

State of Hawai‘i – One ‘Ohana Fund
The Maui Wildfires Compensation Fund
Frequently Asked Questions



I. Introduction

- What is the purpose of this document?**

This FAQ document is meant to provide a high-level summary of the One ‘Ohana Fund, also known as the Maui Wildfires Compensation Fund, Phase I (the “Fund”) and related requirements. This document is not intended to serve as legal advice.

- Does this document set forth all requirements for participation in the Fund?**

No, those requirements will be more fully detailed in the Fund’s official documents, including the protocol, registration and claim forms, and release agreements.

II. Fund Overview

- What’s covered by this Fund?**

This Fund provides compensation to victims of the August 8, 2023, Maui Wildfires for deaths and serious physical injuries that required emergency medical treatment. This Fund is not meant to cover property damage, business losses, and physical injuries that did not require a hospital stay or emergency outpatient treatment.

- How will the Fund be administered? Who will administer the Fund?**

The Fund will be administered by Judge Ronald Ibarra, former Chief Judge of Hawai‘i’s Third Circuit Court. As the Administrator, Judge Ibarra will be responsible for managing the submission, evaluation, and settlement of death and serious physical injury claims. Judge Ibarra brings close to three decades on the bench to his role as Administrator.

- How much compensation will wrongful death claimants receive?**

The family of each deceased victim will receive a set amount of \$1.5M.

- How much compensation will physical injury claimants receive?**

The Administrator will determine compensation for physical injuries on a case-by-case basis after reviewing all the submitted evidence. The Administrator may consider factors like the severity of the injury and the duration of hospitalization. In any event, individual physical injury payments will not exceed the \$1.5M payment for death claims.

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● **When is the deadline to submit claims?**

All claimants (except families of missing persons) must submit a completed Registration Form by no later than April 30, 2024. Registrants who meet the Fund’s eligibility requirements will then be given access to a Claim Form, which must be completed and submitted by no later than May 30, 2024.

To participate in the Fund, families of missing persons must obtain a death certificate or court order declaring the missing person deceased by no later than August 28, 2024. Such families must then submit their Registration and Claim Forms within 60 and 90 days, respectively, of the date on which the death certificate or court order was issued.

● **When can claimants expect to begin receiving payments?**

Although the exact timing will depend on several factors, the earliest the Fund anticipates payments is in the third quarter of 2024.

● **If I already received compensation or reimbursement for death or injuries from a separate source not connected to the Fund, such as insurance, charity, or the federal government, am I still eligible to participate in the Fund?**

Yes. Any death or serious physical injury that otherwise qualifies for compensation under the Fund’s criteria is eligible for compensation, regardless of whether the injury has been previously compensated by a different source. Any prior compensation received for death or physical injuries will not be factored into or deducted from the ultimate compensation offered by the Administrator.

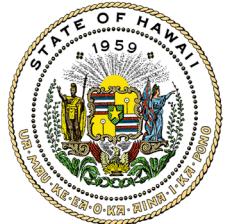
● **Are foreign visitors, immigrants, or undocumented persons eligible for compensation?**

Yes, all individuals who meet the Fund’s eligibility criteria, regardless of immigration status, are eligible to receive compensation.

● **Will the courts play any role in the claims process?**

Because participation in the Fund is voluntary and collaborative, the only required role of the courts will be to verify whether the settlement terms – the compensation and release – were entered into in good faith as defined under Hawai‘i law. For death claims, the courts will also issue orders designating a personal representative or declaring the victim deceased if necessary (*see Section III – Individual Death Claims* for more information).

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III. Individual Death Claims

- **What is an individual death claim?**

An individual death claim is a claim related to any individual who died as a result of the Maui Fires.

- **Who can submit an individual death claim to the Fund?**

The personal representative or attorney for the estate of an individual that died as a result of the Maui Wildfires may submit an individual death claim.

- **What is a personal representative?**

A personal representative is the individual authorized by a court order to administer the deceased person’s estate by, for example, paying funeral expenses, satisfying outstanding debts, and distributing the remainder of the estate’s assets. The personal representative also has authority to settle the estate’s legal claims. In this instance, the personal representative is the individual with authority to settle the estate’s claims related to the victim’s death.

- **What documents must be completed to submit a death claim?**

The claimant must submit a completed claim form, as well as all supporting documents necessary to substantiate the claim’s validity and the claimant’s authority to submit the claim.

