



OFFICE OF HEALTHCARE PROGRAMS

FEDERAL HOUSING ADMINISTRATION



## Office of Healthcare Programs

### Questions and Answers for External Stakeholders\*

#### Coronavirus (COVID-19)

Last Updated: August 12, 2020 (12:00 p.m., ET)

##### Emergency Preparedness

##### **Q1: Who is coordinating COVID-19 efforts for the Office of Healthcare Programs (OHP)?**

A: Roger Lewis, the Associate Deputy Assistant Secretary for OHP, is the main point of contact for lenders and other stakeholders participating in FHA's Section 232 and Section 242 mortgage insurance programs.

(Added on 3/13/20)

##### **Q2: Has OHP given guidance on how Owners and Operators should prepare and respond to COVID-19?**

On March 3, 2020, OHP sent an email message to external stakeholders that encouraged stakeholders to share information from the Centers for Disease Control and Prevention (CDC) on COVID-19 with the residential care facilities and hospitals they work with, and their employees.

(Added on 3/13/20)

##### **Q3: What emergency preparedness steps does HUD recommend Owners and Operators take?**

A: OHP recommends Owners and Operators follow Centers for Disease Control and Prevention guidelines (<https://www.cdc.gov/coronavirus/2019-ncov/index.html>) and the direction of local health officials.

(Added on 3/13/20)

\* Office of Healthcare Programs stakeholders include lenders and other participants in FHA's Section 232 and Section 242 mortgage insurance programs. The Section 232 program provides insurance on mortgages for residential care facilities such as skilled nursing facilities, assisted living centers, and board and care homes. The Section 242 program provides mortgage insurance for acute care hospitals.

**Resident Health**

**Q1: In the event of a confirmed COVID-19 case at a HUD-insured facility, what steps should Owners and Operators take to protect residents, staff, and the community?**

A: OHP recommends Owners and Operators of residential care facilities follow Centers for Disease Control and Prevention guidelines and the direction of local health officials. In the event of a confirmed COVID-19 case at a HUD-insured residential care facility, Owners, Operators and Lenders should notify the assigned ORCF Account Executive immediately.

Hospitals should follow established treatment protocols provided by the CDC to treat patients with confirmed cases of COVID-19 while protecting healthcare providers.

(Added on 3/13/20)

**Q2: How should Owners and Operators interact with residents/patients or prospective residents who may have been exposed to the Coronavirus?**

A: Stakeholders are reminded to ensure that their responses remain faithful to obligations under the Constitution, Fair Housing Act, the Americans with Disabilities Act, other Federal laws and related regulations. Exigencies associated with important and timely response to issues surrounding COVID-19 are not the basis for unlawful discrimination based on race, color, religion, national origin, sex, disability, gender, age or familial status.

Hospitals should interact with patients to determine if they have contracted the COVID-19 virus and should treat them using established protocols issued by the CDC. Hospitals should not refuse care based on race, color, religion, national origin, sex, disability, gender, familial status or the ability to pay.

(Added on 3/13/20)

**Q3: Many seniors and people with disabilities residing in HUD-insured healthcare facilities are particularly susceptible to illness. What kind of communication and resources is HUD providing to communities to reassure residents and property staff, and prepare them in the event of a confirmed COVID-19 case on site?**

A: OHP will continue to encourage all parties to access information about the health impacts and proper handling of COVID-19 cases from the CDC, and/or state or local health officials.

(Added on 3/13/20)

**Q4: Does HUD have guidance available on infectious disease preparation and response?**

A: HUD continues to encourage stakeholders to seek information about infectious disease preparation and response from the CDC and/or state and local health officials. Stakeholders can obtain up-to-date information on the Coronavirus from the Centers for Disease Control and Prevention's Coronavirus web site at: <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>

(Added on 3/13/20)

**Policy and Operations****Q1: Does HUD have/plan to issue guidance on quarantine procedures for HUD-insured healthcare facilities?**

A: OHP recommends Owners and Operators follow the Centers for Disease Control and Prevention's guidelines and the direction of local health officials, especially in the event a facility has to be quarantined.

