

CHAPTER 3. DELIVERY OF COUNSELING

3-1 Basic Requirements. HUD requires the following basic general services for each client served by a HUD-approved housing counseling agency. Paragraph 3-2 elaborates each of these items.

Although affiliates and branches of national, regional, and multi-State agencies do not submit individual applications for HUD approval, those affiliates and branches must conform to the requirements in this chapter. HUD expects the parent entity to assure compliance by its branches or affiliates.

- A. An intake or screening interview conducted by a COUNSELOR.
- B. Housing counseling* that enables a client* to make informed and reasonable decisions to achieve their housing goal* by meeting their housing need* or resolving their housing problem* by using all available resources. See para. 1-6 for definitions of the starred (*) terms.
- C. Referrals to local, State, and federal resources.
- D. Follow-up communication with the client to assure that the client is progressing toward his or her housing goal or that the agency should modify or terminate counseling.

3-2 Screening Interview conducted by a COUNSELOR

- A. Purpose. The interview enables the counselor to:
 - 1. Obtain information from the client that enables the agency to identify the client's housing need or housing problem
 - 2. Determine if the agency's resources can assist the client to meet the need or resolve the problem
 - 3. Design a counseling plan in relation to the need or problem
 - 4. Learn whether the client is willing, with the assistance of counseling, to assume his or her responsibilities under a mutually acceptable plan for meeting the need or resolving the problem.

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- 5. Initiate counseling or, at a minimum, refer the client to a community agency that might be able to assist the client
- B. Setting. The interview must be face-to-face unless it would work a hardship on the client. Under those conditions, a documented telephone interview is acceptable.
- C. Personnel

1. Only a housing counselor may perform the screening interview.
 2. A receptionist or other non-counseling staff member may obtain and record certain intake information from a potential client in preparation for the screening interview by the counselor. This may include such items as name, address, telephone number, etc., but no financial, employment, or family information. Obtaining this intake information must be done under conditions that assure privacy for the potential client and confidentiality of the information.
- D. Documentation. During the interview the counselor obtains and records enough information to identify the housing need or problem of the potential client and determine if the agency will take the client into its workload. The counselor may use Form HUD-9921, Housing Counseling Activity and Unit Log, or an agency form that records at least the items on HUD-9921. (The "Unit Claim" data is for HUD counseling grants for 1994 and earlier years. Non-grantee agencies omit an entry in the "Unit Claim" box. See Appendix 15.)
- E. Counseling Plan. After the screening interview, the counselor prepares a counseling plan. The plan tells what the agency will do and what the client will do to meet his or her housing goal.
- F. Client File. The agency must set up a separate file folder for each client. Chapter 4 lists the documents required for the folder.
- 3-3 Areas of Counseling. HUD expects an approved housing counseling agency to deliver comprehensive housing counseling or whatever components of comprehensive housing counseling services are needed in the community the agency identified in its application as the agency's target service area.

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- A. HUD Programs. The agency's counselors must have an up-to-date working knowledge of HUD single-family and multifamily housing programs. This includes but is not limited to programs under Public and Indian Housing, Section 203(K) Rehabilitation Home Mortgage Insurance, others administered by Community Planning and Development, and the rights as well as the responsibilities of consumers assisted under the programs. These HUD handbooks cover those areas.
1. 1378.0 Relocation and Real Properties Acquisition Handbook
 2. 4235.1 Home Equity Conversion Mortgages
 3. 4240.4 Rehabilitation Home Mortgage Insurance
 4. 4330.1 Administration of Insured Home Mortgages
 5. 4330.2 Mortgage Assignment Processing
 6. 4335.1 Procedures for Servicing secretary-held Mortgages

- 7. 4335.2 Secretary-held Servicing Handbook
- 8. 7420.7 Public Housing Agency Administrative Practice for the Section 8 Existing Housing Program (except Section 4-5.d.1, Chapters 5 and 8)
- 9. 7465.2 Public Housing Occupancy Audit Handbook REV-2
- 10. 7465.3 Public and Indian Housing Occupancy Reporting Handbook

B. Comprehensive Housing Counseling. These services include advice and assistance under the following components.

1. Pre-occupancy

a. General. The following components apply to pre-purchase and pre-rental counseling.

- (1) Housing Selection
- (2) Fair Housing Laws
- (3) Qualifying for HUD subsidies

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- (4) Budgeting for Mortgage Payments and Rent Payments
- (5) Money Management
- (6) Housing Care and Maintenance
- (7) Referrals to Community Resources

b. Pre-purchase. The following components apply only to clients who want to buy their housing.

