

Emergency Homeowners' Loan Program (EHLF): Housing Counseling Agency Roles and Responsibilities

Revised August 11, 2011

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) provided \$1 billion to the U.S. Department of Housing and Urban Development (HUD) to implement the Emergency Homeowners' Loan Program (EHLF). The program offers a declining balance, deferred payment loan (non-recourse, subordinate lien at zero percent interest) to assist eligible homeowners with payments of 1st lien mortgage arrearages, as well as with monthly 1st lien mortgage payments (including payments of principal, interest, and escrowed taxes and insurance (PITI)).

EHLF Emergency Mortgage Relief Payments will be provided to eligible Borrowers for a maximum of up to \$50,000 in combined arrearages and monthly mortgage payment assistance for up to 24 consecutive months, provided that eligibility requirements are maintained. HUD has established two distinct methods for providing EHLF Emergency Mortgage Relief Payments: (1) substantially similar state programs¹; and (2) the HUD-directed program.

This document provides an in-depth description of the policies and procedures governing the roles participating Housing Counseling Agencies (CAs) selected by NeighborWorks® America (NWA) will play under the HUD-directed program. CAs will serve as the main point of entry for potential program Applicants under HUD's Emergency Homeowners' Loan Program (EHLF), and will perform the following tasks:

- **Marketing and Outreach:** Developing and disseminating program marketing materials to potential applicants.
- **Pre-Application Screening and Random Selection Process:** Collection and evaluation of completed Pre-Applicant worksheets and transmission of eligible Pre-Applicant list to NWA for random assignment of Pre-Applicants to application intake list.
- **Application Review and Preliminary Determination of Eligibility:** Collection and review of Pre-Applicant data and documentation.
- **Transfer of Application to Fiscal Agent:** Transmitting eligible applications to HUD's Fiscal Agent (FA) through Hope LoanPort® (HLP).

Forthcoming, but not included in this August 11, 2011 revision will be updates to:

- ***Re-Certification of Borrower Eligibility:*** 12-month re-certification of Borrower income and residency eligibility for Borrowers who remain in the program after 11 months.
- ***Ongoing Borrower Reporting Requirements and Modified Payments.*** Interim re-certification if Borrower has significant income change prior to or after re-certification.

¹ EHLF Substantially Similar States:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hcc/ehlf/ehlfsimilar

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- **Dispute Resolution:** Working with Pre-Applicants/Applicants/Borrowers to resolve (if possible) disputes concerning initial program eligibility, re-certification of Borrower Income and residency, and Early Termination of a Borrower from the EHLPP during the Borrower's Approved Assistance Period.
 - **Program Exit:** Provide transition counseling for a Borrower who has exhausted his/her EHLPP Emergency Mortgage Relief Payments, and for Borrowers who otherwise require transition assistance upon termination from the Approved Assistance Period.

A detailed description of each of these tasks is provided under the following sections:

1. Marketing and Outreach
2. Pre-Application Screening and Random Selection Process
3. Scheduling Application Appointments
4. Required Pre-Applicant Documentation and Initial Determination of Eligibility and Application Submission
5. Ineligible Pre-Applicants and Possible Appeals
6. Loan Approval, Execution of Loan Documents, and Initiation of Emergency Mortgage Relief Payments

Capitalization of Terms: Terms not otherwise defined within this document are defined terms contained in HUD's contractual agreements related to the administration of the EHLPP and are used here merely for administrative convenience.

1. Marketing and Outreach

This section helps answer the following question:

- *What is my role in the marketing of the EHL P and outreach to potential applicants?*

NWA will develop model program marketing materials and distribute EHL P grant funds that can then be used by participating CAs to market the EHL P in their service areas, such as:

- Posters
- Brochures
- Post Cards
- Door Knockers
- Radio Public Service Announcements
- Newspaper and Internet Advertisements
- Pre-Applicant screening checklist

These will include materials designed to reach non-English speaking communities.

The EHL P marketing and outreach period will run for approximately three weeks, ***and will run concurrently with*** the **Pre-Applicant screening process** (described under **Section 2**). The role of participating CAs during this process will be to:

1. Distribute program marketing materials and information throughout their communities and service areas to ensure that information about Emergency Mortgage Relief Payments reaches those homeowners most in need and most likely to benefit from it; **and**
2. Distribute and otherwise make available copies of the Pre-Applicant screening checklist. This can include making hard copies available at various locations, as well as linking electronic, downloadable copies available from their respective agency Web sites.

While NWA will develop templates for the various marketing materials, it will be up to participating CAs to customize these so that they provide specific information that will be the most helpful to their prospective applicants, including:

- Instructions describing how and where program information can be obtained; and
- Information describing how Pre-Applicant screening worksheets are to be completed, the deadline for worksheet submission, and where completed worksheets must be submitted.

Methods that CAs will employ to conduct applicant outreach may include, but are not limited to:

- Internet, newspaper, and radio advertising.

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- Fliers posted in requests for referrals from state and local agencies that come into regular contact with unemployed or underemployed homeowners struggling to meet their mortgage obligations.
 - Directly contacting households currently served under the CA's client database.

2. Pre-Application Screening and Random Selection Processes

This section answers the following questions:

- *How do I conduct the pre-application intake process?*
- *How will the randomized selection process work?*
- *How will Pre-Applicants learn if they've been selected to submit a full EHLP application?*
- *What is the deadline for application submissions to the CA?*

HUD's expectation is that there may be more applicants who are eligible to receive EHLP Emergency Mortgage Relief Payments than there are resources available to assist them. In an effort to ensure that the applicant selection process is fair and unbiased, HUD requires that NWA and the participating CAs implement an open and transparent Pre-Applicant screening process. Among other features, in the event of oversubscription, this screening process will include a randomized selection process to identify those Pre-Applicants that will be invited to submit a complete document package for review. To be eligible to participate in the random selection process, all Pre-Applicants must self-report that they meet all program eligibility standards indicated on the Pre-Applicant screening worksheet.

Pre-Applicant Intake and Screening Process

In order to administer the Pre-Applicant screening process, each CA will follow these steps:

- A. CAs will establish and publicly announce an open enrollment period to collect screening information from Pre-Applicants. The announcement will be made concurrently with the initiation of the CA's program outreach and marketing campaign, and will include information describing where and when interested homeowners may receive screening worksheets and the deadline for submission. **See Section 1/Marketing and Outreach** for additional information about this step.
- B. Once the enrollment period closes, CAs will review the Pre-Applicant screening worksheets and make a determination as to which Pre-Applicants are eligible to enter into the random selection process.
 - i. Pre-Applicants who do not meet the eligibility standards of the preliminary screening process may be invited by the CA to schedule an appointment to investigate other assistance options, at the CA's discretion.
- C. Once the random selection process is complete, CAs with service areas that include both metropolitan and non-metropolitan counties will be provided with separate lists (Metropolitan and non-Metropolitan) of eligible Pre-Applicants residing within each of the CA's designated service areas. Each such list will be randomized under the

selection process and used by each such CA to select a sufficient number of applications to fill the CA's designated assistance slots for metro and/or micro/rural counties.

Randomized Pre-Applicant Selection Process – First Eligible, First Offered

Once the marketing, outreach and open enrollment period is closed, CAs will submit their lists of eligible Pre-Applicants for randomized sorting, in accordance with the procedures prescribed by NWA. Once the random selection process is complete, NWA will provide each CA with two lists (CAs working in multiple service areas will receive two lists per service area) the first of which is of those Pre-Applicants who the CA should first begin contacting for purposes of scheduling an application interview (“Select List”). For example, if NWA allocates 100 loans to ABC Counseling Agency, the CA should initially contact the 100 Pre-Applicants identified on the Select List.

CAs are to adopt a “first eligible, first offered” (FEFO) application process as follows:

- CAs are not constrained by their metropolitan, micropolitan/rural areas, or state limitations. Agencies may process their entire selected list and wait list of Pre-Applicants without concern for awarded allocation limits.
- All Pre-Applicants on the “Select List” shall be contacted and given an opportunity to submit an application as soon as possible after receiving back their randomized list of Pre-Applicants from NWA. Even if not all “Select List” pre-applicants have begun the application process, agencies may begin August 15th notifying all Pre-Applicants on their waiting list to schedule appointments and begin processing applications. If this notification will be on a rolling basis, then the notification should be in the order they are on the wait list. It is no longer necessary for counseling agencies to have rejected any “Select List” Pre-Applicants prior to commencing the process of notifying Waiting List Pre-Applicants. As of August 15th, Pre-Applicant eligibility will be on a “first eligible, first offered” basis.
- The requirement that Pre-Applicants deliver their documents either at time of application or within 5 business days of their application appointment is waived. A Pre-Applicant may submit documentation and information related to an incomplete application at any time. However, all Pre-Applicants should be made aware that there may be inadequate time to process their application if they are delayed at providing the necessary documents.

Pre-Applicant Notification

CAs will contact Pre-Applicants by telephone to invite them to make an application appointment. While the randomized selection process will place screened Pre-Applicants in priority order, appointments for Pre-Applicants on the Select List can be made in any order. For example, if the CA has been allocated 8 loans, the appointment for Pre-Applicant #1 does not need to occur before the appointment for Pre-Applicant #8. After August 15th, the CA can begin making

appointments with all persons on its waiting list. If these appointments with persons on the waiting list are going to be done in a flow basis, they should be made in accordance with the priority order.

Each CA will save the original hard copies of each screening worksheet that has been submitted by a Pre-Applicant, in accordance with the record keeping requirements established under HUD's EHLP cooperative agreement with NWA.

Required Documentation

When scheduling an application appointment with a Pre-Applicant, the CA will verbally inform him or her of what documentation the Pre-Applicant is required to submit as a part of his or her overall application. The CA will also provide a written summary description of all required documentation to the Pre-Applicant. If this list cannot be provided to the Pre-Applicant in person, then the CA will transmit the document to the Pre-Applicant via, e-mail, fax, or overnight mail delivery service.

