

FEMA Wants Money Back? Self-Help Guide to the Debt Repayment Process.

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FEMA is asking for money back. Does it have a right to do that?

Yes. FEMA must seek repayment when it decides any of its financial aid was given by mistake, the money was spent inappropriately, or the money was obtained by fraud. See 44 C.F.R. [Code of Federal Regulations] §206.116 Recovery of Funds.

Can FEMA ask for *everything* back?

Yes. FEMA can ask you to pay back any kind of aid. This can include:

- Expedited Assistance (\$2,000 paid right after the disaster)
- Personal Property Assistance
- Transitional Housing Assistance
- Rental Assistance
- Transportation Assistance

FEMA says I owe money back because of “duplication of benefits with a household member.” What does this mean?

This means that FEMA paid more than one person in the household of people who lived together before the disaster, when it should only have paid once. FEMA generally decides that the person who applied first is entitled to the money and the others owe it back. You should not be treated as a single household if you can prove that you were a renter.

FEMA says I owe money back because of “duplication of benefits with insurance.” What does this mean?

This means that FEMA believes someone in the household received insurance money for the same thing that FEMA gave money, and FEMA failed to deduct the amount of insurance paid. You were overpaid by FEMA if that happened, even if the insurance did not fully cover your loss. You should not

have to pay FEMA back if you can prove that the insurance was for something different than what FEMA covered. For example, if FEMA only gave you rental assistance, and your insurance paid for a car.

FEMA says I owe money back because “damaged dwelling wasn’t your primary residence.” What does this mean?

FEMA is not supposed to pay for damage to a second home, a camp, or a unit you rent out to someone else. The damaged home you apply on must be your primary residence. You should not have to pay FEMA back if you can prove that.

FEMA says I owe money back because of “failure to maintain flood insurance on damaged dwelling.” What does this mean?

FEMA will only pay for flood damage to a home once. After that, the owner is required to maintain flood insurance instead of expecting the government to pay. This obligation follows the property. This means that future owners of the dwelling are covered by this rule. See a lawyer if the home was flooded before you owned it and the sellers did not notify you that you had to carry flood insurance. This rule only applies to home-owners, not renters (however, if you rent consider paying for renter’s insurance to protect your property).

FEMA says I owe money back because of “erroneous calculations.” What does this mean?

If FEMA made a math or other calculation mistake, you could owe money back. Although it may not have been your fault, FEMA by law must try to get back money that it paid by mistake.

FEMA says I owe money back because I “misspent the money.” What does this mean?

Most of the money FEMA gives people must be spent for a specific purpose, such as rent or replacing your lost or damaged property. However, FEMA may have sent you the money without telling you this, or the notice went to the wrong address. If this happened to you, and you spent the money on something else that you needed because of the disaster, you could appeal. Explain how you were not told the money was for something

specific, explain what you spent the money on, and show FEMA copies of any evidence you have to prove it.

There could be other reasons FEMA gives for why it wants money back.

FEMA should explain its reason at the start of the collection process. If FEMA doesn't explain the reason, or you have to get the reason by calling FEMA, be sure to point that out in writing when you respond to FEMA.

What is FEMA's collection process?

FEMA has FAQs (Frequently Asked Questions) about its process on its website. You can start here:

https://faq.fema.gov/app/answers/detail/a_id/604/related/1.

FEMA's first step is to send you a written debt notice. The letter will have on it your FEMA application number, a Bill for Collection number, the amount it says you owe, and a brief reason why. FEMA should include several pages to explain its collection process. This is called the "*FEMA Debt Repayment Process: In Summary*." You can also find it online, at: www.regulations.gov#!documentDetail;D=FEMA-2009-0003-0002. Read this carefully! Decide what you want to do and make a note of your deadlines.

What You Can Do: Your Options.

