

What to Do If the Servicer Denies a HAMP Mod Because the Client Received a Discharge in a Chapter 7 Case and Did Not Reaffirm the Mortgage Debt?

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

- HB Section 1.2 (p. 19), SD10-01 (p. 8), SD09-01 (p. 2, 16).
- The debtor is eligible for a HAMP mod even if the first lien mortgage debt was discharged and no reaffirmation was entered into in the chapter 7 case.
- Same rule for GSE mortgages. FannieMae Announcement 09-05R, p. 3.

2. Verify that servicer has included language in HAMP agreement making loan modification non-recourse.

- HB Section 10 (p. 54), SD10-01 (p.8), SD09-01 (p. 16).
- The following language must be inserted in Section I of the HAMP agreement:
“I was discharged in a Chapter 7 bankruptcy proceeding subsequent to the execution of the Loan Documents. Based on this representation, Lender agrees that I will not have personal liability on the debt pursuant to this Agreement.”
- Same rule for GSE mortgages. FannieMae Announcement 09-05R, p. 18.

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

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