# Using the Homeowner Assistance Fund to Prevent Reverse Mortgage Foreclosures: What Treasury and the States Can Do

National Consumer Law Center

April 2021

The American Rescue Plan Act of 2021 includes $9.9 billion for creation of a Homeowner Assistance Fund (HAF) to be administered by the Treasury Department. The HAF was established to mitigate financial hardships connected with the coronavirus pandemic and prevent foreclosures among homeowners who have experienced a hardship related to the pandemic. States have until April 25, 2021 to request HAF funds from Treasury, after which up to 10% of the designated funds can be provided. Treasury recently released guidance regarding how states should utilize the HAF funds pursuant to an approved plan. Treasury will provide a template of an HAF plan, and states will have until June 30, 2021 to submit their proposed HAF plan for approval.

States are required to spend at least 60% of the HAF funds on eligible purposes related to homeowners who are up to 100% of area median income or U.S. median income, whichever is greater. Remaining funds must be prioritized to socially disadvantaged individuals, which include those who have been subject to racial or ethnic prejudice.

Treasury's HAF plan template should provide for reinstatement of property charges for reverse mortgage borrowers. As explained below, reverse mortgage borrowers badly need this assistance, and helping this population of borrowers to avoid foreclosure would fulfill both the letter and the spirit of the American Rescue Plan. Reverse mortgage borrowers have been severely impacted by the pandemic, have few other viable options to save their homes, and consist of low-income and socially disadvantaged borrowers intended to be prioritized for this relief.

## Reverse Mortgage Property Charge Defaults Cause Preventable Foreclosures

Reverse mortgages insured by the Federal Housing Authority (FHA) through its Home Equity Conversion Mortgage (HECM) program are designed to allow older homeowners to borrow against their equity without the risk of displacement presented by regular monthly payments. Although HECM borrowers are not required to make monthly payments of principal or interest, reverse mortgages do require the borrower to pay property charges, including property taxes, homeowner's insurance, and homeowners association (HOA) fees. If a borrower falls behind on these property charges, HUD directs lenders to advance the funds and then recover the advances from the borrowers. If borrowers are not able to repay the charges, the servicer is required to foreclose within a short timeframe. Property charge defaults and resulting foreclosures of HECM mortgages have become a significant problem in recent years, and a large number of HECM borrowers have defaulted on property charges since the pandemic began. **Reverse mortgage servicers estimate that 26,694 HECM borrowers are in default on property charges, and that roughly half of them fell behind after March 1, 2020.**

As these are government-backed mortgages, HECM borrowers have avoided foreclosures to date because of FHA forbearance and moratorium policies. However, when the forbearances and moratoria end, these borrowers will be required to pay back the unpaid property charges or face foreclosure.

## Why Reverse Mortgage Borrowers Need HAF Assistance

In contrast to its policies for forward FHA-insured mortgages, HUD has not created post-forbearance options for reverse mortgage borrowers that would allow them to defer payment of the property charges until the end of the loan. Rather, HUD's current loss mitigation policies would require reverse mortgage borrowers to pay back the unpaid property charges through a repayment plan of up to 60 months. For many low-income older homeowners, particularly those relying solely on fixed and limited Social Security or Veterans' benefits to survive, paying on a repayment plan while also saving for the next year's taxes or insurance is not affordable. HUD's strict foreclosure timelines and lack of robust foreclosure avoidance policies for HECM borrowers, and servicers' business decisions influenced by these policies, can make it extremely difficult for HECM borrowers to avoid foreclosure. These are some of the most vulnerable homeowners, many of whom would not be able to afford to rent an apartment if they were displaced from their homes.

Because of this lack of good post-forbearance options and their vulnerability, reverse mortgage borrowers especially need HAF assistance. Treasury should direct states to design their HAF programs to be accessible to reverse mortgage borrowers, and states should craft their HAF programs to effectively serve this important purpose.

## Helping Reverse Mortgage Borrowers Will Reach Target Populations

The population of reverse mortgage borrowers is overwhelmingly comprised of low-income individuals. The median income of borrowers who took out a reverse mortgage in 2018 was $26,000, less than half the U.S. median income; 84% of HECM borrowers had an annual income of less than $45,000 per year. Nearly half of respondents to a survey of HECM borrowers had sought the loan to pay for basic necessities and essential expenses. Treasury has already indicated that it strongly encourages states to have at least one program intended to reduce mortgage delinquency among targeted populations, and that it would look favorably on targeting FHA-insured loans as one means of reaching this goal. FHA-insured reverse mortgages should be part of this analysis.

