

## **Housing Counseling Frequently Asked Questions – Fees**

### **Q. As a HUD-approved agency can I charge fees for counseling services?**

A: On September 28, 2007, a Final Rule was published in the Federal Register at 72 FR 55638 and codified at 24 CFR Part 214 establishing new regulations for the Housing Counseling Program. (<http://www.hud.gov/offices/hsg/sfh/hcc/final.pdf>) Included in the final rule is a provision authorizing housing counseling agencies to charge fees for counseling and education.

HUD-approved agencies may now charge a reasonable fee to a client, as long as that fee does not place hardship on the client. Agencies may make a determination about a client's ability to pay based on factors including, but not limited to, income and debt obligations. Clients can not be turned away because of an inability to pay. Agency fee schedules, as well as determinations of clients' ability to pay are subject to review by HUD during periodic monitoring.

If an agency chooses to charge fees, it must conform to the following guidelines:

- Provide counseling without charge to persons who cannot afford the fees.
- Fees must be commensurate with the level of services provided and reasonable and customary for the area.
- Agencies may not impose fees upon clients for the same portion of or for an entire service that is already funded with HUD grant funds.

HUD issued Mortgagee letter 2008-12

(<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/08-12ml.doc>) to clarify HUD policy regarding reverse mortgage counseling fees in light of these regulations.

Agencies may charge fees for pre-purchase, non-delinquency post-purchase, and rental counseling and education, provided they conform to the criteria in the final rule.

However, no fees may be charged for clients needing homeless counseling or default counseling.

### **Q. Does HUD permit lenders to pay a fee for counseling?**

A. Yes. Lenders may pay agencies for counseling services, either on a lump sum or case-by-case basis, provided that the level of payment is commensurate with the services provided, reasonable and customary for the area, and compliant with RESPA requirements.

Agencies that receive fees from a lender must give clients the opportunity to consider products from at least three different lenders and furnish clients with a disclosure statement making clear that they are free to choose, among other things, loan products and features.

Agencies may not refer a client to a specific lender, prioritize a client that has established an account with a lender, require that a client be working with a lender prior to receiving counseling, or hold a borrower's Counseling Certificate until a lender has made payment.

### **Q. Is it all right for a lender to pay a fee to a housing counseling agency for each counseled homeowner that selects that lender's mortgage product and closes his or her loan?**

A. Yes. As detailed above, as long as the fee is paid to the agency, not a particular counselor, a disclosure is provided, and the client is given information about products

from at least three lenders, such an agreement is permissible under HUD regulations. The fee may not exceed the average cost of counseling. Agencies must maintain documentation on their average cost of counseling. HUD will review this documentation during performance reviews to ensure that no counseling fees provided by lenders exceeded this amount.

**Q. Can an agency accept different fee schedules from different lenders (i.e., one lender offers \$500 per counseling session and another offers \$300 per session)?**

A. Yes. As long as an agency does not receive a fee in excess of the average cost of counseling from any agency, and complies with the disclosure and fee regulations detailed above, that agency may accept different fee schedules from different lenders. Agencies must maintain documentation on their average cost of counseling. HUD will review this documentation during performance reviews to ensure that no counseling fees provided by lenders exceeded this amount. Please note; for reverse mortgage counseling HUD has determined that a recommended fee of \$125 per session, is usually a reasonable and customary fee that may be charged (refer to mortgagee letter 2008-12).