- Letter from employer documenting unemployment or underemployment (if employer no longer in existence or self-employed, an affidavit will be required); and
- Most recent/current residential utility bill (principal residence);
- Most recent/current monthly 1st lien mortgage statement;
- If Pre-Applicant's mortgaged property is located in a flood zone, documentation of an existing flood insurance policy in good standing (for escrowed flood insurance, a copy of the mortgage statement that indicates a flood insurance policy is in place);
- Breach or Acceleration Letter from Pre-Applicant's 1st lien mortgage lender and/or Servicing Institution ;
- Documentation that the Pre-Applicant and each additional person named on the Pre-Applicant's 1st lien mortgage loan documents is a United States citizens, United States non-citizen national, or "qualified alien". **See Section 4 for a full description of all forms of acceptable documentation of compliance with this and all other program eligibility criteria;**
- Completed Pre-Event (2008 or 2009)* and 2010 Tax Returns (IRS 1040, 1040A, or 1040EZ Tax Return(s), without schedules) for *all persons* named on the Pre-Applicant's/Applicant's 1st lien mortgage loan documents.**
 - Pre-Applicants who are residents of Puerto Rico will submit all completed Pre-Event (2008 or 2009) and 2010 income tax returns that have been filed with the Government of Puerto Rico Department of Finance for *all persons* named on their 1st lien mortgage as follows:
 - The first two pages of all completed Pre-Event (2008 or 2009)* and 2010 Form 482 ("Long Form") income tax returns. Adjusted gross income is recorded on page 1, Line 5.
 - The first four pages of all completed Pre-Event (2008 or 2009)* and 2010 Form 481 ("Short Form") income tax returns. Adjusted gross income is recorded on page 1, Line 4.
 - Pre-Applicants who are residents of Puerto Rico whose self-employment status is defined as "sole proprietorship" and who were required to file a Pre-Event (2008 or 2009)* and/or 2010 IRS Form 1040-PR/Spanish or IRS 1040-SS/English, must also

provide completed copies of each such filing, without schedules, for *all persons* named on the 1st lien mortgage loan documents.

- Net Profit/(Loss) figure is entered onto Line 27 of Part IV, Profit of Loss from Business (Sole Proprietorship).

**NOTE 1: For pre-applicants who had their reduction in income due to unemployment or underemployment in 2010 or 2011, they would submit a 2009 tax return. For pre-applicants who had their reduction of income in 2009, they would submit a 2008 tax return. Pre-applicants who became unemployed and/or underemployed before January 1, 2009 are ineligible for EHLF.*

***NOTE 2: If a Pre-Applicant/Co-Applicant filed jointly on his/her tax return but the Pre-Applicant's/Co-Applicant's spouse is not listed on the 1st lien mortgage loan documents ("non-listed spouse"), the Pre-Applicant/Co-Applicant must to submit the spouse's W-2 from that tax year, if any. If the non-listed spouse did not have W-2 earnings from that tax year, the spouse must complete and sign the form affidavit indicating that he/she had no W-2. Copies of the form affidavit are available through NWA.*

- Documentation of current income for *all persons* listed on the 1st lien mortgage loan documents, which includes:
 - Pay Stubs capturing the most recent month or four weeks (if any)
 - Unemployment checks for the most recent month or four weeks (if any)
 - Disability/SSI check for the most recent month or four weeks (if any)
 - Pension checks for the most recent month or four weeks (if any)
 - TANF checks for the most recent month or four weeks (if any)

This documentation summary is not a complete description of all required application documentation. A full description of all required documentation is provided under **Section 4**.

Application Deadline

The EHLF requires that funds be obligated to participating Approved Applicants by September 30, 2011. In order to complete the application process required for funds obligation, HUD has determined that the last date that a Pre-Applicant's application and related documentation can be submitted by CAs to the FA via HLP is **Thursday, September 15, 2011**. EHLF applications submitted to HLP on September 16, 2011 or later will not be considered for eligibility.

3. Scheduling Application Appointments

This section answers the following questions:

- *How do I schedule an appointment with eligible Pre-Applicants?*
- *Who is required to attend the application appointment?*
- *What is the Pre-Applicant required to bring to the application appointment?*
- *What steps do I follow to determine a Pre-Applicant's eligibility?*

Scheduling an Application Appointment

Upon receipt of the randomized lists of screened Pre-Applicants, the CA will first contact those Pre-Applicants identified on the Select List to schedule application appointment sessions. The CA will contact each Pre-Applicant by telephone. In the event that the CA must leave a voicemail/answering machine message for a Pre-Applicant, the CA will inform the Pre-Applicant that his or her opportunity to apply may be lost if he or she does not respond to the CA's invitation in a timely manner. In the event that a Pre-Applicant has difficulty traveling to the CA's office due to distance or disability, the application appointment may take place over the telephone.

The CA's verbal instructions to the Pre-Applicant must state that if the Pre-Applicant does not schedule an application appointment with the CA in a timely manner, the Pre-Applicant may forfeit his/her opportunity to submit a full EHLP application.

Under first eligible, first offered, CAs that continue to schedule application appointments on a rolling basis should offer appointments in ascending order, beginning with the Pre-Applicant in the first position on the Select List. After August 15th, the CA may schedule appointments with ALL pre-applicants on the select list and on the wait list and determine eligibility on a first eligible, first offered basis.

Program Overview for Pre-Applicants

Each application appointment serves two purposes:

1. The submission of a Pre-Applicant's application package and related documents; and
2. If the CA determines that the Pre-Applicant's application is suitable for transmission to the FA, the provision of program participation information to that Pre-Applicant by the CA.

Program participation information includes an explanation of how the program works, as well as the responsibilities of each assisted Borrower for the duration of his or her participation in the program. Basic program overview information will include the following:

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- A. A description of Emergency Mortgage Relief Payments and Homeowner Contribution Payment (HCP) amounts, and how these are calculated;
 - B. A description of the closing process and the EHL P loan documents in the event that HUD approves the Pre-Applicant for EHL P emergency assistance;
 - C. A description of how the Borrower's HCP is transmitted to the FA;
 - D. A description of the 12-month re-certification and other mandatory Borrower reporting requirements; **and**
 - E. A disclaimer, explaining that while the Pre-Applicant is receiving program participation information in anticipation of the Pre-Applicant's approval to participate in the program, the Pre-Applicant is not approved to receive EHL P assistance at the time of the application appointment. Approval and participation requires: (1) further eligibility determinations and verification; (2) Final Approval from HUD; and (3) execution of the EHL P Loan Documents. Such Final Approval from HUD is NOT guaranteed. The Pre-Applicant will receive further notice on eligibility from HUD. The CA should be careful to make this point clear to the Pre-Applicant so they are not misled into believing they will definitely receive EHL P Assistance.

4. Required Pre-Applicant Documentation and Initial Determination of Eligibility

4. Part 1: Documentation and Eligibility Determinations – In order to qualify for Emergency Mortgage Relief Payments under the EHL P, each Pre-Applicant must present certain, specified documentation to the CA demonstrating that he or she meets the following program eligibility criteria:

- A. Mortgage Delinquency and Likelihood of Foreclosure
- B. Maximum Household Income
- C. Reduction in Income Due to Involuntary Unemployment or Underemployment
- D. Reasonable Likelihood of Resumption of Payment
- E. Principal Residence
- F. Mortgage Cost Burden
- G. Mortgage Affordability
- H. Maximum of Two Liens Currently Recorded Against Mortgaged Property
- I. No Delinquent Federal Debt
- J. No Federal Tax Liens
- K. Flood Insurance (where applicable)
- L. Immigration Status
- M. Bankruptcy Status

This required documentation may be presented by the Pre-Applicant in person, or by fax or email.

In addition to the documentation identified below, each Pre-Applicant, and all Co-Applicant(s), if any, will be required to certify to certain eligibility requirements. Copies of the Applicant and Co-Applicant Certification forms are available through NWA.

Based on data elements provided by HUD, NWA, in consultation with HUD, will develop standard documentation that can be used by participating CAs to fulfill EHL P related screening,

intake and application document and data collection related activities. These documents will have an Office of Management and Budget approval number authorizing the collection of these data from each Pre-Applicant and any Co-Applicant(s).

The methodology for determining a Pre-Applicant's eligibility for EHLP assistance falls into one of two categories:

- 1) **Category 1 - Yes/No:** The CA will be able to determine if a Pre-Applicant is eligible under a given criterion by conducting a review of the particular documentation and reaching a Yes/No determination, re: “**Yes**, the documentation demonstrates that the Pre-Applicant satisfies this eligibility criterion,” or “**No**, the documentation does not demonstrate that the Pre-Applicant satisfies this eligibility criterion.”
- 2) **Category 2 - Calculation:** The CA will need to retrieve specific numeric information from certain documentation and perform specified calculations in order to be able to determine whether the Pre-Applicant is eligible under that particular criterion.
 - a. **NOTE:** HLP may be programmed to conduct one or more of any of these calculation functions.

Each CA will conduct its review and evaluation of the Pre-Applicant's documentation and eligibility criteria in the following order to avoid unnecessary expenditure of the CA's time:

Category 1: Yes/No

I. Unemployment or Underemployment

Pre-Applicants are ineligible for EHLP Emergency Mortgage Relief Payments if they cannot demonstrate that they have become unemployed or underemployed as a result of adverse economic conditions or medical emergency, as applicable. For purposes of applying for Emergency Mortgage Relief Payments under the Act, the terms “unemployed” and “unemployment” apply solely to the Pre-Applicant.

In order to successfully demonstrate that they meet this eligibility standard, Pre-Applicants must provide either of the following documentation:

- A. **Termination Letter:** A copy of the letter, dated in 2009, 2010, or 2011, from their previous/current employer explaining that the Pre-Applicant's position has been terminated, or that the Pre-Applicant's hours and wages/salary were decreased.

Pre-Applicants are not eligible for Emergency Mortgage Relief Payments under the EHLP if their employer letter states that they have been fired for cause; **OR**

- B. **Affidavit:** Pre-Applicants who were self-employed, whose former employer has gone out of business, or whose former employer will not provide the Pre-Applicant with a termination letter, must complete and sign the applicable EHLP affidavit explaining how adverse economic conditions or a medical emergency led to the Pre-Applicant's (1) reduction in self-employment income (self-employed), or (2) termination (previous

employer out of business **or unwilling to provide a termination letter to the Pre-Applicant**). CAs will provide the Pre-Applicant with the relevant EHLP affidavit form, available through NWA.

