

Public Assistance Arbitration Fact Sheet

Background

Section 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) provides a right of arbitration for Public Assistance (PA) applicants who dispute a FEMA determination related to eligibility for assistance or repayment of assistance.¹ The U.S. Civilian Board of Contract Appeals (CBCA) acts for the U.S. Government to arbitrate disputes between applicants and FEMA.

ARBITRATION PROCESS

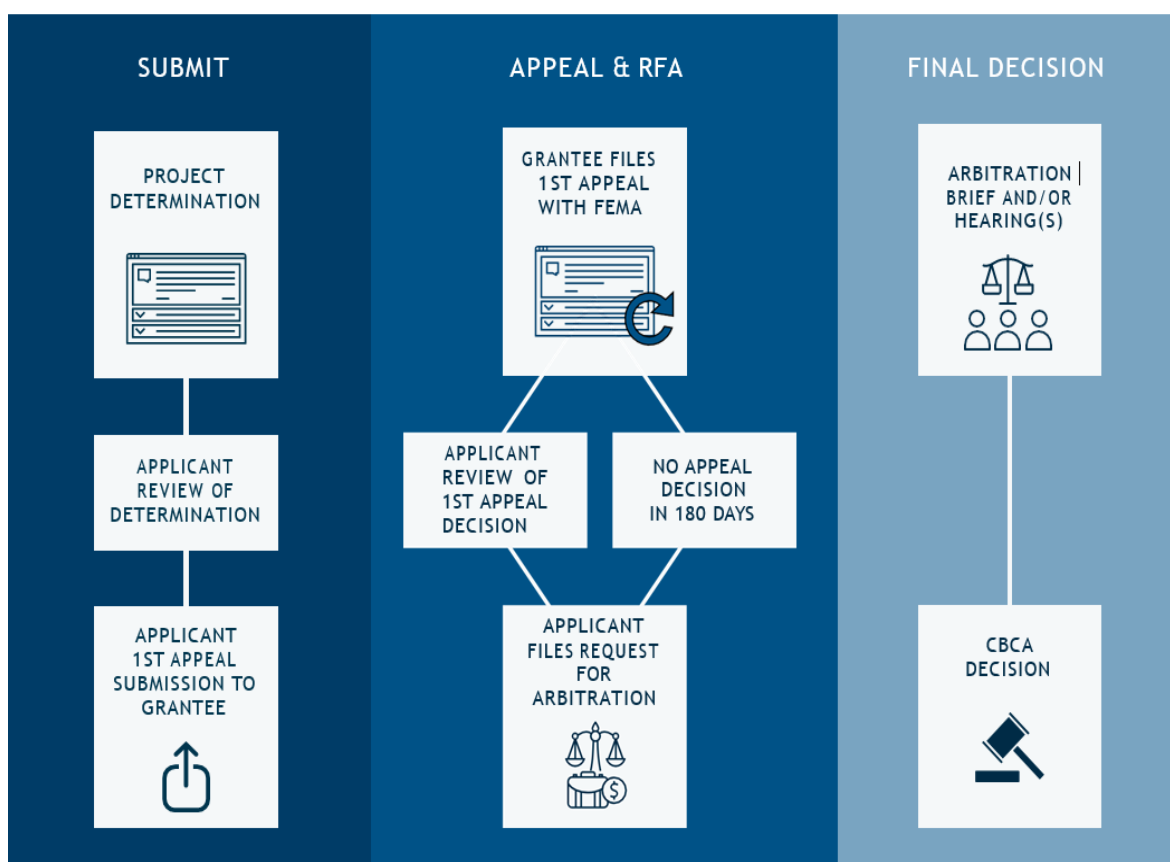


Fig. 1, Arbitration Process

Eligibility for Arbitration

To be eligible for arbitration, a PA applicant's request must meet all three of the following conditions:

1. The dispute arises from a disaster declared after January 1, 2016; and
2. The disputed amount exceeds \$500,000 (or \$100,000 if the applicant is in a "rural area," defined as having a population of less than 200,000 living outside an urbanized area); and

¹ See 44 C.F.R. § 206.206 and FEMA Policy #104-22-0001, *Public Assistance Appeals and Arbitration*, February 24, 2022 (<https://www.fema.gov/sites/default/files/documents/fema-public-assistance-appeals-arbitration-policy.pdf>).

3. The applicant filed a first-level appeal with FEMA within the timeframes established in 44 C.F.R. § 206.206 and FEMA denied the first appeal, or has not provided a first appeal decision within 180 calendar days of receiving the first appeal submission.

Request for Arbitration (RFA) Deadlines

If a PA applicant wishes to arbitrate a dispute, it must file a Request for Arbitration (RFA) within 60 calendar days from the date of the Regional Administrator's first appeal decision. Alternatively, if FEMA does not issue a first-level appeal decision within 180 calendar days of the first appeal's receipt, the applicant may withdraw the first-level appeal and file the RFA within 30 calendar days of withdrawal.

Arbitration Process

The CBCA is the forum in which PA arbitrations are conducted. CBCA regulations at [48 C.F.R. §§ 6106.601 - 6106.613](#) detail the CBCA arbitration process. Applicants must follow these procedures, which include emailing the RFA simultaneously to:

- the CBCA at cbca.efile@cbca.gov;
- the Recipient; and
- the applicable FEMA Regional Administrator.

The request must include:

- a written statement specifying the amount in dispute;
- all documentation supporting the position of the applicant;
- the disaster number; and
- the name and address of the applicant's authorized representative or counsel.

Arbitration and Second Appeals

If the applicant does request an appeal or arbitration within the regulatory timeframes, the applicant no longer has a right to appeal or arbitrate. If an Applicant submits a request for arbitration, it may not submit a second appeal for the same matter. Similarly, if an Applicant submits a second appeal, it may not withdraw the second appeal to request arbitration instead.

Costs

The CBCA arbitrates at no cost to the parties. Other expenses, including attorney's fees, representative fees, copying costs, costs associated with attending any hearing, or any other fees not listed in this paragraph will be paid by each party incurring such costs.

Finality of Decision

A majority decision from the CBCA panel serves as a final decision and is binding on all parties. Final decisions are not subject to further administrative review.

Questions

Questions concerning Public Assistance arbitration should be emailed to FEMA-Recovery-PA-Arbitration@fema.dhs.gov.

Resource Links

- Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) as amended:
<https://www.fema.gov/disaster/stafford-act>



- Title 44 Code of Federal Regulations (for appeals regulations, use the version of CFR from the year of disaster declaration): <https://www.ecfr.gov/current/title-44/chapter-I/subchapter-D/part-206?toc=1>
- Title 48 Code of Federal Regulations §§ 6106.601-6106.613: <https://www.ecfr.gov/current/title-48/chapter-61/part-6106>
- Civilian Board of Contract Appeals (CBCA) website: www.cbca.gov
- Civilian Board of Contract Appeals (CBCA) FEMA Arbitration Decisions: <https://www.cbca.gov/decisions/fema.html>
- Public Assistance Policy & Guidance: <https://www.fema.gov/assistance/public/policy-guidance-fact-sheets>
- FEMA HQ Public Assistance Arbitration email address: FEMA-Recovery-PA-Arbitration@fema.dhs.gov

Last updated June 2022