For death claims, the required supporting documents include:

- An official death certificate or court order declaring the victim to be deceased;
- A Probate Court order designating the claimant as the personal representative of the deceased person’s estate, or, if an attorney is acting on behalf of the estate, a retainer agreement (or other valid document) demonstrating the attorney’s authority to submit the claim; and
- A Distribution Plan detailing how any compensation will be allocated to the deceased individual’s heirs.

To protect against fraud, every claimant will also be required to sign the Registration and Claim Forms at the time of submission certifying under penalty of perjury that all information provided in the Registration and Claim Forms is true and accurate and acknowledge that false statements may result in punishment.

Claimants must also submit any other documents that the Administrator deems necessary to process and evaluate the death claim.

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• Who will provide notice to persons eligible for compensation?

The personal representative of the deceased victim’s estate is responsible for contacting all heirs and other family members with their own potential claims. Before submitting a claim, the personal representative must contact all such individuals, so far as is reasonably practicable, to obtain their consent to participation in the Fund. The personal representative must also notify all such heirs and family members of the filing of the claim and ensure that each receives a copy of the Distribution Plan.

• What if family members of the deceased individual disagree on whether to file a claim?

One of the conditions for receiving compensation is that all family members with their own potential claims arising from the victim’s death agree to release their claims against the Fund’s contributors. Consequently, family members eligible for compensation should reach consensus in advance of filing a claim.

• Will the families of missing persons from the Lahaina Fire be able to participate in the Fund?

Families of persons missing due to the Lahaina Fire will be eligible for compensation if they obtain a death certificate or court order declaring the missing person deceased within 180 days of the Fund’s Effective Date (August 28, 2024). Such families must submit their Registration and Claim Forms within 60 and 90 days, respectively, after obtaining the death certificate or court order. Any families who cannot obtain a death certificate or court order within 180 days, or fail to submit the Registration and Claim Forms by the respective deadlines, will still retain all legal rights outside of participation in the Fund.

IV. Serious Physical Injury Claims

• What is a serious physical injury claim?

There are two categories of eligible serious physical injury claims. Category One is for injuries resulting in permanent disability and requiring at least one night of hospitalization. Category Two is for other serious physical injuries not resulting in permanent disability but requiring at least one night of hospitalization or emergency outpatient medical treatment. For both categories of serious physical injuries, compensation is available only if medical treatment began by August 11, 2023 – within three days of the fire.

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• Who can submit a serious injury physical claim to the Fund?

Individuals who have suffered serious physical injuries may submit physical injury claims. An attorney may also submit a claim on behalf of an injured person. If an injured individual is unable to submit a claim due to incapacity or minority, the individual's appointed representative, such as a guardian or guardian ad litem, may also submit a claim on the injured individual's behalf.

• What documents must be completed to submit a serious personal injury claim?

The claimant must submit completed Registration and Claim forms, as well as all supporting documents necessary to substantiate the claim's validity and the claimant's authority to submit the claim.

The supporting documents must include sufficient medical documentation to substantiate their injuries and treatment; and, if an attorney or other representative is submitting the claim on the injured person's behalf, a retainer agreement (or other valid document) demonstrating the attorney or representative's authority to submit the claim.

To protect against fraud, every claimant will also be required to sign the Registration and Claim Forms at the time of submission certifying under penalty of perjury that all information provided in the Registration and Claim Forms is true and accurate and acknowledge that false statements may result in punishment.

Claimants must also submit any other documentation the Administrator deems necessary to process and evaluate the serious physical injury claim.

• How will the Administrator determine if an injury is sufficiently serious to qualify for compensation?

The Administrator will determine whether injuries are sufficiently serious to qualify for compensation under Category One or Category Two after reviewing all the information submitted by the claimant, including medical documentation, written and/or oral testimony from the claimant, and any other submitted evidence.

• In addition to the Lahaina Fire, fires in Maui's Upcountry Region also ignited on August 8, 2023. Will individuals injured during the Upcountry Fires be eligible for compensation?

Any individual who (1) suffered serious physical injury during the Upcountry Fires and (2) meets the criteria for compensation through the Fund will be eligible for compensation.

