Navigating insurance and recovery, asserting your rights, sources of help

Roadmap to Recovery Workshop
Thursday, April 25th, 6:00 pm
Chico State University
Performing Arts Center, Room 134
Thank you to tonight’s partners

- Community Legal Information Center, Chico State U.
- Professor Maitreya Badami
- CA Department of Insurance
- Rural County Representatives of California
About United Policyholders

- 501(c)3 non profit organization.
- A voice and an information resource for consumers in all 50 states.
- A 27+ year track-record and subject matter expertise in insurance and disaster recovery
- Not for profit…not for sale.
- Funded by donations and grants.
- A volunteer corps with personal and/or professional expertise in disaster recovery and insurance.
PLEASE...Help us help you:

Take a few minutes to share your progress and problems by taking our short Insurance and Recovery Survey at: www.uphelp.org/campfiresurvey

All completed surveys will be entered to win a $25 gift card
The Fine Print

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

• We don’t endorse or warrant any of the sponsors listed at www.uphelp.org or speakers at our workshops.

• Our speakers are volunteering their time as educators.
R2R Guidance and tools:

“The Little Yellow Book”
“Ask an Expert Forum”
www.uphelp.org/ask-an-expert

• Register. It’s free.

• Write in your questions.

• Get an answer from an expert in construction, insurance, laws and disaster recovery.

• Your name stays private
24/7 help on the web:  
www.uphhelp.org

- Insurance Claim Help
  - Recovery Blogs:
    - https://www.uphhelp.org/blog/camp-fire-paradise-insurance-claim-help
  - Claim Help Library
  - Guides for overcoming obstacles
  - Links to Government and Professional help
  - Tips from past disaster survivors
  - Sample Letters and Claim Forms
Rules of the Roadmap reminders:

• There is no one-size-fits-all-path

• Take your time

• Treat your insurance claim like a business negotiation

• Communication tone: Politlely Assertive
It’s never too late to start…

• Keep a Claim Diary
  – Take notes on who you talked to, the number you called, date and time, what was said. Keep all of your paperwork organized and together

• Present your requests clearly and in writing
  – Explain what you need, when you need it, and why you are entitled to it.

• Make a “working copy” of your policy
  – “Can you show me where it says that in my policy?”
A paper trail is essential

- A letter to your insurance adjuster should:
  - Confirm you are cooperating
  - 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 situation
  - Give them a specific time frame to reply/comply
  - Follow up
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/ill, etc.)
• You lost a life’s worth of possessions
• Good help is extra hard to find now, prices are much higher
• Records are all gone and painstaking to recreate
Your legal/political leverage

• The Fair Claim Regulations (California Code of Regulations Section 2695)
• Unfair Ins. Practices Act (California Insurance Code Section 790)
• Bad faith principles in CA case law:
  – Duty of good faith/fair dealing
    (be reasonable)(duty to settle fairly)
  – Pay undisputed amounts promptly
  – Insurer $ interests on a par with yours
  – Continuing duty of good faith even post suit
• Media exposure, pending legislation, UP survey
The Big Six

• Underinsurance
• Home Inventory Proof / Waiver
• Valuation Disputes (lowball dwelling estimate or estimate based on appraisal)
  - (California Code of Regulations Section 2695.9)
• Buy vs. Rebuild
• What coverage is available and when?
• Delays and conflicting info (Rotating Adjusters, lack of communication)
Which path to take...

<table>
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<tr>
<th>Type of Issue</th>
<th>Negotiation</th>
<th>Filing a Complaint with CA DOI</th>
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<td>Coverage Limits - Underinsurance</td>
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<td>Payments owed: (How much and when payable)</td>
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<td>Replacing by buying not rebuilding</td>
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<td>Valuation Dispute (lowball estimate)</td>
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<tr>
<td>Home Inventory Proof / Waiver</td>
<td>✔ Use UP survey results</td>
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<td>Conflicting info/inconsistent positions by adjuster</td>
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Dear (name of adjuster),

Please provide an update on the dwelling portion of my claim. On (Date) I submitted a contractors estimate to you from (XYZ Contractor) in the amount of $xxx,xxx. There is a ($xxx,xxx) dollar difference between your original dwelling payment and this estimate.

Please send payment for the replacement cost amount of ($ difference btwn original amount and replacement cost amount) within 2 weeks.
The facts and your leverage:

As you know, I paid for extended replacement cost \textit{and} coverage for required code upgrades. The estimate from XYZ Contractor shows that even with (ERC \___\%) and code upgrade coverage I am underinsured by at least $xxx,xxx.

I look forward to receiving my full dwelling coverage limits including all extended and additional benefits by the end of the month so I can make the decisions I need to make on how to get back home.
and...

