



September 17, 2021

Secretary Marcia Fudge
Department of Housing and Urban Development
451 7th St S.W.
Washington, D.C. 20410

Re: Relief for Reverse Mortgage Borrowers Impacted by the COVID-19 Pandemic

Dear Secretary Fudge:

We write to ask HUD to take additional steps to prevent foreclosures of the homes of reverse mortgage borrowers, spouses, and heirs who have been impacted by the COVID-19 pandemic. Our organizations represent the interests of low-income reverse mortgage borrowers as well as reverse mortgage servicers. Consumer advocates and servicers are aligned in our concerns about the need for greater protections to prevent unnecessary reverse mortgage foreclosures in the coming months.

Now that the FHA foreclosure moratorium has ended, reverse mortgage servicers are referring reverse mortgage loans to foreclosure counsel to initiate the foreclosure process. Servicers have begun the process of initiating foreclosure because HUD's existing guidance states that first legal action to foreclose must occur no later than the end of any "HECM extension period" (the equivalent of a forbearance), rather than 180 days after the end of that period. Because of this, servicers are aiming to initiate the first legal action no later than 180 days from the end of the moratorium, or January 27, 2022. Tens of thousands of reverse mortgage loans will be in foreclosure before the end of 2021.

Reverse mortgage borrowers are facing foreclosure ahead of forward mortgage borrowers, and without the kinds of permanent loss mitigation options that forward borrowers can obtain. This is true despite the fact that reverse mortgage borrowers are older, more vulnerable to health risks if displaced during this pandemic, and predominantly very low-income.

There are currently approximately 30,000 HECM borrowers currently in default on property charges, and roughly half of them fell behind after March 1, 2020. The high number of these recent defaults is undoubtedly related to the severe impacts on the economic well-being of low-income seniors, many of whom were supplementing fixed incomes with part-time work or support from working family members. With effective loss mitigation options, many of these borrowers could avoid foreclosure.

Therefore, we urge HUD to take the following steps to protect reverse mortgage borrowers:

1. Create a post-forbearance option akin to a partial claim. HUD should allow reverse mortgage borrowers impacted by the pandemic to permanently defer the property arrearage, rather than having to repay it. Forward mortgage borrowers already can do this through a partial claim or Recovery Modification. For HECMs, this could be done by expanding on HUD's existing "optional delay" of due and payable status for arrearages of under \$2,000. HUD should create a "COVID-19 Optional Delay" to allow servicers to delay calling a loan due and payable, or rescind the due and payable status, for borrowers that owe up to \$25,000 in property charges and have a COVID-related hardship. Borrower attestation should be sufficient to establish the hardship.

2. Make the repayment plan option work better, by allowing repayment plans to be up to 60 months, even if a borrower has had a prior repayment plan. HUD issued a waiver allowing borrowers to attempt a second repayment plan even if their default balance exceeds \$5,000. However, such borrowers would be limited to the time remaining on their original payment plan. Right now, HUD allows only 60 months of total time in a repayment plan. If a borrower was in a 60-month plan for 12 months, defaulted on that plan due to a COVID-related hardship, and now needs a new repayment plan, she now gets only 48 months over which to repay what is likely now a larger arrearage. HUD should issue a waiver or mortgagee letter making it clear that each new repayment plan may be up to 60 months in length.

3. Make it clear that HECM servicers are not required to make the "first legal" action to foreclose until 180 days after the end of a forbearance or "HECM extension period." According to the HERMIT servicing software release notes 6.4, servicers must make first legal action for any loans that were already called due and payable by the **end** of the HECM extension period, rather than 180 days after the end of it. This means that servicers are initiating foreclosure **now** for borrowers who are still in a forbearance, because they have to meet that deadline of "first legal" by the later of 180 days after the moratorium, or the end of the HECM extension period. HUD should clarify that even for loans that were already called due and payable, servicers may initiate the first legal action up until 180 days after the end of a HECM extension period. In connection with this change, it is essential that HUD extend through at least 12/31/21 the deadline for initiating a forbearance (HECM extension period), which is important for all FHA loans.

4. Make it clear that the reasonable diligence period to complete foreclosure after the moratorium ends consists of the original period plus 180 days, minus any part of the original period that the servicer used before the moratorium. For example, if a servicer in a state with a 29-month reasonable diligence period used two months of that period to begin a foreclosure before the moratorium, the servicer would have the remaining 27 months plus 180 days to complete it once the moratorium ends. There is some concern that the language in the mortgagee letter, which says "extended to," could be interpreted to require that the deadline to foreclose and evict would always be before 180 days after the moratorium ends, even in states that have longer reasonable diligence periods. This is relevant for HECM loans where foreclosure was initiated prior to the pandemic but was paused during the moratorium. In such a situation,

the deadline to complete foreclosure should be extended by the period of the moratorium plus 180 days.

We appreciate HUD's consideration of these recommendations. If we can provide additional information, please contact Sarah Mancini of the National Consumer Law Center, smancini@nclc.org, and Steve Irwin of the National Reverse Mortgage Lenders Association, sirwin@dworbell.com. Thank you for your attention to these issues.

Sincerely,

National Consumer Law Center,
On Behalf of Its Low-Income Clients

National Reverse Mortgage Lenders
Association

Cc: Senior Advisor for Housing Finance Alanna McCargo
Principal Deputy Assistant Secretary Lopa Kolluri
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