- **Get questions answered.** Call FEMA's Recoupment Helpline at 1-800-816-1122 or visit FEMA's website: <https://faq.fema.gov>.
- **Get a copy of your FEMA file.** Fax FEMA at 1-800-827-8112 to request it. Do this right away - it may take several weeks.
- **Pay in full.** You can pay at any time, but to avoid extra charges pay within 30 days of the bill for collection. You can pay by check, money order, or credit card. You can still appeal. If you win your appeal, FEMA should refund your money.
- **Ask for compromise.** This includes other ways to handle the debt, such as paying over time; paying a smaller amount; having collection

delayed or suspended; termination of the debt; etc.). You have 90 days from the bill of collection mailing date to start talks with FEMA about this, to avoid 6% annual penalty charge. You can do this even while appealing, if you are not able to pay.

Call FEMA's Recoupment Helpline at 1-800-816-1122. It will send you the forms to show your inability to pay. When FEMA sends you the forms, they may give you a 30 day deadline to finish and return them. Give FEMA the documents it wants, plus anything else that might show your inability to pay.

You can try to negotiate anything: the rate and amount of interest, assessment of penalties and costs, length of time to repay, total and periodic payment amounts, etc. FEMA is likely to compromise if you can show: (1) inability to pay or that it could not collect the full amount of debt "within a reasonable time" OR (2) that the cost of collection "does not justify" the enforced collection, OR (3) that there is "significant doubt" of agency ability to prove its case in court. FEMA will consider your age and health; your present and potential income, including inheritance prospects; the possibility of hidden or transferred assets; and whether you have any assets it could seize through enforcement.

Caution: Compromise of the debt may result in some tax consequences. Termination of collection does not keep FEMA from trying to collect again in the future if your situation changes.

- **Appeal.** You have 60 days from Notice of Debt to appeal. FEMA's appeal is on paper only UNLESS you ask for an "Oral Hearing" and FEMA agrees it's necessary. SO, if you want an oral hearing (the chance to talk to FEMA about your appeal, over the phone or face-to-face), explain in your appeal why it is needed or why it is important to you.

FEMA should decide your appeal in 90 days, but may take longer if you are having a hearing. So, you may want to pay (if you can), or try to work out a compromise (if you can't pay), even while you appeal. If you win an appeal, FEMA should return money you paid.

If you appeal, build a record for possible review by a court: *include*

with your appeal all relevant documents, including a copy of your FEMA file. This might include affidavits (notarized statements). If you run out of time to include all the evidence you want to send with your appeal, put that in writing to FEMA and ask for the chance “to supplement” your appeal when you get the missing evidence.

Caution: Arguments are not evidence. Also, on every single page you send to FEMA, write your FEMA application number and bill for collection number, in case the pages get separated.

- **Do nothing.** This is not the best choice. After about 4 months, FEMA will send you a letter telling you it’s sending your debt to the U.S. Department of the Treasury. The Treasury can then:
 - Take money from other federal payments you may get, such as Social Security benefits (if your benefits exceed \$750 monthly).
 - Keep your IRS tax refunds.
 - Send a private collection agency after you, and charge you for the collection costs.
 - Garnish your wages if you are a federal employee.
 - File civil suit to be able to garnish other wages or seize other assets.

TIME IS SHORT: Calendar Your Deadlines

REMEMBER: All deadlines run from the mailing date on the first Bill for Collection letter:

- 30 days: pay in full or FEMA starts to charge interest
- 60 days: deadline to appeal
- 90 days: deadline to seek compromise to avoid financial penalties (6% per year) (although if FEMA sends you the financial forms on your request, you should respond within its 30 day deadline)
- 120 days: FEMA turns case over to Treasury Department for collection

If you’ve missed a deadline you wanted to meet, because FEMA sent a letter to the wrong address, or because you are disabled, or other good reason, be sure to point that out to FEMA in writing.

What happens if I don't pay and there's another disaster? Will FEMA refuse me aid?

FEMA has to go through certain procedures to impose that kind of "penalty" on you. Talk with a lawyer if that happens.

Do I need a lawyer?

If you agree you owe the money and can afford to pay the money back, no. If you don't agree you owe the money back, maybe.

If you feel you need a lawyer, and can afford one, try to get a private lawyer who knows something about FEMA. Private lawyers can be found by looking in the Yellow Pages of your phone book, under "attorneys."

If you can't afford a lawyer, there may be a free legal aid program or two in your area. Find the nearest one on www.lawhelp.org, ask friends and family, or look in the phone book.