(Added on 3/13/20)

**Q2: What emergency funds can Owners/Operators access for outbreak preparedness and response (including extra supplies, additional administrative hours, and staff overtime), and what kind of approval do housing providers need from HUD in order to access the funds?**

A:

**Federal Relief:**

Recent legislation, such as the *CARES Act* has made largely forgivable economic relief loans, such as the *Paycheck Protection Program (PPP)* and the *Economic Injury Disaster Loans (EIDL)* available through the SBA. In addition, the *Families First Coronavirus Response Act* has provided a method for employers to provide employees with paid leave through tax credits. ORCF fully supports Owners/Operators of Section 232 facilities pursuing relief for which they are eligible under the recent Federal emergency legislation.

If an Owner or Operator of an FHA-insured facility applies for relief via a loan under these programs, the Borrower/Operator should send an email to [232PaycheckProtection@hud.gov](mailto:232PaycheckProtection@hud.gov) with the facility name, FHA number and loan amount requested, and contact information for a person that ORCF can contact in the event any additional information is required.

For secured loans requiring HUD approval, the lender should immediately contact the ORCF Account Executive assigned to the facility. The Account Executive Facility Assignment list is found [here](#).

**Owner Advances and use of Reserves:**

To the extent that Owner advances are required, Owners should receive prior written HUD approval if interest payments are expected on the advance. For those residential care properties with reserve for replacement accounts, funds should be accessed according to current policy in Handbook 4232.1, Section III, Chapter 3, for eligible items. If the Owner is seeking to use reserve for replacement funds for a non-traditional use or borrow against replacement funds, prior written approval must be received from HUD. With respect to using reserve for replacement funds to cover debt service payments, please see answer to Q10 below.

Hospitals are required to maintain a Mortgage Reserve Fund (MRF) with balances sufficient to make principal and interest payments should they be unable to generate sufficient cash flow from operations. Funds from the MRF are not available for general working capital purposes.

(Updated on 8/12/20)

**Q3: In the event of an outbreak in a locality with FHA-insured healthcare facilities, what regulatory waivers will apply?**

A: OHP will consider policy, Handbook, and regulatory waivers on a case-by-case basis with the intention of providing flexibility to Owners and Operators to respond to needs as they arise.

(Added on 3/13/20)

**Q4: What sources does HUD recommend for COVID-19 training?**

A: HUD recommends that property managers and service coordinators avail themselves of all relevant training at the local, state, and federal level.

(Added on 3/13/20)

**Q5: When are financial statements due in HUD's Financial Assessment Subsystem (FASS)?**

A: HUD has issued approval for an extension of all annual Borrower entity submissions in FASS until September 30, 2020. This applies to all Borrower entity FASS submissions with due dates of 3/31/30 and after, for both audited and unaudited statements.

(Added on 8/12/20)

**Q6: Who is my contact at HUD for existing Section 232 mortgages?**

A: For mortgages insured under Section 232, the Point of Contact for Lenders and Owners/Operators is the 232 Account Executive assigned to their property. To locate the name and contact information for a property's Account Executive, please visit the locator, found [here](#).

(Added on 4/6/20)

**Q7: Are there additional programmatic requirements for Section 232 mortgages in the event of a confirmed COVID-19 case?**

A: There are no *additional* requirements, but the *existing* requirements apply in the context of the changing circumstances at the facility. In that regard, a confirmed case of the COVID-19 virus in a residential care facility would quite likely create an emerging threat to occupancy, to employees, and to overall operations. If that were the case, then the applicable regulatory agreement would require notifying the Lender and HUD.

In particular, the Owner and/or Operator would be expected to complete and submit through the FHA Lender *form HUD-93335-ORCF Operator's and/or Borrower's Notification to HUD of Threats to Permits and Approvals Section 232*, found [here](#), likely checking "yes" on Key Question 8 (suspensions on admissions) and 9 (regarding risk to financial viability). In the form's section for narrative discussion, HUD would anticipate a discussion of any quarantine provisions taken, particularly those involving moving residents from dual occupancy units and non-admission orders from local health authorities. HUD would also anticipate that the discussion would note any restriction in access imposed.

Similarly, per the requirements of HUD *form HUD-93334-ORCF, Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy, Section 232*, found [here](#), servicers are required to notify HUD of risks and plans to address those risks. The COVID-19 National Emergency will present significant risks for some facilities and HUD is expecting mortgage servicers to recognize the risk, to monitor the facilities in light of the circumstances presented by the National Emergency, and to keep HUD informed accordingly.

