

Congress of the United States
Washington, DC 20515

September 27, 2021

The Honorable Deanna Criswell
Administrator
Federal Emergency Management Agency
500 C St. SW
Washington, D.C. 20024

Dear Administrator Criswell:

Thank you for leading FEMA's efforts in response to the effects of Tropical Depression Ida in New York and across the country. While the disaster relief programs under your Agency are crucial to helping New Yorkers rebuild their lives, unfortunately, non-qualifying immigrants are unable to participate. We believe you must correct this problem by amending eligibility for disaster relief assistance to include all regardless of immigration status.

New York is home to more than 800,000 undocumented immigrants and 25,000 temporary protected status holders, many of whom were severely impacted by the remnants of Tropical Depression Ida. As you know, the storm's impact was severe: 17 individuals were tragically taken away and the preliminary damage assessments by the Governor's office estimated that the storm caused more than \$50 million of property damage to 1,200 impacted homes.¹ As New York rebuilds, it is crucial that this effort includes all who are impacted by Ida regardless of immigration status.

Those who lack such identification do not have access to FEMA's disaster relief, and there are few resources for disaster victims outside of FEMA assistance. The Individuals and Households Assistance Program was designed to meet individuals' and households' basic needs, particularly those that have uninsured or underinsured necessary expenses. This will be the central challenge as many non-qualifying immigrants search for new shelter, recover and restore their belongings, and seek medical care. We strongly believe FEMA should ensure relief is accessible regardless of immigration status.

FEMA cites Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, also referred to as the Welfare Reform Act, for its immigrant eligibility standards for receiving federal public benefits. However, there is precedent for agencies independently determining whether their relief programs constitute a federal public benefit. For example, in the case of *Herrera v Metropolitan Life Insurance Company et.al.*, a federal district court held that

¹ [https://abc7ny.com/major-disaster-declaration-kathy-hochul-ida-hurricane/11001533/Cosponsors:%20Kuster,%20Adams,%20Blunt%20Rochester,%20Bustos,%20Case,%20Eshoo,%20Huffman,%20Jacobs%20\(CA\),%20Lawson,%20%20Levin%20\(CA\),%20McGovern,%20Newman,%20Panetta,%20Pappas,%20Scanlon,%20Smith%20\(WA\),%20Strickland,%20Trahan](https://abc7ny.com/major-disaster-declaration-kathy-hochul-ida-hurricane/11001533/Cosponsors:%20Kuster,%20Adams,%20Blunt%20Rochester,%20Bustos,%20Case,%20Eshoo,%20Huffman,%20Jacobs%20(CA),%20Lawson,%20%20Levin%20(CA),%20McGovern,%20Newman,%20Panetta,%20Pappas,%20Scanlon,%20Smith%20(WA),%20Strickland,%20Trahan)

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proceeds from a Federal Employee Group Life Insurance policy did not constitute a federal public benefit, thus allowing a nonqualified alien beneficiary to receive the proceeds.² Given the court's interpretation that the Welfare Reform Act was intended to restrict eligibility only for welfare benefits available to the public at large, we believe FEMA has the authority to interpret the law in a manner that allows disaster relief to be available regardless of immigration status.

We look forward to working with you to achieve this change to FEMA policy. Thank you for your attention to this matter.

Sincerely,



Grace Meng
Member of Congress

/s/

Alexandria Ocasio-Cortez
Member of Congress

/s/

Mondaire Jones
Member of Congress



Nydia M. Velázquez
Member of Congress



Kristen Gillibrand
Member of Congress



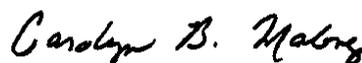
Adriano Espaillat
Member of Congress



Jamaal Bowman, Ed.D.
Member of Congress



Ritchie Torres
Member of Congress



Carolyn B. Maloney
Member of Congress

² Herrera v. Metro. Life Ins. Co., No. 11-CV-1901, 2011 WL 6415058, at *9 (S.D.N.Y. Dec. 19, 2011).