- (1) HUD-mortgage insurance and assistance programs, including interest subsidy programs
- (2) How to apply for a HUD-insured mortgage
- (3) Purchase procedures, including closing costs
- (4) Alternatives for financing the purchase
- (5) Real estate terms
- (6) Rights and responsibilities of persons who own single-family housing--including cooperatives and condominiums.

c. Pre-rental. The following components apply only to clients who want to rent their housing.

- (1) HUD rental programs, including rent subsidy programs
 - (2) How to apply for occupancy and rent subsidies
 - (3) Rights and responsibilities of tenants
 - (4) Lease and rental agreements
 - (5) Landlord-tenant legislation
 - (6) Evictions and grievances
2. Mortgage Default and Rent Delinquency
- a. General. The following components apply to mortgage default and rent delinquency.

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- (1) Identification of the cause(s) of the default or delinquency
 - (2) Client's motivation, resources, and ability to resolve the default or delinquency
 - (3) Arranging reinstatement plans, including working with the client's creditors
 - (4) Subsidy recertifications
 - (5) Budgeting when in default or delinquent
 - (6) Money Management
 - (7) Referrals to other resources
 - (8) Locating alternative housing
- b. Mortgage Default. HUD considers this type of counseling to be critical in achieving its goals and the goals of the individual mortgagor. It includes but is not limited to the following components.

- (1) Determination of the amount and extent of the default

A mortgage "is considered in default when the mortgagor fails to perform under any covenant of the mortgage, including the covenant to pay, and the failure continues for 30 days." (All months are considered as having 30 days.) See HUD Handbook 4330.1, Chapter 7, Page 49.

- (2) Identification of the cause of the default
- (3) Determination of whether the mortgagor, with the assistance of the counseling agency, might bring the account current within a time period and

payment plan acceptable to the mortgagee

- (4) Working out repayment plans with the mortgagor's other creditors

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- (5) Follow-up counseling with the mortgagor on an as-needed basis until the default is corrected or the mortgagee completes foreclosure and the client has found alternate housing

- (6) If the mortgagee decides to foreclose, determine if the mortgagor is eligible for HUD's assignment program and, if so, counseling the mortgagor through the assignment process and for as long as the mortgagor remains in default after assignment of the mortgage to HUD

- (7) HUD-required mortgage relief provisions provided by mortgagees

- (8) Mortgagee-held escrow funds

- (9) Foreclosure

- (10) Alternatives to foreclosure

- (a) sale of the property

- (b) deed-in-lieu

- (c) pre-foreclosure sale program

- (11) Mortgage Rate Reduction Program

- (12) Home Equity Conversion Mortgage Program (HECM)

c. Rent Delinquency. The following components apply only to rent delinquency counseling.

- (1) Rent relief

- (2) Renter's and landlord's rights

- (3) Deposits and their use or recovery

- (4) Eviction procedures

3. Post-Occupancy. The following components apply to homeowners and renters.

a. Relations with mortgagees and landlords

b. Escrow funds

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- c. Recertifications for HUD subsidies
- d. Grievances
- e. Shared housing
- f. Home Equity Conversion Mortgage (HECM) (See para. 1-1G.)

(1) The HECM program provides for reverse equity mortgages. The program is, by necessity, technically complicated and involves a senior citizen population. Those two factors dictate the method by which HUD and its approved housing counseling agencies deliver HECM counseling set forth in two HUD handbooks:

(a) 7610.1 REV-3 (6/93), Housing Counseling Program

i. Para. 2 on page 1-4

ii. Para. e on page 3-7

(b) 4235.1, Home Equity Conversion Mortgages, Chapter 3

(2) One-on-One Counseling Requirement. HECM counseling is primarily a "one-on-one" activity between the counselor and the client (See the Chapter 3 of Handbook 4235.1.). A client, as defined in para. 1-6 on page 1-6 of this handbook, consists of the individual or individuals who seek the counseling. The client might be one person who owns the property or two or more persons who own the property or otherwise have an advocacy interest in a HECM mortgage. Persons with advocacy interest might, as examples, be non-mortgagor members of the mortgagor's family, the mortgagor's attorney, a friend or friends of the mortgagor, or staff from a HUD-approved housing counseling agency. Advocacy interest DOES NOT include a representative of the lending entity.

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A HUD-APPROVED HOUSING COUNSELING AGENCY MAY ISSUE THE REQUIRED CERTIFICATE OF COUNSELING ONLY AFTER THE CLIENT RECEIVES THIS ONE-ON-ONE COUNSELING. (HUD will NOT grant exceptions to this requirement.)

