

CHAPTER 3. INITIAL APPLICATION PROCESS REQUIREMENTS

3-1 General

A. When a borrower applies to the lender or HUD for assignment, the lender must wait for a decision from HUD before taking any further action to foreclose the mortgage.

B. Holding lenders, as well as servicing lenders, are held accountable to ensure that assignment program requirements are met. Lenders must ensure their servicers comply with those requirements (24 CFR 203.502).

C. HUD cannot deny insurance benefits for noncompliance by lenders. However, a pattern of noncompliance may result in administrative sanctions. These sanctions may include withdrawal of a lender's approval to participate in HUD's mortgage insurance program (24 CFR 25.5).

D. The lender is expected to assist the borrower early in the delinquency by exploring relief alternatives. The lender is expected to determine the optimal alternative to foreclosure. The lender must work with the borrower to determine what documentation would be needed to meet the criteria. The lender should also encourage the borrower to contact a housing counseling agency for additional assistance.

E. The lender must have a system in place for management review of loans to assure that appropriate loss mitigation decisions were made. The management review must take place before the Lender Assignment Packet is sent. Refer to Handbook 4330.1 Rev-5, paragraph 7-11 for further guidance relating to the management review.

F. Although lenders must take every reasonable step to avoid foreclosure, HUD may not reject a request for assignment based on a lender's noncompliance with servicing procedures.

G. The lender and Field Office should process assignment cases as expeditiously as possible. The flowcharts in Appendix D provide time frames for processing cases.

H. The Field Office should maintain the Automated Assignment Processing Control System required by paragraph 11-2A of Handbook 4330.2 Rev-1, dated 3/91.

I. The lender is not required to send correspondence via certified mail to the borrower. Regular mail delivery service via the U. S. Postal Service is sufficient.

J. Persons with disabilities who use the Telecommunications Device for the Deaf (TDD) may wish to communicate with a lender who does not have access to a TDD. The Teleconsumer Hotline offers a

nationwide directory of toll-free relay services. To learn the relay number in their area, TDD users may call 1-800-332-1124.

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Lenders that do not have TDD capability must enter this toll-free number on all letters to borrowers.

Field Offices must include their TDD telephone number on all Assignment Program-related correspondence to borrowers.

Field Offices receiving requests for forms and letters in braille must contact their Headquarters Secretary-Held Mortgage (SHM) desk officer. (24 CFR 9.160)

3-2Housing Counseling Availability. All borrowers who have defaulted on their mortgages need, and are eligible for counseling by HUD-approved counseling agencies. Borrowers remain eligible for counseling whether they are accepted or rejected for assignment for their mortgages to HUD. All HUD Field Offices must refer these borrowers to HUD-approved housing counseling agencies located in the borrower's area in accordance with HUD Handbook 7610.1 REV-2 (dated 9/90) and must encourage all lenders to do the same.

### 3-3 Responsibilities of Housing Counseling Agencies.

A.Counseling services offered during the assignment processing period. Upon request of the borrower, the lender, or the HUD Field Office, the approved housing counseling agencies may provide the following services during the assignment evaluation period:

- 1.Explain the assignment program to the borrower;
- 2.Review with the borrower all documents and information needed for assignment evaluation;
- 3.Provide advice and assistance to the borrower to obtain documentation of their financial situation;
- 4.Help the borrower complete all forms related to assignment program consideration;
- 5.Prepare the borrower for face-to-face conferences;
- 6.Accompany the borrower to face-to-face conferences and act as an advocate on the borrower's behalf;

B.Counseling services for borrowers whose mortgages are accepted for assignment to HUD. If the borrower is accepted under the assignment program, approved counseling agencies may provide:

- 1.Default counseling services;
  - 2.Preparation of draft budget for the borrower, for confidential consideration by the lender/Field Office;
  - 3.Counseling on budgeting, credit and money management;
  - 4.Contacts with creditors other than HUD to arrange for revised payment plans;
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5.Referrals to other organizations for such services as job placement, food stamps, medical and dental care, child and family guidance, as related to their effect upon the monthly mortgage payment.

C.Counseling services for borrowers whose mortgages are not accepted for assignment to HUD. If the borrower is not accepted under the Assignment Program, approved counseling agencies may:

- 1.Provide additional clarification/explanation of the Assignment Program criteria and requirements;
- 2.Review information which supported the assignment decision for the purpose of explaining which assignment criteria was not met and why;
- 3.Provide information on relocation housing, deed-in-lieu procedures, and other housing alternatives to the borrower;
- 4.Prepare repayment plans or offers for lender consideration.

3-4Responsibilities of HUD Field Offices. HUD Field Offices have the following responsibilities relative to housing counseling activities.

A.Provide housing counseling directory information to all banks, lenders and loan servicing organizations within their jurisdiction, for all types of borrowers. Updated information on housing counseling agencies is available from a special toll-free telephone number: 1-800-569-4287.