II. Principal Residence

Pre-Applicants are ineligible for EHLP Emergency Mortgage Relief Payments if the property secured by the Pre-Applicants' delinquent 1st lien mortgage ("Mortgaged Property") does not serve as their principal residence. In order to successfully demonstrate that the Pre-Applicant meets this eligibility standard, the following documentation is required:

- The most recent/current copy of the Pre-Applicant's residential utility bill (e.g., natural gas and/or water and/or electricity and/or telephone (not cellular phone bill)).
- The property address on the residential utility bill provided by the Pre-Applicant must be the same address as the property address on the Pre-Applicant's 1st lien mortgage statement.

III. Delinquent Mortgage Payments and Likelihood of Foreclosure

A. Pre-Applicants are ineligible for EHLP Emergency Mortgage Relief Payments if they are not at least three (3) months delinquent on their 1st lien mortgage loan payments as of the time of initial application for Emergency Mortgage Relief Payments and at risk of imminent foreclosure. In order to successfully demonstrate that the Pre-Applicant meets this eligibility standard, the following documentation is required:

1. **Breach/Acceleration Letter:** A copy of the Pre-Applicant's "Breach" or "Acceleration" letter from the Pre-Applicant's 1st lien mortgage Servicing Institution stating: (1) that the Pre-Applicant is delinquent on his or her mortgage payment, **AND** (2) failure to cure the delinquency will result in the initiation or continuation of foreclosure proceedings; **AND**
2. **Credit Report:** The CA will pull the Pre-Applicant's credit report for the purpose of, among other things, verifying that the Pre-Applicant is currently delinquent on his or her 1st lien mortgage payments by 3 months or more.

B. Pre-Applicants are ineligible for EHLP emergency assistance if they were not at least three (3) months delinquent on their 1st lien mortgage payments as of June 1, 2011.

Credit Report: The CA will evaluate the Pre-Applicant's credit report to verify that the Pre-Applicant was at least three (3) months delinquent on the Pre-Applicant's 1st lien mortgage payments on June 1, 2011.

IV. Delinquent Federal Debt

Pre-Applicants are ineligible for EHLP Emergency Mortgage Relief Payments if the Pre-Applicant and/or any other person named on the Pre-Applicant's 1st lien mortgage loan documents ("Co-Applicant(s)") is delinquent on the payment of any non-tax debts owed to the United States government, including student loans. In order to successfully demonstrate that the Pre-Applicant meets this eligibility standard, the following documentation is required:

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- **Credit Report:** The CA will evaluate the Pre-Applicant's (and Co-Applicant(s), if any) credit report(s) to verify that neither the Pre-Applicant nor any Co-Applicant is delinquent in his or her repayment of any non-tax federal debt, including federal student loans. If a Pre-applicant submits documentation that a non-tax federal debt has been discharged, or federal student loan delinquency has been brought current, is deferred, or is in forbearance, that documentation shall be included with the credit report and that federal delinquency will not be considered in the eligibility consideration.

V. Federal Tax Lien

Pre-Applicants are ineligible for EHL P Emergency Mortgage Relief Payments if the Pre-Applicant and/or any other person named on the Pre-Applicant's 1st lien mortgage loan documents ("Co-Applicant(s)") is subject to a Federal tax lien.

- **Credit Report:** The CA will evaluate the Pre-Applicant's (and all Co-Applicant's, if any) credit report(s) to verify that neither the Pre-Applicant nor any Co-Applicant is subject to a Federal tax lien. If the Pre-Applicant submits documentation demonstrating an identified Federal tax lien has been released, this can be uploaded along with the credit report and the released lien will not be considered in the determination of overall eligibility.

VI. Bankruptcy Status

Pre-Applicants are ineligible for EHL P Emergency Mortgage Relief Payments if the Pre-Applicant and/or any other person named on the Pre-Applicant's 1st lien mortgage loan documents ("Co-Applicant(s)") have personal and/or business-related debts currently being discharged through bankruptcy proceedings as of the date of their application appointment. In order to successfully demonstrate that the Pre-Applicant meets this eligibility standard, the following documentation is required:

- **Credit Report:** The CA will evaluate the Pre-Applicant's credit report to verify that none of the Pre-Applicant's personal and/or business-related debts are currently being discharged under Chapters 7, 11, or 13 of the United States Bankruptcy Code, as applicable.
- **Note:** If the Pre-Applicant and/or any Co-Applicant was in bankruptcy at the time of the Pre-Applicant submitted his or her Pre-Application Screening Worksheet, the debts must have been discharged from bankruptcy status as of the date of the Pre-Applicant's application appointment in order to be eligible for EHL P emergency assistance. In such cases, the Pre-Applicant must provide official documentation from the bankruptcy court evidencing the discharge.

VII. Property Liens

Pre-Applicants are ineligible for EHL P Emergency Mortgage Relief Payments if there are more than two (2) open liens recorded against the Mortgaged Property. In order to successfully demonstrate that the Pre-Applicant meets this eligibility standard, the following documentation is required:

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- **Credit Report:** The CA will evaluate the Pre-Applicant's credit report to verify that the Pre-Applicant has no more than two open liens recorded against the Mortgaged Property.

VIII. Property Flood Insurance (as applicable)

In order to successfully demonstrate that the Pre-Applicant meets this eligibility standard, the following documentation is required of Pre-Applicants whose home is in a 100-year flood zone:

- **Required Documentation - Flood Insurance Policy in Good Standing:** The Pre-Applicant must provide either (1) a copy of a flood insurance policy covering the Mortgaged Property; or (2) a current 1st lien mortgage statement that demonstrates flood insurance as part of the Pre-Applicant's escrowed expenses.
- **Eligibility Determination:** The submitted documentation must indicate that the policy is in good standing.

IX. Reasonable Likelihood of Resumption of Payment

Pre-Applicants are ineligible for EHLP Emergency Mortgage Relief Payments if it cannot be determined that there is a reasonable likelihood they will be able to resume responsibility for 100% of his or her full monthly mortgage payments. In order to successfully demonstrate that the Pre-Applicant meets this eligibility standard, the following documentation is required:

1. **Termination Letter or Affidavit:** The CA will evaluate the Pre-Applicant's Termination Letter, or affidavit, if self-employed or employer is no longer in business, and determine the date of Pre-Applicant's becoming unemployed or underemployed (CA has discretion in making this determination, provided the determination is reasonable).

Threshold Eligibility Determination – Date of

Unemployment/Underemployment: *Threshold Satisfied* – If the Pre-Applicant became unemployed or underemployed after January 1, 2009, this threshold criterion is satisfied, and the CA should evaluate the Pre-Applicant's credit report, and, if necessary, the Pre-Applicant's DTI (see below). *Ineligible* – If the Pre-Applicant became unemployed or underemployed prior to January 1, 2009, the Pre-Applicant is not eligible to receive EHLP emergency assistance.

2. **Credit Report:** The CA will evaluate the Pre-Applicant's credit report to verify that that the Pre-Applicant had (1) no more than one 60-day late payment on his or her 1st lien mortgage and, if applicable, (2) no more than one 60 day late payment on the Pre-Applicant's 2nd lien mortgage, in the 12 months of the calendar year prior to the Pre-Applicant's date of unemployment or underemployment. (CA should determine the date of unemployment or underemployment by evaluating the Pre-Applicant's Termination Letter, or, affidavit if self-employed or employer no longer in business). If the Pre-Applicant's unemployment or underemployment occurred in 2011, the 12 month calendar year would be 2010. If unemployment or underemployment occurred in 2010, the 12 month calendar year would be 2009; and if the unemployment or underemployment occurred in 2009, the 12 month calendar year would be 2008.

Eligibility Determination: *Criterion Satisfied* – If the result of the CA’s evaluation of the Pre-Applicant’s late payment record shows that the Pre-Applicant had no more than one 60-day late payment on the Pre-Applicant’s 1st lien mortgage, and, if applicable, no more than one 60-day late payment on the Pre-Applicant’s 2nd lien mortgage, in the 12 months of the calendar year prior to the Pre-Applicant’s date of unemployment or underemployment, the reasonable ability to resume full monthly mortgage payments criterion is satisfied.

Evaluation of DTI Required – Alternatively, if the result of the CA’s evaluation of the Pre-Applicant’s late payment record shows that the Pre-Applicant had more than one 60-day late payment on the Pre-Applicant’s 1st lien mortgage, or, if applicable, more than one 60-day late payment on the Pre-Applicant’s 2nd lien mortgage, in the 12 months of the calendar year prior to the Pre-Applicant’s date of unemployment or underemployment, the CA must evaluate the Pre-Applicant’s Debt-to-Income ratio in accordance with the procedures for DTI Calculation. The DTI Calculation is described in the Category 2: Calculation section, below.

X. Citizenship Status/Eligible Immigrant

Pre-Applicants are ineligible for EHL P Emergency Mortgage Relief Payments if they, along with every person named on their 1st lien mortgage loan documents, are not a United States citizen, United State non-citizen national, or “qualified alien”.

- **Required Documentation:** Proof of citizenship status is required. The permitted documentation for proving status as a (a) United States citizen, (b) United States non-citizen national, and/or (c) qualified alien can be shown by **one** (or more) of the methods described in the attached document (see criteria described in the HUD Citizenship Status posted on the NWA EHL P website).
- **Eligibility Determination: *Criterion Satisfied*** – if the Pre-Applicant provides eligible documentation (pursuant to the guidance provided in the HUD Citizenship Status attachment to Appendix A) demonstrating that the Pre-Applicant and all Co-Applicants (if any) are United States citizens, United State non-citizen nationals, and/or “qualified aliens”, this criterion is satisfied. *Ineligible* – if the Pre-Applicant or any Co-Applicant does not provide eligible documentation (pursuant to the guidance provided in the HUD Citizenship Status posted on the NWA EHL P website), then the Pre-Applicant is not eligible to receive EHL P emergency assistance.