- (3) Group Counseling. A HUD-approved housing counseling agency may use group counseling to impart general HECM program information to potential clients for one- on-one counseling. The agency MUST NOT use group counseling to deal with individual client needs that require confidentiality and prudent use of private information. The agency MUST NOT issue the certificate to a person who attends only a group counseling session.
- (4) Issuing the Certificate of Counseling. The counseling agency's issuing of a certificate of counseling attests ONLY to the fact that the client attended the required counseling. Issuing a certificate does NOT indicate whether the counseling agency recommends or does not recommend the client for a Home Equity Conversion Mortgage. A counseling agency MUST NOT withhold a certificate from a client who, in the judgment of the agency, should not receive a home equity conversion mortgage. If the client attends the counseling, the agency MUST issue the certificate.
- (5) HUD-approved housing counseling agencies that provide HECM counseling MUST, in compliance with the Code of Federal Regulations (24 CFR Part 206- Home Equity Conversion Mortgage Insurance, paragraph 206.41, Counseling) provide the following housing counseling services.
- i. Options other than a home equity conversion mortgage, including a mortgage insured under Section 206 of the CFR, that are available to the mortgagor, including other housing, social service, health, and financial options;

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- ii. Other home equity conversion options that are or may become available to the mortgagor, such as sale-leaseback financing, deferred payment loans, and property tax deferrals, and benefits under a State home equity conversion program;
- iii. The financial implications of entering into a home equity conversion mortgage including a mortgage insured under Section 206 of the CFR;
- iv. A disclosure that a home equity conversion

mortgage under Section 206 of the CFR, may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner;

- v. Any other information the Secretary may require; and
 - vi. Provide the homeowner/mortgagor with a letter certifying that the mortgagor received HECM counseling. It is the mortgagor's responsibility to provide the mortgagee with a copy of the certifying letter.
4. Home Improvement and Rehabilitation
- a. Section 203(K), Rehabilitation Home Mortgage Insurance
 - b. HUD's Title I home improvement loan program
 - c. HUD's Community Development Block Grant (CDBG) locally-developed rehabilitation program
 - d. Loan and grant application process
 - e. Housing codes and enforcement procedures
 - f. Bids and contracts
 - g. Inspection of work and payments to contractors
 - h. Liabilities to subcontractors
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- i. Non-performance by contractor
5. Displacement and Relocation. These components relate to occupant displacement and the need for relocation due to activities by or on behalf of the federal government.
- a. Rights of owners faced with displacement
 - b. Rights and responsibilities of the entity causing the displacement
 - c. Relocation benefits
 - d. Locating alternate housing
6. Pre-Foreclosure Sale. Consult with the Director of Single Family Housing in the HUD Field Office regarding program implementation and guidelines. See Appendix 17. Agencies may obtain from the local HUD office a copy of HUD's Mortgagee

Letter 94-45, "HUD's Nationwide PRE-FORECLOSURE SALE (PFS) Procedure."

C. Money Management. Almost every housing need and problem brought to a counseling agency requires at least a review of how the client manages his or her money. Without this financial analysis, no matter how basic, the counselor cannot adequately advise the client. Depending upon whether the client is or seeks to be a renter or homeowner, counseling in this area might include any or all of the following components.

1. Review of client's income and expenses
2. Determination of how the client spends money (Does he or can he save? Does she spend beyond her income? Does he make prudent use of credit? Do her spending habits fit better into renting or owning? Etc.)
3. Creating a budget suitable to the housing the client can afford.
4. Review of interest rates at the time the client wants to purchase housing
5. Use and cost of credit
6. Shopping for a loan to purchase housing

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7. Effect of property taxes and mortgage interest on income taxes--cash flow
8. Homeowner's insurance covering property and liability
9. Down payments and rent escrow
10. Bankruptcy

D. Debt Management or Liquidation. Negotiating payment plans with creditors, handling the client's money, and making payment to the creditors for the client are usually done under a client-counselor contract. The contract governs the service provided by the counselor and the obligations of the client to the agency. Agencies that provide this service must assure HUD in writing that they comply with all State and local laws, including agency bonding, that govern these services. See assurances in Appendix 1.

3-4 Referrals to Community Resources. Applicant agencies must have established working relationships with private and public service agencies that could assist clients. The counseling agency must assure that these community resources are providing helpful services to the counseling agency's clients.

3-5 Termination of Counseling. The counseling agency must document every

termination of counseling. Termination occurs or may occur under any of these conditions.

- A. Client meets his or her housing need or resolves the housing problem
- B. Agency determines that further counseling will not meet the client's housing need or resolve the client's housing problem
- C. Client terminates counseling
- D. Client does not follow the agreed-upon counseling plan
- E. Client fails to appear for counseling appointments