



Pop Quiz!

What is NAD?

- **National Academy of Defense?**
- **Newlyweds Against Divorce?**
- **Northern Association of Doctors?**



National Appeals Division,

an agency of the
United States Department of Agriculture

NATIONAL APPEALS DIVISION

FACE TO FACE FAIRNESS



The Why, When
and How of Filing
an Appeal with
USDA's National
Appeals Division

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Intertribal
Agricultural
Council -

December 5, 2016



Why File a NAD Appeal?

What we do:

NAD's mission is to provide farmers, ranchers, and other USDA participants an opportunity to receive an impartial review of their program disputes with USDA.

NAD is an Independent Agency

- Although NAD is part of USDA, it has its own Director, Administrative Judges, and staff.
- NAD is independent of other USDA agencies .
- This allows NAD to be fair and impartial.
- We pride ourselves on offering “Face to Face Fairness.”

The How of Filing a NAD Appeal

- Producers can request a NAD appeal when they receive an adverse decision from one of 6 USDA agencies, including:
 - Farm Service Agency (FSA)
 - Natural Resources Conservation Service (NRCS)
 - Risk Management Agency (RMA)
 - The 3 Rural Development Agencies, including the Rural Housing Service, the Rural Utilities Service and the Rural Business Cooperative Service
- Cost to file a NAD Appeal?

What is an Adverse Decision?

- A decision issued by a USDA agency
- Adverse or harmful to you
- Usually denies a benefit or denies eligibility to participate in a program.

When to File an Appeal?

- An appeal must be in writing and filed by the participant within 30 days of receiving an adverse decision from the USDA agency.
- An appeal should be filed with the appropriate NAD Regional Office.
- Filing can be done by mail, fax, or e-filing. It's free.
- Contact NAD right away if you have questions about filing an appeal.

NAD Appeals are Quick, Easy, and Convenient

- You have a right to a hearing within 45 days of NAD receiving the request for a hearing.
- The hearings are very informal. Usually, neither side has an attorney.
- You have a right to a hearing in your State of residence or at a location otherwise convenient to you and NAD.
- The agency will provide all materials it used to make the adverse decision (i.e., the Agency Record).
- A decision will typically be issued within 30 days after the record closes.

Common Issues & Types of Cases

- Common issues - eligibility, compliance, amount of benefits, repayment demands & equitable relief.
- FSA - Loan program cases (e.g., loan denials, servicing & foreclosures) and program benefit cases, including:
 - Livestock Indemnity Program (LIP)
 - Livestock Forage Disaster Program (LFP)
 - Non-Insured Crop Disaster Assistance Program (NAP)
 - Conservation Reserve Program (CRP) – e.g., case involving multiple CRP contracts for non-compliance with seeding requirements. After three-day hearing, parties reached a settlement agreement.

Common Issues & Types of Cases

- RMA – ineligibility (e.g., failure to pay premiums timely or denial of written agreements), adjustments of large loss claims and setting of trigger/payment yields.
- NRCS – wetland/highly erodible land determinations and conservation program disputes (e.g., Environmental Quality Incentives Program (EQIP))
- Rural Development – loan or grant denials, accelerations and servicing issues (e.g., denials of payment assistance & moratorium, unauthorized assistance).

Two-Part Process

- **First, you have a chance to present your case to an impartial NAD Administrative Judge, either in person, by telephone, or in writing. You decide which method.**
- **Second, if the Administrative Judge rules against you, you can request a second level review by the Director of NAD. This is known as a Director Review.**



Equitable Relief at NAD

'I feel like I win when I lose.'

ABBA in Waterloo

Equitable Relief

A Chance to Win When You Lose

- If you lose your appeal before the Administrative Judge on the merits, you can still ask the NAD Director to grant you *Equitable Relief*.
- Equitable Relief may be available in 2 situations:
 - You relied on bad agency advice
 - You exercised good faith even though you failed to fully comply with program rules or requirements.
- Equitable Relief is available for FSA and NRCS programs, such as CRP and EQIP. Not available in crop insurance or most loan disputes. *See 7 U.S.C. § 7996.*

What are my Chances?

46%

Chance of winning
if you appeal to
NAD; Prevail at
some point of
process.

41%

Chance of receiving
equitable relief in
the second-level
phase of the appeal.

What are my Chances?

0%

If you don't appeal.

**You live with the adverse
decision.**

Pointers for Achieving Positive Results

- **Appeal Early.**
- **Seek Guidance and/or Representation.**
- **Focus on How the Agency Failed to Comply With -- or Misapplied -- the Regulations.**
- **Request Equitable Relief.**

Contact NAD

NAD Website: www.nad.usda.gov

Joli Liebrock: Joli.Liebrock@nad.usda.gov
303.236.2974

Western Regional Office:

USDA-NAD
755 Parfet Street, Suite 494
Lakewood, CO 80215
Phone: 800-541-0483; or
877-4USDA-NAD
Fax: 303-236-2820



~ Time for Q & A ~