Category 2: Calculation

I. Income Eligibility, Pre-Event Income

The combined Pre-Event **Adjusted Gross Income of ALL persons named on the Pre-Applicant’s 1st lien mortgage loan documents** must be less-than-or-equal-to the greater of either \$75,000 **OR** 120% of the Area Median Income (AMI for a household of four persons), as determined by HUD (<http://www.huduser.org/portal/EHL P/index.html>).

- A. Required Documentation: Each person (the Pre-Applicant and all Co-Applicant(s), if any) named on the Pre-Applicant’s 1st mortgage loan documents** must submit the following –

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- a. A copy of the first two pages of his or her completed IRS 1040, or completed IRS 1040 EZ, as applicable, for the tax year prior to or the year of the Pre-Applicant's becoming unemployed or underemployed (it is expected that most Pre-Applicants who have a reasonably likely to repay will have become unemployed in 2010 or 2011, and the required documentation is a 2009 tax return. However, if a borrower became unemployed in 2009, a 2008 tax return is allowed. Adjusted Gross Income (AGI) is reported on Line 37 of the IRS 1040, and Line 4 of the IRS 1040 EZ;² **AND**
- b. A signed IRS Form 4506-T,³ permitting HUD and/or its agents to attain copies of completed federal income tax returns for any of these parties from the IRS.
- c. **Limited Exception, Exempt from Filing Requirement** - If the Pre-Applicant and/or any other individual named on the Pre-Applicant's 1st lien mortgage loan documents (Co-Applicant) (1) was not required to file Federal Income Tax Return in the tax year prior to the Pre-Applicant's becoming unemployed or underemployed (examples: for a Pre-Applicant who became unemployed in 2010, the required documentation is each person's 2009 IRS 1040;), and (2) that individual did not file a Federal Income Tax Return that year, then the individual must provide the following documentation instead of the completed tax return:
1. Form(s) W-2 from that tax year (if any);
 2. A completed and signed "Exempt from Federal Tax Return Filing Requirement" Affidavit (provided to CAs by NWA).
- d. **Limited Exception - For Residents of Puerto Rico, Only:** Residents of Puerto Rico are not subject to the documentation requirements of subpart (a). Instead, Puerto Rican residents must submit all completed income tax returns that have been filed with the Government of Puerto Rico Department of Finance⁴ for *all persons* (including the Pre-Applicant) named on the Pre-Applicant's 1st lien mortgage loan documents:
- i. The first two pages of all completed Form 482 ("Long Form") income tax returns. Adjusted gross income is recorded on page 1, Line 5.
 - ii. The first four pages of all completed Form 481 ("Short Form") income tax returns. Adjusted gross income is recorded on page 1, Line 4.
 - iii. If the individual (Pre-Applicant or other person named on 1st lien mortgage loan documents) has a self-employment status defined as "**sole proprietorship**" and was required to file a IRS Form 1040-PR/Spanish or IRS 1040-SS/English,⁵ he or she must also provide completed copies of each such filing, without schedules. In order to acquire certified copies of tax forms filed with the Puerto Rico Department of Finance, the CA must complete the SC Model 2907, Request for Copy of Return, Relief and Grant Heritage (Spanish⁶ and English⁷ versions are available online) which must be

² IRS Forms and Publications: <http://www.irs.gov/formspubs/index.html>

³ IRS Form 4506-T, Request for Transcript of Tax Return: <http://www.irs.gov/pub/irs-pdf/f4506t.pdf>

⁴ Worksheets and Forms, Government of Puerto Rico Department of Finance: http://www.hacienda.gobierno.pr/planillas_y_formularios/individuos.html

⁵ Individuals Living or Working in U.S. Possessions: <http://www.irs.gov/businesses/small/international/article/0,,id=97321.00.html>

⁶ Form SC 2907: <http://www.hacienda.gobierno.pr/downloads/pdf/formularios/SC%202907.pdf>

accompanied by an internal revenue stamp of \$5.00. This is then submitted to the Department of Finance Service Center. Mailing instructions are provided with the form.

- e. **Limited Exception – Married Filing Jointly, Spouse of Pre-Applicant not on 1st lien mortgage loan documents:** If a Pre-Applicant or another person named on the 1st lien mortgage loan documents ("Co-Applicant") filed jointly on his/her tax return but the Pre-Applicant's/Co-Applicant's spouse is not listed on the 1st lien mortgage loan documents ("non-listed spouse"), the Pre-Applicant/Co-Applicant must submit the spouse's W-2 from that tax year, if any. If the non-listed spouse did not have W-2 earnings from that tax year, the spouse must complete and sign the form affidavit indicating that he/she had no W-2. Copies of the form affidavit are available through NWA.
- B. **Calculation of Total Pre-Event Income:** The CA must sum the AGI of all individuals named on the Pre-Applicant's 1st lien mortgage documents (including the Pre-Applicant) (the "Total Pre-Event Income").
- a. **Limited Exception: Married Filing Jointly -** If a Pre-Applicant filed jointly on his/her tax return but the Pre-Applicant's spouse is not listed on the 1st lien mortgage loan documents ("non-listed spouse"), the CA will subtract the W-2 taxable wage income from the tax return AGI of the Pre-Applicant. The CA must upload to HLP a scanned copy of the non-liable spouse's W-2, if any, or affidavit, along with the Pre-Applicant and all Co-Applicant's (if any) tax returns.
- C. **Eligibility Determination:**
- a. **Total Pre-Event Income \$75,000 or Less:** If the Pre-Applicant's Total Pre-Event Income, as calculated above, is \$75,000 or less, the Pre-Applicant has a qualifying Pre-Event income, and this eligibility criterion is satisfied.
- b. **Total Pre-Event Income \$75,001+:** If the Pre-Applicant's Total Pre-Event Income, as calculated in subsection (B), above, is \$75,001 or more, the CA must compare the Total Pre-Event Income to Maximum EHLP AMI, as determined by HUD, for the county where the Mortgaged Property is located.
- i. The CA should locate the Maximum EHLP AMI for the county where the Pre-Applicant's Mortgaged Property is located (<http://www.huduser.org/portal/EHLP/index.html>).
- ii. The CA must determine whether the Pre-Applicant's Total Pre-Event Income (\$75,001+) is less than or equal to the Maximum EHLP AMI for the county where the Pre-Applicant's Mortgaged Property is located.
- iii. *Criterion Satisfied* – If the Pre-Applicant's Total Pre-Event Income is **less than or than or equal to** the Maximum EHLP AMI for the county where the Mortgaged Property is located, the Pre-Applicant has a qualifying pre-event income, and this criterion is satisfied.

⁷ Form SC2907.1: <http://www.hacienda.gobierno.pr/downloads/pdf/formularios/AS%202907.1.pdf>

Ineligible – If the Pre-Applicant’s Total Pre-Event Income (\$75,001+) is **greater than** the Maximum EHLP AMI for the county where the Mortgaged Property is located, the Pre-Applicant is **ineligible** for EHLP emergency assistance.

II. Substantial Reduction in Income

Eligibility for EHLP emergency assistance requires that the Pre-Applicant’s current Income (including the current income of every person named on the Pre-Applicant’s 1st lien mortgage loan documents) be at least **15% less than** the Pre-Applicant’s total Pre-Event Income (including the current income of every person named on the Pre-Applicant’s 1st lien mortgage loan documents).

A. Required Documentation: Each person (including the Pre-Applicant) named on the Pre-Applicant’s 1st mortgage loan documents must submit the following –

- a. **Wages/Salary:** Paystubs capturing the most recent month or the most recent consecutive four (4) weeks’ wages (if any).
- b. **Unemployment:** Copies of unemployment insurance benefit checks capturing the most recent month or the most recent four (4) consecutive weeks’ payments (if any).
- c. **Disability/SSI:** Copies of Disability /SSI benefit checks capturing the most recent month or the most recent four (4) consecutive weeks’ payments (if any).
- d. **Pensions/Annuities/Retirement Plans:** Copies of checks/paystubs capturing the most recent month or the most recent four (4) consecutive weeks’ payments (if any).
- e. **Temporary Aid for Needy Families (TANF):** Copies of checks/paystubs capturing the most recent month or the most recent four (4) consecutive weeks’ payments (if any).
- f. **2010 Federal Tax Return or Puerto Rico State Return:** Copy of the first two pages of completed **2010** federal income tax return or Puerto Rico State return (see guidance under pre-event income).
 - i. **Limited Exception, Exempt from Filing Requirement** - If the Pre-Applicant and/or any other individual named on the Pre-Applicant’s 1st lien mortgage loan documents (Co-Applicant) (1) was not required to file a 2010 Federal Income Tax Return, and (2) that individual did not file a 2010 Federal Income Tax Return, then the individual must provide the a completed and signed “Exempt from Federal Tax Return Filing Requirement” Affidavit (provided to CAs by NWA).

B. Calculating Current Monthly Income: For **each** person (including the Pre-Applicant) current monthly income is the sum of –

- g. **Wages/Salary:** Using paystubs from the most recent month or 4 weeks, annualize* that income and divide by 12.
- h. **Unemployment:** Using unemployment payments from the most recent month, annualize the unemployment payments and divide by 12.

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- i. **Disability/SSI:** Annualize the Disability /SSI benefit checks capturing the most recent month or the most recent four (4) consecutive weeks' payments (if any) and divided by 12.
 - j. **Pensions/Annuities/Retirement Plans:** Annualize the checks/paystubs capturing the most recent month or the most recent four (4) consecutive weeks' payments (if any) and divide by 12.
 - k. **Temporary Aid for Needy Families (TANF):** Annualize the checks/paystubs capturing the most recent month or the most recent four (4) consecutive weeks' payments (if any) and divide by 12.
 - l. **2010 Federal Tax Return or Puerto Rico State Return:**
 - Estimated monthly current self-employment income (Form 2010 1040. Sum lines 12, 17, 18. Form 2010 1040A, then this is 0; PR Form 482 sum Lines 2M to 2Q plus (if sole proprietorship) form 1040-SS page 3 line 27). Whichever form is used, divide by 12 to get a monthly estimate;
 - Estimated monthly current income from child support and alimony (Form 2010 1040. Line 11; PR Form 482, Line 2L). Whichever form is used, divide by 12 to get monthly income; and
 - Estimated monthly income from interest and dividends (Form 2010 1040. Sum lines 8a, 9a, 13, 14, 15b, 21. Form 2010 1040A, sum lines 8a, 9a, 10.; PR Form 482 Sum Lines 2A to 2K, 2R, 2S.) Whichever form is used, divide by 12 to get monthly income.

