



APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First	Middle
Claimant ID	[REDACTED]	Claim ID	[REDACTED]
Claim Type	Business Economic Loss		
Law Firm	[REDACTED]		

II. DECISION

Denial Upheld

Denial Overturned

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

- Claim should have been excluded.
- Claim should have been denied.
- Claim should not have been excluded.
- Claim should not have been denied.
- No error.

Comment *(optional)*:

[REDACTED]

In this case, a non-profit corporation in Zone D that provides summer educational programs, appeals the Claims Administrator's denial of its BEL claim. In its Denial Notice, the Administrator explained that the Claimant failed to submit documentation sufficient to establish causation under Exhibit 4B of the Settlement Agreement. Claimant's Notice of Appeal asserts that it meets the Decline-Only Test based in part on an affidavit from its President regarding the entry of a competitor into the market. Claimant further alleges that its records demonstrate a 10% decline in total revenues from non-local customers for July-September of 2010 compared to the same months in 2009. Although represented by counsel, Claimant failed to file a memorandum in support of its appeal as required by Exhibit 25 of the Settlement Agreement.

BP correctly points out that the Claimant's affidavit appears to establish that a competing non-profit entered the educational program market in 2011. BP challenges the affidavit as lacking in the objective third-party evidence required by Policy 474. BP also questions the Claimant's Customer-Mix spreadsheet as lacking supporting documentation.

While BP's arguments may be correct based on the technical requirements of the Settlement Agreement, this appeal panelist is troubled by the failure of Claimant's counsel to submit an appeal memorandum. BP may ultimately be correct that the Claimant cannot establish causation. However, out of an abundance of caution, this claim is remanded to the Claims Administrator with instructions to require the Claimant to submit a supporting memorandum and afford it the opportunity to provide additional objective, third-party evidence regarding the details of the competing non-profit's entry into the market and documentation supporting its Customer-Mix spreadsheet. The Claims Administrator shall then issue a revised Eligibility Notice or Denial Notice as may be appropriate based on the Claimant's subsequent submissions.