B.On request, provide defaulting borrowers under HUD or non-HUD program with the names of HUD-approved housing counseling agencies in their area.

C.Encourage defaulting borrowers to seek assistance from HUD-approved housing counseling agencies.

D.Provide counseling agencies within the jurisdiction with

appropriate handbook and policy guidance relative to HUD's Single Family Home Mortgage Assignment Program.

E. Notify HUD-approved housing counseling agencies of assignment conference dates, time and places arranged for borrowers using such agencies.

F. Provide training and assistance to HUD-approved counseling agencies and their staff relative to appropriate HUD programs.

G. Where defaulting borrowers have filed for relief under the bankruptcy code, notify the trustee in bankruptcy of the availability of housing counseling agencies and provide specific referrals where appropriate.

### 3-5 Lender Initial Processing Requirements

A. The lender must send the Borrower Information Packet to the borrower between the 35th and 45th day of delinquency.

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1. The purpose of this packet is to inform the borrower of the relief options available and stress the need to contact a housing counselor for assistance.

2. The Borrower Information Packet must include the following material:

- a. Borrower Information Packet Cover Letter (Appendix A, ASGN-1)
- b. Saving Your Home, Pamphlet HUD PA-426-H (Appendix B)
- c. List of area housing counselors

B. Lender Assignment Packet. The lender must send the Lender Assignment Packet to the borrower when a borrower falls behind three full monthly installments (the 62nd day of delinquency) and the lender has decided to foreclose.

1. The purpose of this packet is to provide the date of default to the borrower and request information needed to evaluate the borrower for assignment.

2. To calculate the date of default use Date of Default Analysis, form HUD-92212. Paragraph 9-5 provides additional guidance relating to the date of default. Determine the due date of the oldest unpaid installment. The date of default is 30 days after the due date of the oldest unpaid installment.

EXAMPLE: If the oldest unpaid mortgage installment is due on June 1, 1994, the date of default is July 1, 1994.

3. The packet must include:

a. Lender Assignment Packet Cover Letter dated the day the packet is sent to the borrower (Appendix A, ASGN-2)

b. List of area housing counselors

c. Request for Financial Information, form HUD-92068-F

d. Request for Verification of Employment, form HUD-92004-G

e. An envelope addressed to the lender

4. The lender must give the borrower at least 30 days to respond to the Lender Assignment Packet.

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C. The lender must work with the borrower after the Lender Assignment Packet is mailed. This includes, but is not limited to, explaining the various alternatives to foreclosure and suggesting types of documentation necessary to support the acceptance criteria.

1. The lender must attempt to contact the borrower by telephone twice during this period. The first attempt must be within 15 days of the date of the Lender Assignment Packet. The second attempt must be within 25 days of the date of the Lender Assignment Packet. The purpose of these telephone calls is to ensure the borrower received the packet, to find out if the borrower intends to apply, answer any questions, and recommend that the borrower seek the assistance of a housing counselor.

2. If the borrower does not apply to the lender for assignment consideration within 30 days of the Lender Assignment Packet date, the lender must send the Lender Follow-Up Assignment Packet. See paragraphs 6-1B and 6-1C.

3. If the borrower applies to the lender for assignment consideration after the expiration of the 30 day time frame, but before the lender mails the Lender Follow-Up Assignment Packet, the borrower's late request must be considered for eligibility under a "good cause" appeal. See paragraph 9-3.

4. Lenders must send the Lender Follow-Up Packet to borrowers who do not respond timely to the Lender Assignment Packet and do not qualify for assignment consideration under a "good cause" appeal. Refer to paragraph 6-1B for the information to be included in the packet.

### 3-6 Lender Evaluation of Case

A. After all necessary background information has been collected, the lender must perform a comprehensive evaluation of the material using the acceptance criteria guidelines and examples provided in Chapter 2.

B. The lender must decide whether or not to recommend the borrower for assignment no later than 60 days after the Lender Assignment Packet is mailed.

C. The lender must perform the following during the evaluation:

1. Verify that the person(s) requesting the assignment is eligible to apply. See paragraph 2-3 for additional guidance.

2. Evaluate each of the eligibility criteria. See Chapter 2 for additional guidance.

3. Complete Background Data for HUD Assignment of Mortgage, form HUD-92206.

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4. Complete Analysis of Borrower's Income and Expenses, form HUD-92208. Record income and expenses at the date of default and expected income and expenses in the future to substantiate reasonable prospects.

5. Use the Request for Verification of Employment, form HUD-92004-G to document the borrower's employment income.

a. After the borrower signs and returns the Request for Verification of Employment, form HUD-92004-G, mail it and a return envelope to the employer for completion.

b. If the borrower was employed by a different employer at the time of default, obtain a verification of employment from the previous employer as well.

c. The borrower (or the borrower's employer) may provide alternative documentation of the borrower's income. This may include, but is not limited to, tax records,

paycheck stubs, or a letter from the borrower's employer.