*Annualize: For example, if bi-weekly pay stubs, sum the two pay stubs (covering 4 weeks), multiply times 13. This creates an annual estimate from the two pay stubs.

C. Calculation 2 – Total Monthly Pre-Event Income:

CA must document the Total Pre-Event Income (which includes the pre-event income of the Pre-Applicant and all persons listed on the 1st lien mortgage loan documents), as determined previously. *See above*, at “Category 2 – Calculation, I – Income Eligibility, Pre-Event Income, B. Calculation of Total Pre-Event Income.” CA should divide the Total Pre-Event Income by 12 (the “Total Monthly Pre-Event Income”).

CA must divide Total Current Monthly Income (which includes the current monthly income of the Pre-Applicant and all Co-Applicants, if any) by the Total Monthly Pre-Event Income (the result being the “Change in Income”).

- D. Eligibility Determination:** *Criterion Satisfied* – If the Change in Income (Total Current Monthly Income divided by Total Monthly Pre-Event Income) is less than or equal to 85% (.85), this criterion is satisfied. *Ineligible* – If the Change in Income is greater than 85% (.85), the Pre-Applicant is ineligible.

III. Reasonable Likelihood of Resumption of Payment

This section applies **only** to Pre-Applicants who had more than one (1) 60-day late payment notice (more than 1 on the 1st lien mortgage, and/or more than 1 on the 2nd lien mortgage) on the Pre-Applicant’s credit report in the calendar year 12 months prior to the Pre-Applicant’s becoming unemployed or underemployed. *See above*, at “Category 1 – Yes/No, IX – Reasonable Ability to Resume Full Monthly Mortgage Payments”. In such instances, the following

documentation is required in order for the CA to make a determination of the Pre-Applicant's reasonable likelihood to resume full monthly mortgage payments:

- A. **Required Documentation:** The CA will evaluate the credit report for each person named on the Pre-Applicant's 1st lien mortgage loan documents (the Pre-Applicant and all Co-Applicants (if any)).
- B. **Calculation - Pre-Applicant Current Debt-to- Pre-Event Income Ratio (DTI):** The CA will perform the following calculation:
 1. **Pre-Event Income:** Document the Pre-Applicant's pre-event income; this amount should be the same amount documented as the Pre-Applicant's "Total Pre-Event Income" from "Part 2: Calculation, I - Income Eligibility, Pre-Event Earnings", above.
 2. **Monthly Income:** Divide the Pre-Applicant's Pre-Event Income by 12. [Example: Pre-Event Income = \$75,000 → monthly Pre-Event Income = \$75,000/12 = \$6,250].
 3. **Calculation of Debt:**
 - a. **For each individual (Pre-Applicant and all Co-Applicants (if any)):** Add the monthly payments on all outstanding debts (mortgage (including 2nd mortgage, where applicable) principal, interest, taxes, insurance, and revolving (e.g., credit card payment) and fixed installment (e.g., car payment) debt) appearing on the individual's credit report.
 - i. **Open Payment Mortgage (OPM):** the CA should use the 30-year fixed rate payment option as indicated on the Borrower's monthly mortgage statement.
 - b. **Combine:** Sum the outstanding debt total of the Pre-Applicant with the debt totals of each Co-Applicant (if any). For shared debts, the payments should only be counted once. The resulting amount is the "Total Combined Debt".
 4. **Back-End DTI Ratio:** Divide Pre-Applicant's monthly Pre-Event Income by the Total Combined Debt.
- C. **Eligibility Determination:** *Criterion Satisfied* – If the resulting fraction is less-than-or-equal-to .55 (55%), then the Pre-Applicant this criterion is satisfied. *Ineligible* – If the resulting fraction is .56 or greater, the Pre-Applicant is not eligible for EHLA emergency assistance.

IV. Mortgage Cost Burden

The Pre-Applicant must be financially unable to sustain his or her monthly mortgage payment at the time of application. To be eligible for EHLA emergency assistance, the Pre-Applicant's monthly mortgage payment must exceed the greater of \$150 or 31% of his or her current monthly income.

A. Required Documentation:

- **Most Recent Monthly Mortgage Statement** – A copy of the Pre-Applicant's most recent monthly 1st lien mortgage statement, including a summary of his or her principal, interest, taxes, and insurance (PITI) costs; AND

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- **Total Current Monthly Income** – Documentation of Pre-Applicant’s Total Current Monthly Income (as determined under “Category 2: Calculation – II, Substantial Reduction in Income,” above).

B. **Calculation:** The CA will perform the following calculation:

1. Using the Pre-Applicant’s 1st lien mortgage statement, identify the monthly cost of the Pre-Applicant’s PITI.
2. Using current income data from the documentation described above, document the Pre-Applicant’s current income (see Substantial Reduction in Income, above).
3. Divide the PITI figure by the sum of all of the Pre-Applicant’s current income.

C. **Eligibility Determination:** *Criterion Satisfied* – If the resulting fraction is greater than .31 (31%), then the Pre-Applicant is eligible under this criterion for EHLPP Emergency Mortgage Relief Payments. *Ineligible* – If the resulting fraction is .30 (30%) or less, the Pre-Applicant is ineligible to receive EHLPP emergency assistance.

V. EHLPP Loan Modification Policies and Procedures

- **Temporary Loan Modification:** Pre-Applicants whose monthly 1st lien mortgage payments have been temporarily reduced as the result of the Pre-Applicant’s current participation in a public⁸ or proprietary trial loan modification program can apply for the EHLPP. However, homeowners cannot simultaneously participate under both types of mortgage relief programs.
- **Decision Requirements and Deadlines:** If the Pre-Applicant chooses to apply for the EHLPP and is ultimately approved for participation by HUD, the Pre-Applicant must choose to either (a) participate in the EHLPP, and opt-out of the trial mod program; or (b) remain in the trial modification program and decline to participate in the EHLPP. In such instances, the Approved applicant must inform the CA in writing (certified mail, email, or fax) of his/her decision to opt-out of the existing trial modification within 5 business days from the date of the Approved Applicant’s Commitment Letter (available to the CA via HLP). Failure to provide the CA with a written decision within 5 business days will result in the termination of the HUD EHLPP Loan Commitment, and the Approved Applicant’s opportunity to receive EHLPP emergency assistance is extinguished.
- **Documentation of Termination Requirement:** If (1) the Approved Applicant properly reports its decision regarding trial modification participation to the CA within the 5 day deadline, and (2) the Approved Applicant’s decision is to opt-out of the trial modification and participate in EHLPP, then the Approved Applicant must make arrangements with his/her 1st lien mortgage servicer to exit from the trial modification. The Approved Applicant must exit the trial modification before the Approved Applicant is permitted to execute the EHLPP loan documents.
 - The Approved Applicant must provide written documentation from the 1st lien mortgage servicer indicating that the trial modification will be terminated on or

⁸ Making Home Affordable: <http://www.makinghomeaffordable.gov/programs/lower-payments/Pages/default.aspx>

before the Approved Applicant's closing date. Written documentation may include the 1st lien mortgage servicer's confirmation to HUD's FA of trial modification termination within the Common Data Servicer File; in such cases, the CA will receive notice from the FA that confirmation of trial modification termination has been properly received.

- Note: Borrowers who voluntarily exit a trial HAMP or FHA-HAMP modification in order to receive EHLP mortgage payment assistance may still reapply for a subsequent HAMP or FHA-HAMP modification at a later date.
 - It should be noted that while any such Borrower may reapply for a HAMP or FHA-HAMP modification, there is no guarantee they will re-qualify. Treasury HAMP expires on **December 31, 2012**.
- **Permanent Loan Modification:** Pre-Applicants/Applicants whose 1st lien mortgage has been permanently modified and reduced under any public or proprietary loan modification program are no longer at imminent risk of foreclosure and are not be eligible to apply for or receive Emergency Mortgage Relief Payments under the EHLP.
 - **Limited Exception:** Any Pre-Applicant/Applicant who had been approved for a permanent loan modification and who has subsequently become delinquent on his or her modified loan payment and is otherwise at imminent risk of foreclosure as of **June 1, 2011**, is eligible to apply for EHLP assistance. Application for and possible subsequent approval of EHLP Emergency Mortgage Relief Payments for any such Applicant is contingent upon whether he or she meets all other EHLP eligibility requirements.

VI. Mortgage Affordability: Ability to Pay Combined Mortgage Debt with Maximum Program Assistance

Homeowners who participate in the EHLP are required to make a monthly Homeowner Contribution Payment ("HCP"). A central goal of the EHLP is to assist homeowners in maintaining their housing by making their monthly mortgage costs affordable relative to their current level of income. Under this criterion Pre-Applicants must demonstrate that they can afford to make a contribution toward the cost of their 1st lien mortgage debt while receiving EHLP Emergency Mortgage Relief Payments. The EHLP required HCP is the greater of 31% of the Borrower's Total Current Monthly Income, or \$150.

A. *Pre-Applicants with No Second Mortgage/HELOC:*

1. **Calculation:** The CA will perform the following calculation:
 - a. Document the Pre-Applicant's Total Current Monthly Income, in the amount provided under "Category 2: Calculation, II – Substantial Reduction in Income," above.
 - b. Multiply the Pre-Applicant's Total Current Monthly Income by .31 (31%).
[Example: Total Current Monthly Income = \$4,000; $4000 \times .31 = \$1,240$]
 - c. Document the Pre-Applicant's Total First Mortgage Payment (PITI) from the Pre-Applicant's 1st lien mortgage statement.

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- d. Compare the 31% of Total Current Monthly Income to the Pre-Applicant's Total Monthly First Mortgage Payment (PITI).
[Example: Total Monthly PITI = \$1,300; $\$1240 < \1300]

2. **Eligibility Determination:** *Criterion Satisfied* – If the Pre-Applicant's Total Monthly First Mortgage Payment (PITI) is greater than 31% of the Pre-Applicant's Total Current Monthly Income, the Mortgage Affordability eligibility requirement is satisfied. *Ineligible* – If the Pre-Applicant's Total Monthly First Mortgage Payment (PITI) is 31% or less of the Pre-Applicant's Total Current Monthly Income, the Pre-Applicant is not eligible for EHLA emergency assistance.