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V. Claim Filing Logistics

- Where can I find the forms to submit a claim?**

Registration and Claim Forms will be available in electronic form on the Fund website at www.MauiCompensationFund.com. Hard copies of the Registration and Claim Forms may also be downloaded and printed from the Fund website. Eligible Claimants who submit a completed Registration Form will then be invited to submit a Claim Form through the website or via mail.

- How do I submit a claim?**

To complete the claim-submission process, a Claimant must submit both a Registration Form and a Claim Form, as well as the necessary supporting documentation, via internet or mail before the applicable deadlines.

- How may I contact the Fund if I have questions about submitting a claim?**

Fund contact information, including an email address, will be available at www.MauiCompensationFund.com. Should you need clarification regarding your claim, please contact the Fund.

- What kind of accommodations will be made if I do not speak English?**

Accommodation will be made for any individuals with language barriers to ensure they are able to easily submit a claim to the Fund. Should you or a family member need accommodation, we encourage you to contact a claims representative via email.

VI. Meeting with the Administrator

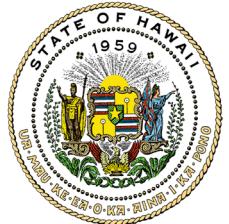
- Will I be able to request a meeting with the Administrator before my claim is evaluated?**

Eligible Claimants who successfully complete the registration process may request a face-to-face personal meeting (or video conference or telephone meeting) with the Administrator to discuss the circumstances of their claim. Meeting with the Administrator is optional. Requests to meet with the Administrator should be sent by email to the Fund.

- If I request a meeting with the Administrator, in what setting will the hearing take place?**

You may request an in-person, video, or telephone hearing with the Administrator. In-person meetings will be scheduled at mutually convenient times and locations.

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VII. Claim Status

- How can I check the status of my claim?**

If you need any clarification regarding the status of your claim, you may email a claims representative by following the instructions at www.MauiCompensationFund.com.

VIII. Claim Decision

- When and how will I be notified of the claim decision?**

Once the Claim Form and all required documentation have been submitted, the Administrator will evaluate the claim as soon as reasonably practicable. Once the Administrator evaluates the claim, the Administrator’s decision will be sent to the claimant in writing stating whether the claim was approved or denied; the reason for any denial of the claim, if applicable; and the payment amount offered to the claimant. If the claim is approved, the claimant will also receive a release agreement to be signed by the claimant if the claimant decides to accept the offered payment.

- Will I be given a compensation offer before having to release my claims?**

Yes. All claimants will receive a claim decision and payment offer (and will have up to 90 days to evaluate the decision and offer) before having to sign any release.

- How long will I have to accept the payment offer?**

Any payment offer must be accepted within 90 days of the Administrator transmitting the decision, after which time the offer is no longer available.

- For wrongful death claims, what if family members disagree as to whether to accept the compensation offer?**

All heirs and other relatives who may have their own claims related to the victim’s death must release their claims before payment is made. Accordingly, partial compensation to certain individuals is not allowed if any necessary parties to the release decide not to accept the compensation offer.

- If my claim is rejected, can I ask for reconsideration of the rejection? If my claim is accepted but I am dissatisfied with the compensation offered, can I appeal the compensation offer?**

No. The Administrator’s decision regarding eligibility for compensation and any compensation offered is final. Claimants whose claims are denied or who reject the

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Fund's offered compensation will retain whatever legal rights outside of the Fund they may have.

IX. Pending Death or Injury Lawsuits

- **If I am currently a plaintiff in a lawsuit asserting wrongful death or injury claims arising from the Maui Fires against one of the contributing parties, what happens to my lawsuit:**

- **While my claim is pending?**

Your lawsuit will be allowed to proceed while your Fund claim is pending, except that you may not propound discovery or participate in any trial in your lawsuit while your Fund claim is pending.

- **After I accept the compensation offered and sign a release?**

You must agree to dismiss with prejudice any claims for death or physical injury caused by the Maui Fires.

- **After my claim is denied or I reject the compensation offered?**

You may continue to litigate your claim as you see fit consistent with applicable law.

X. Release of Claims and Other Conditions of Payment

- **If I accept the compensation offer, what conditions must be satisfied before payment is made?**

For death claims, all heirs and relatives of the victim with their own potential claims arising from a fire-related death or injury must agree to release these claims against all Fund contributors, unless the contributors and the Administrator agree to waive the release requirement. For serious physical injury claims, the injured victim must agree to release his/her claims against all Fund contributors arising from the fire-related injury.