If you will not be issuing payment of full policy limits, please explain in detail why

It is my understanding my first ACV payment was calculated using real estate appraisal method. If you do not plan on paying my policy limits based on my contractor’s replacement estimate, please confirm that you are willing to pay for a “scope of loss” to be prepared
Negotiating via Paper Trail (Claim Issues)

- Document unreasonable delays, claim handling reg/law violations
- Clearly explain the balance of benefits owing and why you’re entitled to them
- Document rotating adjusters and why it’s a problem (3 in 6 mos. = status report)
  - Refer to your claim diary
  - Be as specific as possible
  - Go up the chain of command
Go “up the chain” until the disputed issue is resolved…

- If you are unable to resolve an issue with your adjuster, go above his/her head “up the chain” within the insurance company.
  - The higher you go…the greater your chances of success in resolving your dispute.
If possible, meet in person with your adjuster and your contractor

- Your contractor should be able to stand behind his/her numbers
- Make sure you have as much detail on sub-contractors as possible
- If your contractor cannot/won’t put the time in to prep a detailed scope and estimate w/sub-bids to compare against the insurers’ estimate(s), hire a Scope pro. Ask insurer to pay for it as a claim prep expense
Filing a complaint with the DOI boosts your leverage

- Make sure a summary letter is at the top of your file
- [www.insurance.ca.gov](http://www.insurance.ca.gov) 1-800-927-4357
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

Coverage disputes generally cannot be resolved through appraisal
If parties can't agree on an umpire, court will appoint
Rules vary state by state on appraiser qualifications, selection, hearing process and costs

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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
Guidance available in the UP Claim Help Library at 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)
One Family’s Journey Home…

The Reimus Family
Scripps Ranch
San Diego
2003 Cedar Fire
October 28, 2003: Sorting through the debris of our property two days after the Cedar Fire destroyed our home and 321 others in our San Diego community of Scripps Ranch
Late March 2004: We’ve hired a builder
August 2004: Foundation poured for the new house
October 2004: Framing Underway
January 2005:
It’s starting to look like a house!
March 2005
July 17, 2005: We move back in! (21 months after the fire)
Home sweet home!
What lies before you and what lies behind you is nothing compared to what lies within you.
CALIFORNIA DEPARTMENT OF INSURANCE

FOR FREE, PERSONAL ASSISTANCE WITH YOUR CLAIMS OR UNDERINSURANCE ISSUES

CALL US AT: 1 800 927 4357

OR GO ONLINE: insurance.ca.gov
(b) (1) (A) (i) A time limit of less than 12 months from the date that the first payment toward the actual cash value is made shall not be placed upon an insured in order to collect the full replacement cost of the loss, subject to the policy limit.

(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.
(2) In the event of a covered loss relating to a state of emergency, as defined in Section 8558 of the Government Code, coverage for additional living expenses shall be for a period of no less than 24 months from the inception of the loss, but shall be subject to other policy provisions. An insurer shall grant an extension of up to 12 additional months, for a total of 36 months, if an insured acting in good faith and with reasonable diligence encounters a delay or delays in the reconstruction process that are the result of circumstances beyond the control of the insured. Circumstances beyond the control of the insured include, but are not limited to, unavoidable construction permit delays, lack of necessary construction materials, and lack of available contractors to perform the necessary work. Additional extensions of six months shall be provided to policyholders for good cause.
In the event of a total loss of the insured structure, a policy issued or delivered in this state shall not contain a provision that limits or denies, on the basis that the insured has decided to rebuild at a new location or to purchase an already built home at a new location, payment of the building code upgrade cost or the replacement cost, including any extended replacement cost coverage, to the extent those costs are otherwise covered by the terms of the policy or any policy endorsement. However, the measure of indemnity shall not exceed the replacement cost, including the building code upgrade cost and any extended replacement cost coverage, if applicable, to repair, rebuild, or replace the insured structure at its original location.
AB 2594 – CIC 2071

- No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after inception of the loss. If the loss is related to a state of emergency, as defined in subdivision (b) of Section 8558 of the Government Code, the time limit to bring suit is extended to 24 months after inception of the loss.
California Insurance Code
675.1b – At least one policy renewal

2060 – Insurer must provide list of items covered by ALE upon request

2084 - Copy of the Complete Policy

2071 - Copy of claims file documents

California Code of Regulations – Fair Claims Practices
2695.5 b Insurer had 15 days to respond to claimant

2695.7 Insurer had 40 days to accept or deny claim in whole or in part or provide written notice for reasons additional time is needed. Insurer must provide all bases for rejection and reference relevant coverage restrictions, statutes or laws in support of any denial of all or portion of claim.
CALL US AT:  1 800 927 4357
OR GO ONLINE:  insurance.ca.gov
PLEASE...Help us help you:

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All completed surveys will be entered to win a $25 gift card
Q&A with tonight’s speakers and guests

- **Karen Reimus**, Outreach Coordinator, Roadmap to Recovery program

- **Joel Laucher**, Deputy Commissioner, California Department of Insurance

For more information, visit: [www.uphelp.org/blog/camp-fire-paradise-insurance-claim-help](http://www.uphelp.org/blog/camp-fire-paradise-insurance-claim-help)
Insurance Interest Group Breakouts

• There is power in numbers
• Great opportunity to connect with others insured by the same insurance company