

What to Do If the Servicer Refuses to Accept or Process a HAMP Application Because Client Is in an Active Bankruptcy Case?

1. Remind the servicer that a pending bankruptcy is not a basis for denial.

- HB Section 1.2 (p. 19), SD10-01 (p. 7).
- A debtor in an active chapter 7 or chapter 13 bankruptcy case must be considered for HAMP if the debtor submits a request to the servicer.
- A debtor in a trial period plan who later files bankruptcy may not be denied a permanent HAMP on the basis of the bankruptcy filing.

2. Inform servicer's bankruptcy counsel of the obligation to work with you to get court or trustee approval of the mod, if needed.

- HB Section 8.5 (p. 47), SD10-01 (p. 7-8).
- Trial period may be extended two months (resulting in total five-month trial period) to get court approval.

3. File an objection and seek sanctions if the servicer takes action in a chapter 13 case because the debtor is paying the trial plan payment rather than the regular, non-modified mortgage payment.

- HB Section 8.5 (p. 47), SD10-01 (p.8).
- Servicer must not object to plan confirmation, move for dismissal, or move for relief from the automatic stay on this basis.

4. Request that Trial Period Plan be waived if the debtor has already made sufficient payments.

- HB Section 8.6 (p. 48), SD10-01 (p. 8).
- Servicer may put debtor in a permanent mod without completing the trial period plan if the debtor has made all post-petition mortgage payments and at least three of them are equal to or greater than the proposed modified payment.
- Waiver of trial plan must be permitted under applicable investor guidelines.

5. Request that servicer use schedules and tax returns filed in chapter 7 or 13 case in lieu of RMA and Form 4506T-EZ.

- HB Section 5.2 (p. 34), SD10-01 (p. 8).
- Servicer may accept these documents if they are not more than 90 days old.
- Debtor must still provide executed Hardship Affidavit (or RMA).

6. If the servicer isn't complying, escalate!

- E-mail escalations@hmpadmin.com.
- Ask for Ken Hannold if escalations isn't satisfactory.