Department of Regulatory Agencies

Division of Insurance

Bulletin B.5.28
Equitable Payment of Claims Resulting from the Fourmile Canyon Fire

I. Background and Purpose

The purpose of this bulletin is to provide guidance to insurers of property destroyed by the September 2010 Boulder County fire, Fourmile Canyon Fire.

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 regulated insurance entities issuing dwelling fire or homeowner insurance policies in the areas affected by the Fourmile Canyon Fire, which started on September 6, 2010.

III. Division Position

On September 7, 2010 Governor Ritter issued Executive Order D 2010-012 declaring a Disaster Emergency due to the Fourmile Canyon Fire.

The Division is aware that 169 residential properties were destroyed as a result of this natural disaster. The Division recognizes that insurance companies have been working to determine values and pay coverage benefits to the policyholders of these properties. However, the victims of the Fourmile Canyon Fire may be faced with challenges and limitations which are beyond their control. The availability of contractors and materials as well as inclement weather restrictions may prevent homeowners from beginning the rebuilding process. Additionally, traditional methods of determining the cost to rebuild may not be adequate to fully address the special characteristics of the location and architecture of these properties.

Therefore, the Division is strongly encouraging insurance companies consider the following:

- While some insurance contracts offer more, most standard homeowner contracts include twelve (12) months, or 30 percent, of Additional Living Expense coverage. The Division is requesting insurers extend the twelve (12) month Additional Living Expense time constraint (subject to the coverage limit) to provide adequate time for Fourmile Canyon Fire victims to rebuild their dwellings and other structures.
- Any policyholder with replacement cost provisions shall be entitled to complete repairs to the property and replace contents. If the policyholder has made a good faith effort to adhere to the policy provisions and has requested an extension within the applicable time period, the insurance company should provide a reasonable extension of time to allow the policyholder, with a replacement cost provision, to receive benefits of replacement cost coverage value of the covered damage that has been repaired or replaced, without reduction due to depreciation.
- Settlement of claims shall be handled in accordance with Colorado insurance regulation 5-1-14. Provided the insured has complied with the terms and conditions of the policy contract, the insurer shall make reasonable attempts to settle the claims promptly, allowing policyholders to rebuild their dwellings, other structures and replace personal property in a timely manner.

- While the use of an estimating program may be a tool in determining the cost of rebuilding a dwelling, the insurer should consider other factors which may not be included in the estimating program. Specifically, the slope of land, building grade of the dwelling and availability of labor and materials, generally, will impact the actual cost to rebuild. An insurer's refusal to consider additional information related to the cost to rebuild a particular dwelling may constitute a violation of § 10-3-1104 (1)(h)(IV), C.R.S.
- Insurers shall also comply with § 10-4-120 (3), C.R.S. and pay the prevailing competitive market price in the geographic area of the Fourmile Canyon Fire.

IV. Additional Division Resources

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