B. Pre-Applicants with Second Mortgage/HELOC:

For Pre-Applicants with a second mortgage payment or a HELOC payment, the Pre-Applicant must have sufficient income to pay the minimum monthly payment on the 2nd Mortgage/HELOC and still be able to pay the minimum required HCP amount (\$150.00). For Pre-Applicants with Second Mortgages/HELOCs, the CA may need to perform two calculations and make two preliminary determinations of eligibility, as follows:

- A. **Calculation 1 – Threshold Affordability:** The CA will perform the following calculation:

1. Record the Pre-Applicant's Total Current Monthly Income, in the amount provided under Part 2: Calculation, II – Substantial Reduction in Income, above.
2. Multiply the Pre-Applicant's Total Current Monthly Income by .31 (31%).
[Example: Total Current Monthly Income = \$4,000; $4000 * .31 = \$1,240$]
3. Record the Pre-Applicant's Total First Mortgage Payment (PITI) from the Pre-Applicant's 1st lien mortgage statement.
4. Compare the 31% of Total Current Monthly Income to the Pre-Applicant's Total Monthly First Mortgage Payment (PITI).

- B. **Eligibility Determination 1 – Threshold Affordability:** If the Pre-Applicant's Total Monthly First Mortgage Payment (PITI) is less than 31% of the Pre-Applicant's Total Current Monthly Income, the Pre-Applicant is not eligible for EHLA emergency assistance. If the Pre-Applicant's Total Monthly First Mortgage Payment (PITI) is greater than 31% of the Pre-Applicant's Total Current Monthly Income, the CA must perform **Calculation 2 – Second Mortgage Affordability**, below.

- C. **Calculation 2 – Second Mortgage Affordability:** If the Pre-Applicant's Total Monthly First Mortgage Payment (PITI) is greater than 31% of the Pre-Applicant's Total Current Monthly Income, the CA will perform the following calculation:

1. Compare 31% of Pre-Applicant's Total Current Monthly Income to \$150; and document which amount is greater;

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2. Threshold Eligibility Determination: If \$150 is greater than 31% of the Pre-Applicant's TCMI, the Pre-Applicant (with a 2nd mortgage/HELOC) is ineligible to receive EHLPP emergency assistance;
 3. If the result of the comparison is that 31% of TCMI is greater than \$150, document the total monthly payment amount of the Pre-Applicant's Second Mortgage/HELOC by evaluating the Pre-Applicant's Second Mortgage/HELOC monthly statement;
 4. Add together \$150 and the total amount of the Pre-Applicant's Monthly Second Mortgage/HELOC Payment (PITI). The result is the "Minimum Combined Mortgage Payment" amount;

[Example: Monthly Second Mortgage/HELOC Payment = \$600; \$600 + \$150 = Minimum Combined Mortgage Payment = \$750]
 5. Compare the Minimum Combined Mortgage Payment to 31% of the Pre-Applicant's Total Current Monthly Income.

D. Eligibility Determination 2 – Second Mortgage Affordability: *Criterion Satisfied* – If the Minimum Combined Mortgage Payment is less than or equal to 31% of the Pre-Applicant's Total Current Monthly Income, the Mortgage Affordability eligibility requirement is satisfied. *Ineligible* – If the Minimum Combined Mortgage Payment is greater than 31% of the Pre-Applicant's Total Current Monthly Income, the Pre-Applicant is ineligible to receive EHLPP emergency assistance.

4. Part 2: Required Certifications and Third Party Authorization – The Pre-Applicant and each individual named on the Pre-Applicant's 1st lien mortgage loan documents ("Co-Applicant(s)") must complete and sign the applicable EHLPP certification form, and complete and sign the third party authorization form. The Applicant and Co-Applicant certifications, and the third party authorization form are available through NWA. A Pre-Applicant's application package is incomplete until and unless the CA receives a properly executed third party authorization form and a properly executed certification form from the Pre-Applicant and each Co-Applicant, if any.

4. Part 3: Treatment of Incomplete Application Submissions – In each case where the CA concludes that the Pre-Applicant has not submitted the required documentation or that the submitted documentation provides insufficient information to make a preliminary eligibility determination, the CA will inform the Pre-Applicant in writing (through email or mail) what documentation is missing, remind Pre-Applicant that without submitting the required documents or clarifying information that his or her application package will not be forwarded to the FA for review, and notify the Pre-Applicant that he/she may also be deemed ineligible due to either lack of time to process any additional information and/or unavailability of funding.

5. Ineligible Pre-Applicants and Possible Appeals

This section answers the following question:

- *What steps do I follow to notify a Pre-Applicant who is determined to be ineligible?*
- *What procedures should I follow if a Pre-Applicant decides to appeal this determination?*

Ineligible Pre-Applicant Notification

If the CA determines that a Pre-Applicant's package submission remains incomplete or otherwise does not meet all program eligibility criteria, the CA may not forward it to the FA. Instead, the CA is required to notify the Pre-Applicant by mail within **5 business days** of this determination as to the reason(s). The CA will also contact the Pre-Applicant by telephone (**and by e-mail** in each case where the Pre-Applicant has provided the CA with his or her e-mail address). The CA's notification must inform the Pre-Applicant that he or she has an opportunity to appeal the CA's ineligibility finding.

If a Pre-Applicant is permitted and chooses to submit a more recent credit report as part of the Pre-Applicant's appeal, CAs may recommend that the Pre-Applicant log onto <https://www.annualcreditreport.com/cra/index.jsp> where a free copy of his/her credit report can be obtained once annually by consumers. The CA should also strongly encourage that the Pre-Applicant request his/her report be issued either by TransUnion or Equifax, as these reports contain the detailed summary of a consumer's payment history necessary for NWA's evaluation of the Pre-Applicant's appeal.

Pre-Applicant Appeal Process

The Pre-Applicant's appeal must describe how the CA is in error and include all documentation that supports the Pre-Applicant's contention of CA error concerning one or more program eligibility criteria, as follows:

- **Delinquency and imminent risk of foreclosure:** This was determined by evaluation of the Pre-Applicant's breach letter, and the Pre-Applicant's credit report.
 - The Pre-Applicant may submit a more recent credit report.
 - Absent Pre-Applicant's submission of a more recent credit report, NWA will evaluate the credit report obtained by the CA at the time of application appointment to verify whether the CA ineligibility determination was correct.
 - If a Pre-Applicant submits a more recent credit report, NWA will consider the submitted report in its evaluation of whether the CA ineligibility determination remains correct.
 - NWA will evaluate the breach letter provided by the Pre-Applicant at the time of application appointment to determine whether the ineligibility determination of the CA was correct.
- **Unemployment/underemployment:** This was determined by evaluation of either: (1) a termination or employment reduction letter from the Pre-Applicant's employer (must not indicate termination for cause); or, if the Pre-Applicant was self-employed or his/her

employer went out of business and did not provide such letter, (2) an affidavit signed by the Pre-Applicant.

- NWA will evaluate the documentation provided by the Pre-Applicant at the time of application appointment to verify that the CA ineligibility determination was correct.
- **Principal residence:** This was determined by evaluation of the most recent/current copy of the Pre-Applicant's/Applicant's residential utility bill, e.g., telephone, electric, water.
 - NWA will evaluate the utility bill provided by the Pre-Applicant at the time of application appointment to verify that the CA ineligibility determination was correct.
- **Delinquent federal debt:** This was determined by evaluation of the Pre-Applicant's/Co-Applicant's credit report (obtained by the CA).
 - The Pre-Applicant may submit follow-up documentation demonstrating that the identified non-tax Federal debt has been discharged or the delinquency was brought current, deferred, or in forbearance.
 - Absent follow-up documentation, NWA will evaluate the credit report obtained by the CA at the time of application appointment to verify that CA correctly identified a non-tax Federal debt.
 - If the Pre-Applicant submitted follow-up documentation, NWA will evaluate that documentation to determine whether the documentation demonstrates that the Federal debt identified by the CA has been discharged.
- **Pre-Applicant and/or Co-Applicant Subject to Federal Tax Lien:** This was determined by evaluation of the Pre-Applicant's/Co-Applicant's credit report (obtained by the CA).
 - The Pre-Applicant may submit follow-up documentation demonstrating that the identified Federal tax lien has been released.
 - Absent follow-up documentation, NWA will evaluate the applicable credit report obtained by the CA at the time of application appointment to verify that the CA correctly identified that the individual was subject to a Federal tax lien.
 - If the Pre-Applicant submitted follow-up documentation, NWA will evaluate that documentation to determine whether the documentation demonstrates that the Federal tax lien identified by the CA has been released.
- **Total number of property liens:** This was determined by the CA's review of the Pre-Applicant's credit report (obtained by the CA).
 - The Pre-Applicant may submit a more recent credit report.
 - Absent Pre-Applicant's submission of a more recent credit report, NWA will evaluate the credit report obtained by the CA at the time of application appointment to verify whether the CA correctly identified 3+ liens on the Mortgaged Property.
 - If a Pre-Applicant submits a more recent credit report, NWA will consider the submitted report in its evaluation of whether the CA ineligibility determination remains correct.
- **Bankruptcy status:** This was determined by evaluation of the Pre-Applicant's/Co-Applicant's credit report (which is generated by the CA).
 - The Pre-Applicant may submit either (1) a notice from the Bankruptcy court denying the Pre-Applicant's/Co-Applicant's bankruptcy petition; or (2) a notice