(Added on 4/6/20)

**Q8: If the COVID-19 National Emergency significantly affects a facility's operations, what if any accommodations might HUD make regarding HUD's regulatory or other requirements?**

A: HUD expects ORCF Lean-approved Lenders to be alert to a facility's financial and operational risks and to communicate with the Borrower and Operator about their plan for addressing those risks. Moreover, HUD has experienced Account Executives who will work with the stakeholders on the use of waivers, extensions, and various other tools when integral to a viable action plan.

HUD recognizes that this National Emergency is likely to place many facilities in a financially and operationally difficult position. ORCF stands ready in each instance to show the appropriate flexibility that is consistent with its long-standing risk management approach. The Borrower and Operator should work closely with their Lender to address these COVID-19-related risks and other challenges. If any request involves waiving requirements, the Lender should use HUD-2-ORCF, Request for Waiver of Housing Directive, Residential Care Facilities, Section 232, found [here](#).

(Added on 4/6/20)

**Q9: Would ORCF consider mortgage payment relief through a forbearance agreement?**

A: ORCF does not presently have such statutory authority. However, if new authority is provided, ORCF will take immediate steps to implement it. Regardless of any such additional authority, the FHA Lender and the Borrower can mutually agree to a forbearance, and request HUD's approval of the same. ORCF will work with Lenders expeditiously in this respect, and ORCF may also utilize other tools where appropriate, such as extensions on elections to assign a defaulted mortgage. Furthermore, ORCF will work to facilitate various means for the borrower to avoid default, as addressed below.

(Added on 4/6/20)

**Q10: Will HUD be flexible as to the use of Reserve for Replacement or Other Escrow Account funds during the COVID-19 response?**

A: Yes. In light of the Presidentially Declared National Emergency and except as otherwise noted below, effective immediately and through September 30, 2020, Lenders are authorized to approve the following types of transactions for Section 232 insured facilities impacted by COVID-19, without the need for HUD review or approval:

1. Provided that the Replacement Reserve equals or exceeds \$1,000 per unit, suspend monthly deposits to the Replacement Reserve through September 30, 2020, at which time the deposits will resume unless HUD grants a further extension of the authority. Such suspension shall specify that, at the conclusion of the suspension period, the sum of such suspended payments shall be paid into the Reserves for Replacement in equal monthly increments over the next 12 consecutive months.
2. Use Operating Deficit funds to meet debt service payments (including required escrow and MIP payments), subject to repayment provisions, if any, contained in the subject escrow agreement.
3. Use Debt Service Reserves to meet debt service payments (including required escrow and MIP payments); subject to repayment provisions, if any, contained in the subject escrow agreement.

4. Use Replacement Reserve accounts to meet debt service payment requirements so long as the account balance does not fall below \$1,000 per unit.

HUD approval is still required if the subject project is bound by either a Master Lease or any type of guarantee agreement, or HUD has notified the Lender that the subject property is assigned to ORCF's Risk Mitigation Team for enhanced servicing.

In order to exercise this authority, Borrowers/Operators must demonstrate, to the Lender's satisfaction, that their request is for a bona fide need resulting from the impacts of COVID-19. While HUD approval will not be required, the Lender is expected to report new risks at the facility that have emerged to their assigned Account Executive. See Q2 above that includes discussion of *Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy, Section 232*.

*A bona fide need* is demonstrated when a Borrower/Operator is unable to meet its mortgage payment (including required mortgage insurance premium and escrow payments) due to financial shortfall and after exhausting other sources of revenue including, but not limited to, Borrower fund infusions, and funds from grants or other COVID-19 related relief. Lenders must determine there is a bona fide need (through financial documentation from the Borrowers/Operators such as current or monthly financial statements, etc.,) document the basis for the determination, and provide a brief summary of it via the HUD Healthcare Portal whenever these flexibilities are utilized. On a case-by-case basis, working with the assigned Account Executive, HUD will consider requests from Borrowers for other non-conventional uses of escrow funds.

Lenders should evaluate and prioritize available sources of funding, generally in this order:

- Residual Receipts funds (non-profit Borrowers)
- Suspension of replacement reserve deposits. At the conclusion of the suspension period, the sum of suspended payments is to be returned to the Reserve for Replacement account in equal monthly increments over the next 12 consecutive months.
- Initial Operating Deficit (IOD) funds to meet debt service payments (including required escrow and MIP payments), subject to repayment provisions, if any, contained in the subject escrow agreement.
- Debt Service Reserve Escrows to meet debt service payments (including required escrow and MIP payments) subject to repayment provisions, if any, contained in the subject escrow agreement.
- Reserve for Replacement accounts to meet debt service payment requirements provided the account balance does not fall below \$1,000 per unit.

