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Baker's still waiting for crumbs from his insurer

Paul Mulshine January 13, 2013

Brian O'Neill is the proprietor of what NBC's Brian Williams once termed "The world's famous Mueller's bakery" in Bay Head. Williams, who has a summer home in the area, used it as a backdrop for his coverage of Tropical Storm Irene in 2011.

Irene came up only to the steps of the bakery. Sandy invited herself in and flooded the place right up to the counters over which so much of Mueller's famed crumb cake has passed.

When I interviewed O'Neill in November, he said he was confident he'd be back in business in a few months. There was one problem, though: He still hadn't heard from his insurer about the \$500,000 in federal flood insurance he carried on the building.

That policy cost him \$3,200 a year. In return, he expected the sort of service car insurers provide — a prompt damage assessment followed by a prompt payout. But two weeks had passed and his insurer still wasn't returning his calls, he told me.

When I talked to O'Neill the other day, he told me he still hasn't seen his check.

"Just tell me how much I'm getting — five-hundred thousand, four, three, whatever," O'Neill said. "But my agent tells me, 'It's out of my hands.'"

Just whose hands it's in is tough to tell. The program is run by the Federal Emergency Management Agency, which pays out the benefits. But it's private insurers who sell the policies — and collect a third of the premiums for their trouble.

That setup seems designed for delay. One guy I know has both his homeowner's policy and his flood insurance policy with a single company. That company quickly cut him a check for wind damage covered under his homeowner's policy. But when it came to flood damage, the company is postponing payment, dashing his hopes for rebuilding by summer. O'Neill hears the same from other Sandy victims.

"I don't know anyone who's settled their claim and got their check," he said. "Everybody I ask is still waiting."

An adjuster finally showed up five weeks after the storm, he said. The guy made some nice noises about fixing up the damage. But that was the last he heard.

When I got some FEMA officials on the phone, they explained how the system works — very slowly. Because the policies are based on federal law, the letter of that law must be observed. As a result of this, only about 18,000 claims have been settled out of 72,000 in New Jersey.

I put in a call to a couple of Washington think tanks. The free-market Cato Institute and the liberal-leaning Consumer Federation of America rarely agree on anything. But they agree the federal program should be phased out in a way that encourages private insurers to offer what is known as an "all-perils" policy, one that would cover both wind and water damage.

"Federal flood insurance was supposed to be a temporary program," said Mark Calabria of Cato. "But you know what they say in Washington: There's nothing quite as permanent as a temporary program."

The idea was that, once accurate maps of flood-prone areas were drawn up, private insurers could estimate risks and set premiums accordingly, he said. But the private companies prefer the current system, in which they collect a big cut of the premiums without assuming any of the risk.

Meanwhile, at the Consumer Federation, Robert Hunter said, "The system stinks. I'd either get rid of the insurance companies or make them take the risk."

Hunter, who ran the federal program under Jimmy Carter, gave another reason the system stinks. During Hurricane Katrina, the maps were so inaccurate that premiums came nowhere close to the cost of the eventual payouts. That left the fund depleted by the time New Jersey was hit. And that meant we had to listen to lectures from congressmen like Steven Palazzo.

Palazzo is a Republican from Mississippi who voted against that \$9.7 billion allocation to replenish the national flood insurance fund. But he changed his tune after it was reported that in 2005 he had been among the loudest of voices begging for federal relief after Katrina.

Last week, Palazzo toured the disaster area here in Jersey. He admitted he'd been a jerk and said he will vote for the rest of the Sandy relief package. So that story had a happy ending.

As for the story of Mueller's Bakery, that remains to be seen.

ADD: Here's a statement from FEMA spokesman Dan Watson that I received by e-mail after the interview:

FEMA has taken steps to ensure that flood insurance claims are processed as quickly as possible following Hurricane Sandy. Understanding that flood insurance policy holders are in need of immediate assistance, FEMA has provided its Direct Servicing Agent and private Write Your Own insurance (WYO) company partners with additional flexibility to issue advance payments for certain portions of their claim, including providing payments of up to \$25,000 for eligible items relating to the heating of homes. FEMA has also taken measures to reduce the paperwork burden prior to issuing payments. In some cases, the process of performing scoping visits, preparing estimates, examining adjusters claims files, and issuing final payment can take more than a few weeks.

A lot of that may sound like bureaucratese. What it boils down to is that FEMA is subject to a lot of federal regulations that don't affect private insurers. That's not their fault. It's the fault of Congress.

But if we're going to have a federal program, it should be as streamlined as a private one. Here's a prior column I did on the subject. And here's a good piece by Cato's Calabria on needed reforms.