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- from the Bankruptcy court discharging the Pre-Applicant's/Co-Applicant's debts on or before the date of the Pre-Applicant's appeal was postmarked.
- Absent documentation submitted by the Pre-Applicant, NWA will evaluate the applicable credit report to verify that the CA correctly identified that the individual was currently in bankruptcy.
 - If the Pre-Applicant submitted either permitted follow-up notice, NWA will evaluate the notice to determine whether the documentation demonstrates either: (1) the individual's bankruptcy petition has been denied, or (2) his/her debts have been discharged as of the date the appeal was postmarked.
- **Total number of 60-day late payments during 12-month period of 2008, 2009, or 2010:** This is documented by the CA's review of the Pre-Applicant's credit report (which is generated by the CA).
 - The Pre-Applicant may submit a more recent credit report.
 - Absent Pre-Applicant's submission of a more recent credit report, NWA will evaluate the credit report obtained by the CA at the time of application appointment to verify whether the CA correctly identified more than 1 60-day 1st lien late payment or more than 1 60-day 2nd lien late payment on the Pre-Applicant's credit report.
 - If a Pre-Applicant submits a more recent credit report, NWA will consider the submitted report in its evaluation of whether the CA ineligibility determination remains correct.
 - **Citizenship/immigrant/resident status:** This is documented according to criteria described under Appendix A.
 - NWA will evaluate the citizenship documentation provided at the time of application appointment concerning the ineligible Pre-Applicant/Co-Applicant to verify that the CA correctly identified the individual's citizenship status as making that individual ineligible to receive a Federal Public Benefit under PRWORA.
 - **Pre-event income:** This was determined by evaluation of the Pre-Applicant and Co-Applicant(s) (if any) Federal income tax return for the tax year prior to the Pre-Applicant's unemployment/underemployment.
 - NWA will evaluate the completed tax returns provided at the time of application appointment to verify that the CA correctly determined that the Pre-Applicant's Total Pre-Event Income was ineligible (greater than \$75,000 and 120% AMI in the county where the Mortgaged Property is located).
 - **Substantial reduction in income \geq 15%:** This was determined by calculating the difference between the Pre-Applicant's Total Current Monthly Income (including Co-Applicant(s) (if any)) and the Pre-Applicant's Total Pre-Event Monthly Income (including Co-Applicant's (if any)).
 - NWA will evaluate the documentation provided by the Pre-Applicant at the time of application appointment to verify that the CA correctly: (1) calculated the Pre-Applicant's Total Current Monthly Income and Total Pre-Event Monthly Income; (2) calculated the difference between Pre-Applicant's Total Current Monthly Income and Total Pre-Event Monthly Income; and (3) determined that the difference between Pre-Applicant's Total Current Monthly Income and Total Pre-Event Monthly Income was less than 15%.

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- **Mortgage cost burden:** This was determined by dividing the Pre-Applicant's Total Current Monthly Income by the Pre-Applicant's monthly 1st lien mortgage payment amount (and second mortgage/HELOC payment amount, where applicable).
 - NWA will evaluate the current income documentation and the 1st lien monthly mortgage statement provided by the Pre-Applicant at the time of application appointment to verify that the CA's ineligibility determination was correct.
 - **DTI \leq 55%:** This was determined by dividing the Pre-Applicant's Total Pre-Event Income by the Pre-Applicant and Co-Applicant(s) (if any) outstanding debts (determined by evaluation of each person's credit report).
 - NWA will evaluate the Total Pre-Event Income documentation and the credit report(s) obtained at the time of application appointment to verify that the CA correctly calculated that the Pre-Applicant's DTI was 56% or more.

Any appeal that does not meet all of the submission standards for each applicable appeal category will not be processed by NWA, and instead will be returned to the Pre-Applicant. NWA will review the Pre-Applicant's appeal materials to determine whether the Pre-Applicant's appeal package meets the standards described above.

- Pre-Applicant appeal packages that do not meet the specifications described under these Guidelines will not be reviewed by NWA. They will be returned by NWA to the Pre-Applicant along with a notification that the Pre-Applicant has been determined to be ineligible for EHLP assistance. NWA will electronically copy the CA to this notification via HLP.
- If NWA determines that a Pre-Applicant's appeal package meets the standards described under these Guidelines, it will review the Pre-Applicant's materials to determine whether Pre-Applicant's application should be reinstated.
- NWA will transmit written notification of its determination to the Pre-Applicant via overnight mail delivery service. Each such notification will be postmarked within **14 business days** from the date of receipt of the Pre-Applicant's appeal package. Each response will include NWA's finding as well as the reason(s) supporting the determination.
 - If it is determined by NWA that the Pre-Applicant's application should be reinstated, NWA will instruct the CA to complete its evaluation of the Pre-Applicant's application (if necessary), and submit the Pre-Applicant's package to the FA for processing.
 - If NWA determines that CA did not err and that the Pre-Applicant is not eligible to receive EHLP emergency assistance, NWA will notify the Pre-Applicant and CA in writing.

NWA's decision concerning each Pre-Applicant appeal is final. No further review of the Pre-Applicant's application is permitted after NWA's finding is reached.

NOTE: The EHLP requires that funds be obligated to participating Approved Applicants by September 30, 2011. In order to complete the application process required for funds obligation, HUD has determined that the last date that a completed Pre-Application can be submitted by CAs to the FA via HLP is **Thursday, September 15, 2011**. EHLP applications submitted to

HLP on September 16, 2011 or later will not be considered for eligibility. Consequently, all Pre-Applicant appeal requests must be received at NWA on or before **August 29, 2011** in order for NWA to complete its evaluation of the appeal, and return applications successful on appeal to the CA for further eligibility determination and/or submission to the FA via HLP on or before September 15, 2011.

6. Loan Approval, Execution of Loan Documents, and Initiation of Emergency Mortgage Relief Payments

This section answers the following questions:

- *What does the CA do with the Pre-Applicant's paperwork once he or she has been determined to be eligible for EHL P Emergency Mortgage Relief Payments?*
- *What role does the CA play once HUD approves of an Applicant's loan application?*

Each participating CA will be responsible for collecting and reviewing all required Pre-Applicant documentation (as specified under both **Section 3 and Section 4**), evaluating the completeness of each application package, and making the initial assessment as to whether the Pre-Applicant meets all of the EHL P eligibility requirements provided in this document. The following policies and procedures describe the steps that the CA will follow in each case where it determines that a Pre-Applicant is eligible for Emergency Mortgage Relief Payments.

A. Submission of Complete Application Packages to the FA and HUD for Review and Approval.

In each case where the CA determines that an application package is complete and that it meets all of HUD's EHL P eligibility requirements, it will submit an electronic version of the application package to HUD's EHL P Fiscal Agent (described below) via HLP for review and processing.

The point in time when a Pre-Applicant's application is submitted by the CA to the FA through HLP is when the Pre-Applicant's status changes to Applicant.

Applicant data that is collected and stored by HLP shall be made available to HUD upon request and in a format to be determined by HUD.

B. Transmittal to HUD and Loan Approval

1. Treatment of Complete Applications Deemed Eligible by FA

If the FA determines that the Applicant's application is complete, and that the Applicant meets the eligibility requirements for EHL P emergency assistance, the FA will confirm the availability of program funds. If program funds are unavailable, the FA will notify the CA, and the CA will provide written notification to the Applicant. If program funds are available, the FA will forward the Applicant's complete application to HUD for final review.

Upon review of an application, HUD will notify the FA of whether HUD has approved or rejected the application. Once HUD has approved an Applicant for Emergency Mortgage Relief Payments, the Applicant's status shall transition to Approved Applicant, and HUD will make a Loan Commitment and obligate program

funds on the Borrower's behalf. At this point, the FA will send the EHLN Note, Mortgage and Loan Description Acknowledgement to a notary public (working on behalf of the FA) for the Borrower to sign. The notary will coordinate with the Applicant a convenient time to close the loan and execute all required documentation, accounting for the date through which the confirmation of arrearages is good through. The Applicant should not delay in closing the loan and should make every effort to close the loan as soon as possible.

2. **Treatment of Incomplete/Ineligible Application Packages**

See section "8.Treatment of Incomplete/Ineligible Application Packages", below.

C. Execution of EHLN Note, Mortgage, and Loan Description Acknowledgment

Before the first Emergency Mortgage Relief Payment is made on behalf of any Approved Applicant, he or she must sign an open-ended EHLN Note and Security Instrument, as well as the EHLN Loan Description Acknowledgement (together, the "Loan Documents"). The EHLN Note will be in the name of the Secretary of HUD and will be of sufficient size to accommodate the projected amount of EHLN Emergency Mortgage Relief Payments to be provided to the Approved Applicant over the course of the maximum 24-month assistance period.

1. The FA will obtain the services of a notary public to notarize the EHLN documents and conduct the loan closing. The FA will make the necessary scheduling arrangements with the Borrower and with the notary public for this purpose. This process may involve scheduled appointments for any Approved Applicant at the CA office.
2. After the Approved Applicant executes the EHLN Loan Documents, the Approved Applicant is considered a Borrower for purposes of the EHLN.
3. Once the Borrower has signed the EHLN Loan Documents, the notary public will notarize them and shall be responsible for delivering the executed and notarized documents back to the FA.
4. Upon the execution and notarization of these documents, the status of the Approved Applicant will transition to Borrower.
5. The FA will store the Borrower's executed EHLN loan documents for the duration of the Borrower's participation in the EHLN, and will record the signed EHLN mortgage in the county where the Borrower's Mortgaged Property (Principal Residence) is located. The mortgage will be recorded as a subordinate lien to the Borrower's 1st lien mortgage (and 2nd lien mortgage, as applicable) by the FA.

D. Threshold Amounts: Reporting Changes in Borrower Income

The CA will calculate the minimum thresholds for reporting changes in Borrower's Total Current Monthly Income. These threshold amounts are:

- Amount equal to a decrease in Total Current Monthly Income **of at least 20%**;

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- Amount equal to an increase in Total Current Monthly Income that is **the lesser of (a) Borrower's Total Current Monthly Income at the time of application plus \$750, or (b) 86% of Borrower's Total Monthly Pre-Event Income.**

The CA should instruct the Borrower of the following:

- If the Borrower has participated in the EHLP for at least 4 months, then the Borrower has the opportunity to report a decrease in Borrower's Total Current Monthly Income that is equal to or greater than the amount under (a), above, and that is sustained for a period of three consecutive months, or more.
- The Borrower is **required** to report any increase in Borrower's Total Current Monthly Income that is equal to or greater than the amount under (b), above, and that is sustained for a period of three consecutive months, or more.
- The CA will provide the Borrower with this information so that the Borrower is aware of what his or her reporting responsibilities and opportunities are while he or she is receiving monthly Emergency Mortgage Relief Payments.