In addition, the court must also determine that the release and compensation provided are entered in good faith under HRS Section 663-15.5; for death claims, the Probate Court must enter an order approving the estate's participation in the Fund and the release; any medical liens must have been released; and, if a lawsuit has been filed by the decedent's

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estate or the injured person, the claimant must deliver a stipulation of dismissal with prejudice to the Administrator.

- **How can I learn more about the scope of the release required for participation in the Fund?**

Before signing the release form, every claimant will be required to consult with an attorney. Claimants are welcomed and encouraged to obtain their own counsel to advise them on the claims process, including the release. If claimants do not want, or cannot afford, to retain their own counsel, the Fund will provide an attorney to advise on the meaning of the release on a pro bono basis.

XI. Receiving Payment

- **Who will receive compensation from the Fund?**

For death claims, the personal representative will receive payment and be required to distribute the payment to the deceased individual’s heirs in accordance with a Distribution Plan approved by the Probate Court. For serious physical injury claims, the injured person will receive the payment.

- **How will the payment be delivered?**

Once all conditions of payment are satisfied, the Fund will authorize payment by check or bank wire to the claimant. Any checks will be sent to the claimant via overnight courier service with signature release required.

XII. Taxation

- **Is compensation received from the Fund taxable?**

The Fund cannot offer tax advice, and persons compensated by the Fund should consult a tax advisor to address their individual situation and any tax obligations. However, Fund compensation will be structured in a way that is intended to avoid the need for claimants to pay taxes. Compensation received from the Fund should constitute damages on account of personal injuries or sickness within the meaning of Section 104 of the Internal Revenue Code. Additionally, no 1099 forms will be issued.

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XIII. Attorney Representation

- **Will I be allowed to have a lawyer assist me in submitting a claim and/or participating in a hearing before the Fund Administrator?**

All claimants are welcomed and encouraged to retain counsel to advise and/or participate in the filing of claims with the Fund. Claimants are allowed to have an attorney submit claims on their behalf and conduct all other aspects of the claims process, including meeting with the Administrator.

- **If I cannot afford a lawyer, are legal services available free of charge?**

The contributing parties will be making attorneys available on a pro bono basis to advise on the meaning of the release. In addition, the contributing parties are working with the Hawai‘i State Bar Foundation to help secure pro bono counsel to assist victims and their families with any necessary probate proceedings and to provide advice on participation in the Fund.

- **Will the Fund pay attorneys' fees or impose any cap on fees?**

The Fund will not provide additional compensation to pay attorneys' fees. The Fund also does not impose a cap on attorneys' fees. Claimants are encouraged to discuss fees when retaining an attorney. The manner and amount of attorneys' fees will depend on the individual arrangements between the claimants and their attorneys.

XIV. Indemnification

- **What if an heir or relative files a lawsuit against a contributor after I have been paid by the Fund? Do I have any obligations to the contributors with regards to that lawsuit?**

If any heir or relative that gave a release subsequently files a lawsuit against the contributors related to the death or physical injury claim subject to the release, then the releasors collectively must indemnify and defend the released contributors against such claim. Because the releasors will bear the burden and cost of any future lawsuits against the contributors arising from the death or physical injury claim, they must proactively discuss Fund participation with all potential heirs and relatives and collectively agree to accept the Fund compensation.

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- **What if third parties, such as Medicare/Medicaid, file suit against the contributors for reimbursement or satisfaction of liabilities owed to them because of a victim’s death? What are my obligations with respect to these claims?**

The heirs and relatives releasing their claims will have the duty to indemnify and defend the released contributors for any third-party claims, including in connection with Medicare/Medicaid, related to the fire victim’s death.

XV. Future Compensation Initiatives

- **In the future, does the state plan on providing a similar compensation Fund for property damage and economic losses?**

The state and the contributing parties are actively exploring potential compensation for victims that have suffered property damage and other monetary losses as a result of the Maui Fires. At this time, however, there is no established Fund for those purposes.

- **What if I experienced both (1) death or injury claims and (2) property damage or business-related loss claims? If I participate in this Fund, will I also be allowed to participate in any future property damage compensation Fund?**

Yes. This Fund does not cover property damage or business-related losses. Even if you receive payment through this Fund, you will also be allowed to apply for participation in any future compensation Fund for property damage or business-related losses.

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