



HUD SHOULD PROVIDE ADDITIONAL COVID LOSS MITIGATION OPTIONS FOR HECM BORROWERS

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COVID RELIEF: FORWARD MORTGAGES VS. REVERSE MORTGAGES (HECMs)

ISSUE	FORWARD MORTGAGES	HECMs
Deadline for 1st legal action to initiate foreclosure	<p>120 days to complete loss mitigation review after expiration of forbearance. It appears servicers have 180 days after the end of forbearance to meet first legal.</p> <p><i>ML 2021-05, p. 6; ML 2021-18, pp. 11, 21</i></p>	<p>Immediately at the expiration of a COVID forbearance/HECM extension period. No period of time provided for review of loss mitigation.</p> <ul style="list-style-type: none"> ▪ Requires servicers to dual track by starting foreclosure process against elderly homeowners during forbearance period. <p><i>HERMIT Release Notes 6.4</i></p>
RESPA Foreclosure Protections	<p>Prohibits servicers from initiating foreclosures from 8/31/21 – 12/31/21 until complete loss mitigation has been reviewed (or if borrower is unresponsive for 90 days or property is abandoned)</p> <p><i>12 USC § 1024.41(f)(3)</i></p>	<p>Does NOT apply to HECMs</p> <ul style="list-style-type: none"> ▪ Contrary to protections afforded forward mortgages, HECM servicers, due to HUD policy and the lack of RESPA protections, are actually being required to dual-track & start foreclosure to meet 1st legal deadline
Post-Forbearance Loss Mitigation Options	<p>Servicer REQUIRED to review for PERMANENT loss mitigation options:</p> <ul style="list-style-type: none"> ▪ ALM ▪ Partial Claim ▪ Recovery Mod ▪ FHA HAMP <p><i>ML 2021-18</i></p>	<p>NO permanent loss mitigation options, and up to servicer's discretion:</p> <ul style="list-style-type: none"> ▪ Borrower <u>must</u> repay the arrears ▪ Repayment plan for up to 60 months (max) ▪ Difficult for many HECM borrowers who have suffered COVID hardship; no Partial Claim-like option to place arrearage at end of the loan. <p><i>ML 2015-11; ML 2016-07</i></p>
Reasonable diligence deadline extended to 180 days after moratorium expires (January 27, 2022). Seems to require foreclosures to be completed by that date, even if normal reasonable diligence would allow a longer period.	<p>May technically affect forward loans, but less likely due to other protections listed above.</p>	<p>HECM servicers need clarification that deadlines are extended by 180 days after moratorium expires. Otherwise, servicers are concerned that they need to accelerate foreclosure actions against HECM borrowers immediately or face interest curtailment if deadline is not met.</p> <p><i>ML 2021-05</i></p>

Elderly HECM borrowers have been financially affected by the COVID-19 pandemic

- Reverse mortgage servicers estimate that of the approximately 30,000 HECM borrowers in default on property charges, roughly half of them fell behind after March 1, 2020.
- Unlike forward FHA-insured mortgage borrowers, vulnerable HECM homeowners have not been afforded a permanent loss mitigation option that allows them to simply resume their ongoing obligations without having to cure a large default resulting from the pandemic.
- HUD has not created any new permanent loss mitigation options for HECM borrowers impacted by the pandemic. The only option for most borrowers will be a 60-month maximum repayment plan. With extremely low income and few other resources, HECM borrowers will have a difficult time affording a repayment plan to bring the default current. Notably, many states are considering excluding HECM borrowers from Homeowner Assistance Fund programs.
- The imposition of the 1st legal action deadline no later than the end of a COVID “HECM extension period” (forbearance) means that HECM servicers are required to dual track and are trying to “jump the line” to foreclose against the most vulnerable homeowners before the expected backlog of forward mortgage foreclosures in January 2022.

The Cost of Permanently Deferring Property Charge Balances Would Be Modest

- Reverse mortgage servicers show that roughly 30,000 HECM borrowers are currently in default on property charges. Of these:
- 14,027 have not yet been called due and payable, with an average arrearage of \$1,152.
- 8,297 have been called due and payable, with an average arrearage of \$6,677.
- 8,512 are in foreclosure status, with an average arrearage of \$18,991. The average property charge balance across the board is \$7,563.

Racial Justice Impacts are Substantial with Reverse Mortgage Foreclosures

- Reverse mortgage borrowers facing foreclosure are also disproportionately people of color. A July 2019 in-depth article in *USA Today* showed that communities of color have been hit hardest by reverse mortgage foreclosures, with foreclosure rates six times as high as majority white neighborhoods.
- The devastating impact of reverse mortgage foreclosures in communities of color will only be exacerbated by the effects of the pandemic, which has disproportionately affected Black and Hispanic homeowners. In a recent report analyzing national data, the Consumer Financial Protection Bureau found that Black and Hispanic borrowers are substantially more likely to be in mortgage forbearance or experiencing mortgage delinquency than white borrowers.

HUD should create an Optional Delay of Due & Payable Status for HECM Borrowers with a COVID Hardship and Fix Repayment Plan Issues

- Servicers should be permitted to delay calling a loan due and payable, and rescind any due and payable status, for property charge arrearage of up to \$25,000 if the borrower has experienced a COVID-related hardship. Self-attestation should be sufficient.
- Borrowers should commit to paying the property charges going forward; servicers should refer the borrower to a housing counselor for budget help. Good servicing and budget planning makes a huge difference in securing on-time payments going forward.
- HUD should allow a new 60-month term for each repayment plan and permanently remove the \$5,000 cap on successive repayment plans.