6. Obtain credit reports if necessary. Credit reports are not mandatory, but may be used to assure accuracy of borrower information at any time during processing.

### 3-7 Lender Assignment Decision

A. The borrower must meet all criteria to be recommended for assignment. However, criteria three and four may be waived under certain conditions. Refer to Chapter 2 for guidance on waiving these criteria. The lender does not have the authority to waive these criteria, but can make a recommendation to HUD to do so. This should be indicated on form HUD-92206.

B. If the lender recommends the borrower for assignment, the process will follow Scenario One.

C. If the lender either does not have sufficient information to make a positive recommendation or does not think the borrower qualifies for assignment, the process will follow scenario Two.

D. If the borrower does not respond to the Lender Assignment Packet within the given time, the process will follow Scenario Three.

### 3-8 Overview of Scenarios. Following is an overview of each scenario.

A. Scenario One: The Lender Recommends the Borrower for Assignment. Under this scenario, the borrower sends the lender all necessary information requested in the Lender Assignment Packet. After receiving the requested information, the lender begins to evaluate the case. During this evaluation process, the lender is encouraged to work with the borrower to ensure the case is

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complete for an accurate assessment of the assignment eligibility criteria. The lender should ensure the borrower is aware of documentation needed to evaluate the case. Lender should request additional information as needed.

If the lender recommends the borrower for assignment, it must send Status Letter #1 - Positive Recommendation to HUD (Appendix A, ASGN-3) to the borrower indicating he or she has been recommended for assignment and that the case is being sent to HUD for approval. The lender must also send a copy of that letter to the appropriate Field Office along with the Assignment Review Packet, servicing records, and management review documentation. The Field Office will conduct a review of the case file. The purpose of this review is to ensure the case file is complete. If the Field Office concurs with the lender's recommendation, by reviewing criteria three and four only, the case will be accepted

for assignment (see Chapter 4 for Scenario One processing guidelines and Chapter 9, paragraph 9-8 for processing cases in bankruptcy).

B.Scenario Two: The Lender Does Not Recommend the Borrower for Assignment. Two situations can result in the lender not recommending the borrower for assignment: 1) the lender does not have sufficient information to make a decision or 2) the lender does not think the borrower meets the criteria for the Assignment Program. Once the lender determines that it cannot make a positive recommendation, it must issue Status Letter #2 - No Recommendation to HUD (Appendix A, ASGN-4), which notifies the borrower that the case is being referred to HUD for evaluation and encourages the borrower to immediately forward information to the Field Office which may assist in their review of the case and to consult a housing counseling agency to help ensure his or her case is presented effectively.

The date of default must be entered in that Status Letter. If the lender accepted and applied any mortgage payments during assignment processing, the new date of default must be entered in the letter (see paragraph 9-5D for guidance in advancing the date of default).

A copy of form HUD-92206 Background Data for HUD Assignment of Mortgage, must be attached to the Status Letter.

The lender must also send a copy of the Status Letter to the Field Office along with the Assignment Review Packet, servicing records, and management review documentation. The Field Office staff will conduct a more extensive review.

The borrower will be requested to submit documentation if the Field Office requires additional information. Once the Field Office has sufficient information to evaluate the case, it will make a decision and notify both the lender and borrower. If the Field Office decides not to accept the mortgage for assignment, the borrower may appeal the decision (see Chapter 5 for Scenario Two processing guidelines. See paragraph 9-8 for processing cases in bankruptcy).

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C.Scenario Three: The Borrower Does Not Respond to the Lender Assignment Packet (See Chapter 6). If the borrower does not respond (apply for assignment) to the Lender Assignment Packet, the lender must send the Lender Follow-up Assignment Packet to the borrower. The date of default must be entered in the Lender Follow-up Packet Cover Letter (Appendix A, ASGN-5). If the lender accepted and applied any mortgage payments after sending the Lender Assignment Packet, the new date of default must be entered in the Follow-up Packet Cover Letter (see paragraph 9-5D for guidance).



If the borrower applies to the Field Office within 15 days of the date of the Lender Follow-up Assignment Packet, the Field Office must notify the lender to delay initiation of foreclosure proceedings. The Field Office will also request the servicing records and management review documentation from the lender. The Field Office will then send the borrower the HUD Assignment Packet. The HUD Assignment Packet must include:

1. HUD Assignment Packet Cover Letter (Appendix A, ASGN-6)
2. List of housing counseling agencies
3. Request for Financial Information, form HUD-92068-F
4. Request for Verification of Employment, form HUD-92004-G
5. Pre-addressed return envelope

Once the Field Office receives the requested information from the borrower and lender, the case will be evaluated. If additional information is required, the Field Office must send a request to the borrower. The borrower will have 30 days to respond. The Field Office must notify both the lender and borrower of its decision. If the Field Office decides not to accept the borrower for assignment, the borrower may appeal the decision (see Chapter 6 for Scenario Three processing guidelines. See paragraph 9-8 for processing cases in bankruptcy).