

HUD Housing Counseling Guidelines For Home Equity Conversion Mortgage (HECM) Borrowers with Delinquent Property Chargesⁱ

This guide clarifies current requirements and provides resources including a checklist for HUD-Certified Housing Counselors assisting Home Equity Conversion Mortgage (HECM) borrowers who are delinquent on property charges. Delinquent property charges may result in a HECM loan becoming due and payable.

Property charges include:

- Real estate taxes (from taxing authorities like schools, cities, counties, states, etc.);
- Property insurance (Homeowners/hazard or flood insurance);
- Other property charges or special assessments, such as condominium and planned unit development fees or homeowners association dues;
- Ground rents; and
- Other assessments levied by municipalities or under state law.
- Failure to maintain property as primary residence
- Ineligible non-borrowing spouse remains in property after borrower has died
- Failure to maintain the property consistent with mortgage requirements

The following details HECM-specific actions, to be performed *in addition* to the housing counselor's one-on-one default counseling practices.

Client Intake

While gathering basic information about the potential client, agency staff should find out:

- Status of all property taxes amounts past due, and estimated annual property tax amount
- Status of homeowner insurance, including estimated annual premium
- Estimated home value: If client does not know, counselor can use home valuation websites to get an estimate of the current home value.
- Existing debt on home, HECM, and other debt or liens
- Names, relationships, and phone numbers of other persons who reside with the borrower
- The FHA case number of the HECM, if known

Counseling Session

The counselor should determine if the client is a HECM borrower, non-borrowing spouse, or is acting as an attorney in fact/agent (Agent) pursuant to a Power of Attorney (POA).

- Is the client a HECM borrower?
 - Does the client currently reside at the mortgaged property? To cure the default, the borrower must meet all HECM obligations, including maintaining the mortgaged property as their principal residence. Certain exceptions apply, depending on the date an FHA case number was assigned to the HECM, so the

counselor should discuss with the borrower for reasons for and duration of the change of residence.

- Does the borrower meet the definition “At Risk” borrower as stated in Mortgagee Letter 2015-11 Specific HUD home retention options may be available when?
 - The youngest living borrower is at least 80 years of age; and
 - The borrower has critical circumstances such as a supported terminal illness, substantiated long-term physical disability, or a “unique” occupancy need (*e.g.*, terminal illness of family member receiving care at the residence).
- Is the client an ineligible non-borrowing spouse? HUD home retention options are not available to non-borrowing spouses. The counselor should discuss available resources for transitioning out of the home.
- Is the client an agent with a Power of Attorney (POA) acting on behalf of a HECM borrower?
 - The POA must be a durable power of attorney which authorizes the Agent to handle real estate and financial matters on behalf of the client.
 - If the agent contacts the counselor on the client’s behalf, counselor should contact the servicer to determine if the POA is currently on file with the servicer.
 - If yes, the counselor can proceed with the session.
 - If no, the counselor, agent, and servicer should work out best way to ensure the agent is able to act on behalf of the client for the HECM.

The counselor will explain the HECM foreclosure process and the consequences of not resolving the borrower’s delinquent property charges.

Financial Analysis

As part of the Financial Analysis required for each client, the counselor should determine whether, based on the borrower’s financial information, there appears to be enough money to repay the servicer any advances and set aside money for future taxes and insurance payments and other property expenses.

- Review with client:
 - Borrower’s income, expenses, unsecured and other debt, home repairs needed, medical issues/expenses, other property expenses, *e.g.*, HOA dues, condo fees, assessments – NOTE: super lien states where property fees can have a superior position to the HECM liens, any other large expenses
 - Additional household members: do the additional household members contribute to the household income? Does the borrower financially support anyone?
 - Reduced employment or unemployment
 - Borrower’s assets – savings and checking accounts, bonds, annuities, retirement accounts, life insurance (cash value), certificates of deposit, other property/homes, stocks and any other financial assets
 - A proposed household budget, identifying any budget deficits or other financial challenges the borrower is or may be facing in the future

- Perform a Benefits Checkup Analysis
 - Utilize the National Council on Aging (NCOA) Benefits Checkup (<https://www.benefitscheckup.org/>) to check the client’s eligibility for public benefit programs.
 - If the Benefits Checkup analysis indicates the borrower may qualify for benefits, the counselor will:
 - assist the borrower in filling out all the appropriate benefit program application forms and sending the forms to the appropriate social service agencies; or
 - refer and connect the borrower to a local Area Agency on Aging (AAA), if unable to assist with filling out the benefit program application forms.
- Advise borrower of other sources of income or assistance
 - State or local funding for reverse mortgage property charge shortfalls and defaults
 - House mate match programs
 - Local property tax assistance
 - Options for homeowner’s insurance
 - Debt management plan
 - Other family members or friends who can provide financial assistance
 - Bankruptcy, as option to deal with unsecured debt, with information about local legal aid services
 - Other resources such as the AARP, the Partnership for Prescription Assistance, local food ministries, and other services (see <http://www.eldercare.gov/>)

Communicate with the Servicer

If the borrower can afford to remain in the home

The counselor should contact the servicer to discuss available home retention options, such as

- refinancing the defaulted HECM into a new HECM;
- a Repayment Plan to satisfy outstanding corporate advances made for property charge default;
- the servicer requesting from HUD an extension of its foreclosure timeframes due to the borrower meeting “At Risk” requirements; or
- any other options the servicer provides.