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.

## How to Ensure that State HAF Programs Work Well for Reverse Mortgage Borrowers

Lessons from the Hardest Hit Fund (HHF) programs over the past decade have shown that this kind of reinstatement assistance can work well for curing reverse mortgage property charge defaults, but certain program features make success more likely. To ensure that programs can successfully cure reverse mortgage defaults and keep older homeowners in their homes, we recommend that HAF programs be required to have the following features. Treasury should adopt these features in the template HAF plan, and states should implement them in their HAF programs.

1. **Maximize the standardization of state programs and include reverse mortgage reinstatement.**

   Reverse mortgage servicers have expressed concerns about having to navigate the intricacies of 50 (or more) different programs. Treasury should require states to implement programs with the same core eligibility and program terms, including making it clear that the programs provide for the cure of delinquent property charges for reverse mortgage borrowers.

2. **Develop uniform documents that would be used across the states.**

   If there is a lien taken for any assistance structured as a forgivable loan, make it clear that the lien will not impair the lien position of any existing mortgage. This is important for HECMs because the servicers will hesitate to participate in any program that they fear might jeopardize the lien priority status of the HECM.

3. **Allow non-borrowing spouses to obtain HAF assistance.**

   Because of statutory protections, HECM borrowers' spouses have the right to remain in the home until their death, so long as they continue to pay property charges and maintain the property. However, FHA does not allow non-borrowing spouses to access loss mitigation options to resolve property charge defaults. Non-borrowing spouses should be treated as if they were borrowers. If a non-borrowing spouse has defaulted on property charges, HAF assistance should be available to help them cure the default and reinstate the loan.

4. **Allow program funds to pay imminent property charges and pay to reinstate homeowner insurance policies.**

   As program funds are processed, both servicers and borrowers may have difficulty determining who is responsible for imminent property charge payments. In addition, even a borrower who is generally able to resume the payment obligations following a COVID-19 hardship may have difficulty making an immediate large property tax payment or may need assistance with the one-time down payment to reinstate private insurance. Allowing funds to be used to pay property charges coming due in the next 90 days and to reinstate insurance coverage will avert confusion and provide a true fresh start.

5. **Allow self-attestation of hardship and include a broad range of potential hardships.**

   The Hardest Hit Fund programs that were most successful in helping reverse mortgage borrowers allowed for self-attestation of hardship (no other verification needed). In addition, Treasury should make it clear that the HAF eligibility requirement of having a hardship associated with the pandemic can be met by a hardship caused directly or indirectly by the pandemic, and that the existence of other pre-pandemic hardships that could have caused default does not make a borrower ineligible.

6. **Be flexible regarding proof of sustainability going forward.**

   Some reverse mortgage borrowers are extremely low-income, and many are very resourceful at getting by on a tight budget. They may also rely on help from family members or part-time work (like babysitting) that can be hard to document. For most reverse mortgage borrowers, if they can get help catching up the property charge arrears, paying the future taxes and insurance will be cheaper than other housing options. Therefore, Treasury should encourage states to approve relief for reverse mortgage borrowers in need without a strict rule on the borrower's future housing expense-to-income ratio.

### 7. Do not require a fixed standard of current hardship based on housing expense-to-income ratio.

Some HECM borrowers may have property tax and insurance payments that consume a relatively low percentage of their monthly income, but, but because their total monthly income is so low, even a small change in income or expenses can destabilize the person's budget and cause a snowball effect in bills falling behind. If a homeowner attests to a hardship directly or indirectly related to the pandemic, there should be no requirement to also show that housing expenses exceed a certain percentage of household income.

### 8. Allow sub-servicers to communicate with the state and receive HAF funds on behalf of a master servicer.

The reverse mortgage servicing market is relatively small, and it is common for a particular company to have a sub-servicing role on behalf of multiple other servicers. That sub-servicer should be authorized by the state HAF program to communicate and access HAF funds for each of the master servicers for which it has a contractual arrangement.

For more information about these recommendations, please contact Alys Cohen of the National Consumer Law Center at acohen@nclc.org or Steve Irwin of the National Reverse Mortgage Lenders Association at sirwin@dworbell.com.