

# **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

## **FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)**

### **APPEAL DECISION**

*FEMA Flood Insurance Appeal Decision #C41*

## **OVERVIEW**

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The policyholders filed an appeal on August 2019, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied part of their claim under the Standard Flood Insurance Policy (SFIP)<sup>1</sup> for damages to covered property arising from a flood event dated July 2019.<sup>2</sup>

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholders had \$75,000 in building coverage with a \$2,000 deductible.
- The policyholders filed a claim with the insurer and the insurer assigned an adjuster to inspect the property.
- An adjuster inspected the property on July 2019, and recorded an exterior flood water line at three inches and no water line on the interior of the building.
- The insurer paid the policyholder \$3,525.96 for covered damages to the exterior Heating, Ventilation, and Air Conditioning (HVAC) system.
- In a letter dated August 2019, the insurer partially denied coverage for damage to the interior portion of the HVAC system citing no direct damage by or from flood.<sup>3</sup>
- The policyholders are appealing the denial of coverage for the part of the HVAC system located inside the building.
- In support of their appeal, the policyholders include a diagnostic evaluation from a HVAC technician.

## **RULES**

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The insurer will pay the policyholders for direct physical loss by or from flood to covered property, provided the policyholders complied with all terms and conditions of the SFIP. There must be evidence of physical changes to the property.<sup>4</sup>

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<sup>1</sup> See 44 C.F.R. § 61.13 (2018); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

<sup>2</sup> The policyholders file this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholders’ claim. The policyholders’ appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

<sup>3</sup> See Appeal File, Denial Letter.

<sup>4</sup> See SFIP (I), (II)(B)(12).

The SFIP does not provide coverage for the cost of complying with any ordinance or law requiring or regulating the construction, demolition, remodeling, renovation, or repair of property, including removal of any resulting debris.<sup>5</sup>

The SFIP excludes any other economic loss incurred.<sup>6</sup>

## ANALYSIS

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On appeal, the policyholders request additional payment to cover the cost of replacing their entire HVAC system.

The insurer will pay the policyholders for direct physical loss by or from flood to covered property, provided the policyholders complied with all terms and conditions of the SFIP. Loss or damage to insured property, must be directly caused by a flood. There must be evidence of physical changes to the property.

In review of the claim file, the adjuster noted flood waters did not enter the interior of the building. Flood water only caused direct physical loss to the exterior HVAC unit, and did not make contact with any interior portions of the HVAC system. As a result, the insurer correctly denied coverage and payment for the interior HVAC unit because they determined it did not suffer direct physical loss by or from flood. Without any evidence of direct physical loss by or from flood to the interior HVAC unit, the SFIP cannot provide additional payment.

The diagnostic write-up provided by the policyholders, appears to state that the electronics were at least partly ruined after the HVAC system was re-started repeatedly during the technician's inspection and diagnosis of the unit. The write-up does not provide any clear evidence or analysis that the flood directly ruined the interior HVAC system. If for example, the flood shorted the interior unit while the system was still operating, the interior unit could be covered. However, at this time, the policyholders present no evidence this occurred. FEMA agrees the insurer correctly denied coverage for the interior unit due to no direct physical loss by or from flood.

The SFIP excludes the cost of complying with any ordinance or law requiring or regulation the construction, demolition, remodeling, renovation or repair of property, and excludes any other economic loss the policyholders may suffer. Therefore, the SFIP is unable to provide coverage for the interior HVAC unit, even if replacing it is required to match the new outside HVAC unit's refrigerant type or efficiency rating.

Based on the information presented, there is no basis for FEMA to overturn the denial or instruct the insure to re-evaluate. If the policyholder has additional documentation linking the damage to the interior unit directly to the flood event, they should submit it directly to the insurer for review.

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<sup>5</sup> See SFIP (V)(A)(6).

<sup>6</sup> See SFIP (V)(A)(7).

## CONCLUSION

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Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny coverage for the interior portion of the HVAC system.