey Today!
www.uphelp.org/surveyCO

- Anonymous - 1 per household
- Provides valuable consumer-driven data on recovery for legislative efforts
- Helps guide Long-term Recovery efforts for your community
- Tracks patterns and problems with insurer claim adjusting practices
- Tracks levels of underinsurance
- Assists in our Advocacy in Action program with reliable policyholder data
- Your email will be entered into a drawing to win a $50 Amazon gift card

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Upcoming Roadmap to Recovery™ Events

www.uphelp.org/events
Thank You Colorado Funders
Thank You Oregon And Washington Funders
Stay connected to other disaster survivors – S2S Forums

• Great Source of Information About:
  – Insurance and Rebuilding
  – Negotiation and Financial Strategies
  – Referrals and Warnings re: professionals
• Important Source of Emotional Support
  – No one else understands your challenges and emotions like another survivor

➤ Find upcoming Survivor 2 Survivor Forums and register at: http://www.uphelp.org/r2r
Stay informed – Sign UP

To be added to our mailing list for notices of future events and updated guidance:

➢ Encourage friends to sign up: www.uphelp.org/signup

➢ To request a copy of today’s slides or video, email: info@uphelp.org