(Updated on 8/12/20)

## **Property Reviews and Inspections**

### **Q1: Will HUD temporarily defer REAC inspections, and how will HUD notify Owners?**

A: While REAC inspections are resuming for multifamily and public housing, OHP has postponed all HUD-initiated property inspections and reviews for all residential care facilities. Where there is an exigent circumstance or reason to believe that there is a threat to life or property at a specific location, inspections will be conducted by HUD quality assurance inspectors in compliance with CDC guidelines. Please refer to Mortgagee Letter 2020-25 ([here](#)) for specific information.

(Added on 8/12/20)

### **Q2: Is HUD's Office of Healthcare Programs cancelling or postponing inspections or other site visits?**

A: States, consistent with CMS guidance, conduct routine visits/surveys at some residential care facilities. CMS is providing guidance regarding limitations on such visits, which do not directly involve HUD. HUD is itself postponing regularly scheduled REAC physical inspections, as addressed above. Additionally, in the underwriting process HUD is working with lenders regarding potential alternative sources for information typically gained through on-site visits/inspections.

(Added on 3/13/20)

### **Q3: What if any recommendations does OHP have for healthcare facilities regarding restrictions on visitors to such facilities?**

A: OHP recommends that healthcare facilities follow the guidance of the Department of Health and Human Services and the Centers for Medicare and Medicaid Services regarding screening of, and restrictions on, visitors, to protect against the spread of COVID-19.

(Added on 3/13/20)

### **Q4. What are HUD's underwriting requirements for the third-party site inspections during the COVID-19 National Emergency?**

A. ORCF is aware that most residential care facilities, including but not limited to skilled nursing facilities, have prohibited non-healthcare workers from entering their facilities. The Centers for Medicare & Medicaid Services (CMS) has restricted visitors and non-essential health care personnel, except for end-of-life situations (with strict conditions) in all of the nation's nursing homes. These restrictions extend to individuals who need access to nursing homes to conduct on-site inspection to comply with the Section 232 insurance requirements.

In an effort to continue to support healthcare facility financing in this difficult time, ORCF has made temporary modifications to the established processes for on-site inspections published in Mortgagee Letter 2020-25 ([here](#)). Please see ML 2020-25 for further details.

(Updated on 8/12/20)

**Q5: ORCF requires the submission of a Physical Condition and Needs Assessment (PCNA) in connection with requests for the approval of certain transactions that will clearly benefit the property. In such cases, how is HUD addressing this expectation given an inspector's difficulty gaining access to the facilities?**

A: HUD recognizes that issues associated with COVID-19 are impairing third-party inspectors' ability to perform site visits on certain asset management transactions that require timely processing that is essential to reducing mortgage risk. Examples include Borrower-funded physical improvements and interest-reduction loan modifications. Please see ML 2020-25 ([here](#)).

(Updated on 8/12/20)

**Q6: What if I have questions regarding facility access by Lenders, Appraisers and other mortgage affiliated personnel?**

A. Please follow the guidance of the Department of Health and Human Services and the Centers for Medicare and Medicaid Services regarding screening of, and restrictions on, visitors, to protect against the spread of COVID-19. Please also see Mortgagee Letter 2020-25 ([here](#)). For any further questions, please address those questions to [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov).

(Updated on 8/12/20)

**Q7: What if I need to send a document to ORCF via regular mail?**

A: ORCF encourages Lenders to submit documents electronically whenever possible. Under current circumstances, if you must send documents through regular mail, please notify your point of contact in advance, to ensure documents get prompt attention.

(Added on 4/6/20)

**Q8: What if the HUD Office Closes? How will I get assistance?**

A: ORCF anticipates no interruption in services in the event of office closures. ORCF staff throughout the country are available by phone and email, regardless of the physical location where they are working. Any meetings can be held via conference call. Due to ORCF's organizational structure, we will be here to serve you.

(Added on 4/6/20)

**Q9: What if I have additional questions?**

A: Please email [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov)

(Added on 4/6/20)