

Partial Waiver of 24 CFR § 214.300(a)(3) In-Person Service Housing Counseling Requirement

Pursuant to section 7(q) of the Department of Housing and Urban Development Act (codified at 42 U.S.C. § 3535(q)), and the waiver authority contained in 24 CFR § 5.110, I hereby waive the 24 CFR § 214.300(a)(3) requirement that “[a]ll agencies participating in HUD’s Housing Counseling program that provide services directly to clients must provide in-person counseling to clients that prefer this format.” This partial waiver is being issued to contain the spread of rapidly rising COVID-19 virus cases including the highly transmissible Omicron variant.

1. Pursuant to 24 CFR § 214.300(a)(3), “[c]ounseling may take place in the office of the housing counseling agency, at an alternate location, or by telephone, as long as mutually acceptable to the housing counselor and client. All agencies participating in HUD’s Housing Counseling program that provide services directly to clients must provide in-person counseling to clients that prefer this format.”
2. This partial waiver waives the 24 CFR § 214.300(a)(3) requirement that “... All agencies participating in HUD’s Housing Counseling program that provide services directly to clients must provide in-person counseling to clients that prefer this format.”

FINDINGS

1. The Coronavirus National Emergency declared on March 12, 2020, remains in effect. HUD’s requirement that all participating agencies are required to provide in-person counseling to clients that prefer this format is not practical given the public health recommendations being disseminated by local, state, and federal government agencies to limit contact between individuals to contain the spread of the COVID-19 virus and its variants.
2. On April 20, 2021, HUD issued a renewal of this partial waiver of the regulations at 24 CFR § 214.300(a)(3), which expired on December 31, 2021.
3. According to the Centers for Disease Control (CDC), as of December 20, 2021, Omicron has been detected in most states and territories and is resulting in a rapid increase in COVID-19 cases.¹ In addition, the CDC and World Health Organization has asserted that the Omicron variant likely will spread more easily than the original SARS-CoV-2 virus.² The CDC expects that anyone with Omicron infection can spread the virus to others, even if they are vaccinated or do not have symptoms.³

¹ See CDC COVID-19 Infection Tracker; <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>

² See “WHO Sounds Warning Over Fast-Spreading Omicron,” Stephanie Nebehay and Emma Farge, Reuters; <https://www.reuters.com/world/omicron-spreading-infecting-vaccinated-who-2021-12-20/>

Also See “Potential Rapid Increase of Omicron Variant Infections in the United States,” CDC; <https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-outbreak.html>

Id.

4. HUD recognizes that there continues to be a demand for housing counseling services by clients facing financial hardship due to the spread of the COVID-19 virus. This partial waiver allows participating agencies to provide continuous services in a format other than in-person without violating the requirements of 24 CFR § 214.300(a)(3).
5. HUD also recognizes that, beyond government recommendations, that there is public concern about possible transmission of COVID-19 from in-person contact,⁴ and that this concern could hinder the ability of counseling agencies to provide needed services, especially to those households affected by recent weather-related disasters and those households requiring eviction diversion services.

DETERMINATIONS

1. To assist in ensuring the continued availability of housing counseling services, a partial waiver of 24 CFR § 214.300(a)(3) must be extended.
2. Given the urgency to contain the spread of rapidly rising Omicron variant cases, the granting of the partial waiver is practical and consistent with the Department's objectives to assist consumers or households seeking assistance in preventing rental eviction or mortgage default, including Home Equity Conversion Mortgage default.
3. HUD is granting a partial waiver of 24 CFR § 214.300(a)(3) that will remove the requirement to provide in-person counseling for clients that prefer this format, but still allow housing counseling agencies to utilize alternative methods of conducting counseling with clients. These alternatives provide practical and useful methods for providing housing counseling services, *e.g.*, phone interviews, e-mail, video calling services including Skype, Zoom, WebEx, Microsoft Teams, FaceTime, GoToMeeting and other conferencing technology.
4. All other requirements of 24 CFR § 214.300(a)(3) remain in effect.
5. Pursuant to the authority contained in 24 CFR § 5.110, the above findings constitute good cause for granting the partial waiver of 24 CFR § 214.300(a)(3).
6. This temporary waiver shall be in effect through December 31, 2022.

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⁴ The World Health Organization warns against in-person contact in connection with the Omicron variant. <https://www.who.int/news/item/28-11-2021-update-on-omicron>

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