The counselor will assist the borrower with home retention option documentation required by the servicer.

If the servicer offers a repayment plan, the counselor should find out and communicate to the borrower:

- the minimum/maximum time for payoff;
- how the funds will be remitted;
- what paperwork is required; and
- how paperwork should be submitted to the servicer.

If the borrower cannot or will not cure the default

The counselor will work with borrower and servicer to identify appropriate strategies for the borrower to address the default, including selling the home.

Should the borrower need more extensive support, such as a hands-on case manager to assist in safe transitioning to other housing, the counselor will assist borrower in contacting the local AAA for assistance.

After Counseling

The counselor should provide the borrower with:

- a written Action Plan, outlining the steps to achieve their goals, with a summary of the counseling session and advice given
- a budget analysis with recommendations on how to free up income to pay for property charges;
- a Benefits Checkup printout with information on benefits for which the borrower may qualify
- Contact information for the local AAA, and other state and local agencies found on the Eldercare Locator and Eldercare Locator phone number (800-677-1116).

If contact with servicer was established with borrower's permission, counselor will advise servicer of the counseling session outcome and provide a copy of the borrower's action plan.

Follow-Up

The counselor should schedule a follow-up appointment with borrower in 15 to 30 days to determine if borrower is working on the recommended tasks from the counseling session.

As needed by the client, the counselor should:

- Assist client in filing out all appropriate benefit program application forms and in submitting them to the appropriate social service agencies;
- Assist client in scheduling appointments with local agencies for assistance and transferring, with the client's permission, relevant information; and
- Contact the borrower 30 days after counseling session, if no interim contact, to answer questions, provide additional services.

**HUD Housing Counseling Checklist
for Home Equity Conversion Mortgage (HECM) Borrowers
with Delinquent Property Charges**

Client Intake

- Determine status of property taxes and insurance and amounts past due
- FHA Case Number, if known

Counseling Session:

- Determine if the client is a:
 - HECM Borrower: does the borrower reside at the mortgaged property? Does the borrower meet the definition of “At Risk?”
 - Non-Borrowing Spouse: Home retention options are unavailable. Discuss resources for transitioning out of the home
 - Power of Attorney (POA): 1) Is the POA durable? 2) Does it cover real property and financial matters such as a HECM? 3) Does the servicer have a copy of the POA?
- Explain the HECM requirements and foreclosure process and consequences of not resolving the delinquent property charges

Financial Analysis

- Review the client’s financial information to determine if there is enough money to 1) repay the servicer any advances and 2) set aside money for future property charges
- Perform a Benefits Checkup Analysis (www.benefitscheckup.org/)
- Advise borrower of other sources of income or assistance (www.eldercare.gov)

Communicate with the Servicer

- If borrower can afford to remain in home, work with the borrower and servicer to determine to determine qualification for home retention options, including:
 - Refinancing the default HECM into a new HECM
 - Repayment Plan
 - For “At Risk” borrowers, extensions to servicer’s foreclosure timeframes
 - Any other options the servicer provides.
- If the borrower cannot or will not cure the default, work with the borrower and servicer to identify strategies for addressing the default and/or transitioning to other housing

After Counseling

- Provide the borrower with an Action Plan, budget analysis, Benefits Checkup printout, and contact information for local agencies

Follow-Up

- Schedule follow up to determine if the borrower is working on the recommended tasks from the counseling session
- As needed, assist the client in filling out benefit program applications or scheduling appointments with local agencies.

¹ Should reference 24 CFR Part 206. Resources include HUD Housing Counseling Handbook 7610.1; National Industry Standards for Homeownership Education and Counseling https://www.homeownershipstandards.org/Uploads/NISStdsGuidelines_LR_North%20Capitol_FINAL.pdf; OHC Loss Mitigation guide https://www.hud.gov/sites/documents/OHC_GUIDELOSSMIT.PDF HUD ML 2015-11 <https://www.hud.gov/sites/documents/15-11ML.PDF> ; HUD ML2017-11 <https://www.hud.gov/sites/documents/17-11ML.PDF>; Final Rule FR-5353-F-03 <https://www.gpo.gov/fdsys/pkg/FR-2017-01-19/pdf/2017-01044.pdf>; ML 2016-10 <https://www.hud.gov/sites/documents/16-10ML-ATCH.PDF>