

Frequently Asked Questions HECM Counseling Fee

- 1.Q. If a client decides to finance the counseling fee through loan proceeds, how will the counseling agency receive this payment from the lender?
- A. The HECM Certificate will serve as an invoice that the lender will provide to the settlement agent. The settlement agent will use the information provided on the HECM certificate (name of the agency, address and fee amount) to pay the counseling agency. Mortgagee Letter 2008-12 states that the closing agent will assume responsibility for remitting the payment to the counseling agency that performed the service. Typically, loan proceeds are disbursed on the fourth day after loan closing.
- 2.Q. When considering a waiver of the fee due to financial hardship, should the proceeds of the HECM be taken into account as a possible financial resource to pay the fee or should the agency base the decision to waive the fee only on the homeowner's present financial situation?
- A. Yes, HECM proceeds can be factored into the analysis the counseling agency performs to determine if the client has the ability to pay for counseling.
- 3.Q. Can a fee be assessed for counseling other related parties in connection with a potential HECM borrower?
- A. Ideally, all parties including the client would participate in the same counseling session. However, if that is not feasible and another session is required to counsel other related parties, then yes the counseling agency may charge a fee for each separate session. This fee cannot be charged to the potential HECM borrower.
- 4.Q. Who completes the information regarding fees on the certificate?
- A. The counselor will complete all the information on the certificate including the information regarding the payment of fees.
- 5.Q. Are all agencies charging the \$125 recommended fee? What if a client asks if there are other agencies charging a lesser fee, how should a counselor respond? Will there be a HUD phone number available for clients who wish to investigate other agencies? A website for clients would be helpful as well.
- A. The fee policy is determined by each individual HUD approved agency. Some agencies may elect to continue to not charge a fee or to charge a fee other than the recommended \$125. Each agency must be able to document the fees that are charged are commensurate with the level of service. Clients can be referred to

HUD's Housing Counseling toll free number (800-569-4287) or to HUD's website to find other agencies providing HECM counseling.
(<http://www.hud.gov/offices/hsg/sfh/hcc/hccprof18.cfm>)

- 6.Q Can an agency establish a policy to charge a fee to clients from out-of-state and not charge in-state clients assuming the agency follows established guidelines for determining a client's ability to pay?
- A. HUD does not prohibit this. HUD does require that all clients are informed of the fee structure in advance of providing the service.
- 7.Q If a client states he/she is unable to pay, would it be acceptable for the agency to mail the client a waiver application and ask the client to return it with documentation before proceeding with counseling?
- A. Yes. The counseling agency is required to do an analysis to determine a client's ability to pay. This analysis may require additional documentation from clients to verify clients income and debts.
- 8.Q Can a counseling fee be paid with the client's credit card?
- A. Yes, a client can pay for the counseling session with his/her own credit card as long as the counseling agency has procedures in place to accept credit card payments.
- 9.Q How do counseling agencies provide for payment when a client elects to finance the counseling fee but has not seen a lender and ultimately does not go forward with the loan?
- A. The agency should establish procedures for collection of the counseling fee. In the case where a client does not get a HECM loan, the agency may try to collect the fee from the client 180 days after the HECM counseling session.
- 10.Q If the HECM Certificate is not provided by the lender to the closing agency at loan closing, how will an agency get paid?
- A. In order to comply with the policy guidance issued to lenders in Mortgagee Letter 2008-12, (<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/08-12ml.doc>) lenders will use the HECM certificate as an invoice for the services provided by a counseling agency. The HECM certificate will be provided by the lender to the closing agent before or at closing and the closing agent will use the certificate to pay the appropriate agency out of loan proceeds. The fee will be recorded on the HUD-1 settlement statement in the 800 series.
- 11.Q Will counselors be required to follow the HECM counseling protocol?

- A. Counselors will be required to adhere to HUD requirements for the topics that need to be covered in a HECM counseling session. The protocol provides this information.
- 12.Q Will counselors be certified or licensed to do HECM counseling and, if so, will HUD track a certified counselor's continuing education?
- A. HUD is in the process of issuing a final regulation that requires HECM counselors to register on a HUD roster after taking and passing a HECM exam. Further, to remain on the register, counselors will be required to take continuing education and training on HECMs every two years and provide this information to HUD.
- 13.Q Who owns the HECM counseling certificate?
- A. The prospective HECM borrower who received the HECM counseling owns the certificate.
- 14.Q Can lenders steer prospective HECM borrowers to agencies that do not charge a fee?
- A. No. Lenders cannot steer a prospective HECM borrower to any particular agency but are required in accordance with MLs 2004-48 (<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/04-48ml.doc>) and 2005-44 (<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/05-44ml.doc>) to provide the borrower with a list of the three national intermediaries and five local HECM counseling agencies, if available in the area.
- 15.Q In the case where a HECM counseling client receives counseling and elects to have the fee paid out of loan proceeds but then does not proceed with the loan or go to closing, can a donation be requested of the client?
- A. The counseling agency may pursue collecting the fee from the client. However, a donation cannot be requested from a client whose fee was waived.
- 16.Q Can the potential HECM borrower pay for the fee up-front and then request they get it back from loan proceeds?
- A. No. The client has decided to pay for the counseling session upfront and there would be no reason to reimburse the client out of the HECM loan proceeds.
- 17.Q Where is the new certificate found?
- A. The new certificate, form HUD 92902 HECM Counseling Certificate, can be found at <http://www.hud.gov/offices/adm/hudclips/forms/files/92902.pdf>
- 18.Q If a fee is waived should the Agency note this on the certificate?

A. Yes. HUD is revising the certificate to include a checkbox for fee waiver.

19.Q If an agency decides not to charge the potential HECM borrower a fee will this affect its grant application and scoring?

A. No, an agency's grant application to HUD for the Housing Counseling Grant Program and subsequent scoring will not be impacted by an agency's fee policies.

20.Q Do lenders understand that the certificate is the invoice?

A. Yes, the National Reverse Mortgage Lenders Association (NRMLA) has issued guidance on this issue to its membership.

21.Q Mortgagee Letter 20008-12

(<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/08-12ml.doc>) states that a session paid for by the potential HUD borrower, either up front or from loan proceeds or by the lender, cannot be charged against the HUD grant.

A. The clients who pay for counseling either up front or from loan proceeds or who have their lender pay for them would be counted on the HUD form 9902. HUD form 9902 collects data regarding all client activity. However, the Logic Model would exclude these clients. The Logic Model records information on clients served with the HUD grant.

22.Q What will agencies do if they have already invoiced HUD but the client paid out of loan proceeds later?

A. Agencies will need to keep accurate accounting records. In this case an agency would attribute the HUD grant to a person whose fee was waived. This issue will affect end of year reporting mostly.

23.Q Do the agencies need a lender agreement when the lender is paying the fee?

A. HUD does not require this but it would likely be in the agency's best interest to develop a lender agreement for this purpose.

24.Q Can an agency use a sliding scale for fees?

A. The agency can create its own fee schedule as long as it is available to the client before the counseling is provided.