E. Post- Closing Housing and Finance (5b) Counseling for Borrowers

Each CA will offer to provide additional program counseling to approved Borrowers, which will occur after they have completed the EHLP closing process. While participation in the post- closing housing and finance counseling session is not a requirement, each Borrower will be strongly encouraged by the CA to take advantage of this opportunity to receive additional program guidance and other counseling services.

To conduct the post- closing housing and finance counseling session, each CA will complete the following steps:

1. The CA must review and reinforce the Borrower's rights and responsibilities for the duration of the his or her participation in EHLP, including timely payment of the Borrower's portion of the mortgage, annual recertification of income, and notification to the counseling agency if the Borrower's income increases to certain thresholds. The CA will calculate and communicate to the Borrower the change in income levels at which each individual Borrower will need to notify the CA for modification of monthly mortgage payments or for transition out of the program.
2. The CA will identify other potential resources available that may be of assistance to the Borrower, including:
 - Basic human needs, such as food or clothing pantries and utility assistance;
 - Physical and mental health resources, such as health programs, Medicaid and Medicare, maternal health, Children's Health Insurance Program (CHIP), medical information lines, crisis intervention services, support groups, counseling, drug and alcohol intervention, and rehabilitation;
 - Employment supports, such as financial assistance, job training, transportation assistance, and education programs;

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- Support for older Americans and persons with disabilities, such as adult day care, congregate meals, Meals on Wheels, respite care, home health care, transportation, and homemaker services; and
 - Support for children, youth and families, such as childcare, after school programs, Head Start, family resource centers, summer camps and recreation programs, mentoring, tutoring, and protective services.
3. The CA will develop a budget for the Borrower based on his or her expenses, debts, and available sources of income. The basis of the budget must be the CA's review of documented evidence provided by the Borrower to establish true debt obligations (e.g., credit report), monthly expenses (e.g., monthly bills and banks statements) and spending patterns, and realistic opportunities for income (e.g., returns and pay stubs). This documentation includes previously provided information (e.g. credit report) and new documentation provided at the time of the counseling session.
 4. The CA will develop a written Action Plan for follow up activities to be taken by the Borrower and review this Action Plan with the Borrower prior to execution. The National Industry Foreclosure Counseling provides guidance on what should be included in an Action Plan (See www.nw.org/nfmc for further guidance). When developing this Action Plan, it is expected that the CA will do a comprehensive analysis of the Borrower's employment and overall level of income and debt in order to recommend the best plan of action for that individual. The Action Plan should include specific goals and steps the Borrower will take in order for the Borrower to ultimately resume full mortgage payments by the program's end.
 5. The CA will also provide Borrowers who elect to participate in the post-approval counseling session with information about EHLPP hardship waiver applications. These may be submitted in cases where the required Minimum Monthly Contribution of \$150 creates a hardship for any approved Borrower.
 6. Inform the Borrower that the Borrower will be required to attend a recertification appointment before the Borrower can receive his/her 13th Emergency Mortgage Relief Payment. CA should inform the Borrower of the approximate month that CA will contact the Borrower to schedule the Borrower's recertification appointment. CA inform Borrower that Borrower should contact the CA if Borrower has not scheduled his/her recertification appointment by [Insert Month/Year 12 months].

F. EHLPP Hardship Waiver

One strong incentive that CAs will provide to Borrowers regarding post-approval (5b) counseling will be to tell Borrowers that Hardship Waiver information will only be provided to those Borrowers who attend such counseling sessions.

Initial Hardship Waiver Application

As a condition of receiving emergency assistance under the EHLP, Borrowers must make a monthly required Homeowner Contribution Payment (HCP). HUD requires the HCP to be the **greater of \$150 or 31 percent of the Borrower's current monthly Income** when the Borrower is approved for the program.

If a Borrower's financial circumstances meet certain conditions at the time of a 5b counseling session or later, the counseling agency may approve a Hardship Waiver for that Borrower, which would reduce the Borrower's HCP to the greater of \$25.00 or 31 percent of the Borrower's current monthly Income. Borrowers who do not participate in a 5b counseling session permanently forego the opportunity to apply for a Hardship Waiver.

A Borrower may be approved for a Hardship Waiver if the Borrower can demonstrate that he or she has experienced any of the following three conditions:

- **Expiration of unemployment benefits.**
 - Supporting Documentation:
 - (1) Borrower must submit a copy of the written notice from the applicable state agency indicating that Borrower's unemployment benefits have been exhausted or have expired; and
 - (2) Borrower must complete and sign the Hardship Waiver Affidavit, available through NWA. .
- **Self-employed, sustained income reduction.** Eligibility under this criterion is limited to Borrowers who initially qualified for EHLP emergency assistance based on a reduction in **self-employment** Income, and who have not received unemployment benefits. Such self-employed Borrowers are eligible for a Hardship Waiver if the initial reduction in self-employment Income that the Borrower reported at the time of application has been sustained for 12 consecutive months (the 12 month calculation should begin with the date the Borrower first experienced the unemployment or underemployment as stated in their application affidavit).
 - Supporting Documentation: The Borrower must complete and sign both the Hardship Waiver Affidavit and the Self-Employed Sustained Income Reduction Affidavit, available through NWA. The Self-Employed Sustained Income Reduction Affidavit will include certifications that:
 - (1) Borrower has not received unemployment benefits in connection with the event of unemployment or underemployed that Borrower reported as the basis for receiving EHLP emergency assistance; and
 - (2) Borrower's reduction in self-employment Income has been sustained for at least 12 consecutive months.
- **Increase in out of pocket medical expenses.** In addition to the unemployment or underemployment event that initially qualified the Borrower for emergency assistance, the Borrower experiences an increase in out of pocket medical expenses at an average of \$125 per month or more over three months or more because he or she, his or her spouse, and/or one or more of his or her dependents experiences a medical emergency.

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- Supporting Documentation: The Borrower must provide all of the following:
 - Payment stubs, canceled checks, or money order receipts from his or her health insurance provider (e.g. Blue Cross, Blue Shield, AARP) (if any); and
 - Hospital and/or doctor bills for the 12 months prior to his or her application for a Hardship Waiver (if any);
 - Copies of any payment agreements for related medical bills that have not yet been paid (if any); and
 - A completed and signed Hardship Waiver Affidavit, available through NWA.

Evaluation of Hardship Waiver Applications

CAs will evaluate all Hardship Waiver applications using the criteria described above at the time of 5b counseling or at the request of the Borrower post-5b counseling. Borrowers who elect NOT to participate in a 5b counseling session with their housing counseling agency forego the opportunity to apply for a Hardship Waiver.

Approval of Hardship Waiver Application

Each Borrower whose application meets these criteria will be approved for a Hardship Waiver by the CA. Upon approval of a Hardship Waiver, the CA will contact the FA via HLP to inform the FA that the Borrower has been approved for a Hardship Waiver, and consequently, the Borrower's required HCP has been reduced to the greater of either **31 percent of the Borrower's current monthly Income** or **\$25.00**. The FA will subsequently transmit a Change in Assistance Notice to the Borrower confirming the Borrower's new HCP, as well as the increased amount of Emergency Mortgage Relief Payments to be made on the Borrower's behalf, as well as the Borrower's revised Assistance Period, as applicable.

While the approval of a Hardship Waiver will not affect the total amount of the Borrower's approved emergency assistance, it will require an increase in the amount of the monthly Emergency Mortgage Relief Payment provided by HUD on the Borrower's behalf. As a result, a Borrower's Hardship Waiver may reduce the total number of months of a Borrower's Approved Assistance Period and/or the total amount of funds available for payment of the Borrower's final Emergency Mortgage Relief Payment.

Duration of Hardship Waiver and Possibility of Extension at Recertification

If a Borrower is approved for a Hardship Waiver during the first 12 months of Borrower's Approved Assistance Period, the Hardship Waiver is valid up to the date of the Borrower's eligibility recertification. Borrowers receiving the benefit of a Hardship Waiver remain subject to the EHLP mandatory reporting requirements, described in Section 8. At the time of Borrower's 12-month eligibility re-certification, the CA will reevaluate the Borrower's eligibility for a Hardship Waiver extension.

NOTE Regarding **Borrower Fraud**: If HUD (including a CA or the FA) finds that a Borrower has willfully or knowingly provided incomplete, incorrect, or misleading information in applying for this Hardship Waiver, and/or willfully or knowingly did not report additional sources of income, HUD requires that the Borrower's Emergency Mortgage Relief Payments be suspended. Pending the outcome of any appeal filed by the Borrower, the assistance may be terminated, and HUD may pursue any applicable civil or criminal remedy, including those remedies provided for under the terms of the Borrower's EHLPL loan documents.

8. Treatment of Incomplete/Ineligible Application Packages

The FA shall return any incomplete/ineligible application packages to the CA via HLP with a notation describing the reason(s) why the package is not acceptable and/or the Applicant is otherwise ineligible when the FA concludes that:

- A. The documents in the application packages forwarded from the CA are not complete; and/or
- B. The title search indicated that the property is either in someone else's name; and/or
- C. The information obtained during the title search does not match information provided in The application package; and/or
- D. The Applicant does not otherwise meet eligibility criteria for Emergency Mortgage Relief Payments.

If the application is returned by the FA under standards B, C, and/or D, above, the FA determination is final. If the application is returned by the FA under standard A, above, and the CA determines that the omission was the result of clerical error, the CA will rectify the error and resubmit the application to the FA via HLP. If the application is returned by the FA under standard A, above, and the CA determines that the omission was not the result of clerical error, then the CA will notify the Applicant in writing via certified mail, and, at the CA's discretion, verbally or via email or fax, that: (1) the Pre-Applicant may provide the missing documentation; (2) if the Pre-Applicant does not submit the required documents or clarifying information the Pre-Applicant's application package will not be forwarded to the FA for review; (3) the Pre-Applicant may also be deemed ineligible due to either lack of time to process any additional information and/or unavailability of funding; and (4) the final program deadline for the submission of any and all additional information and supporting documentation in response to any such request is **Thursday, September 15, 2011**. This applies to all Pre-Applicants.

Appeal of FA Determination of Ineligibility

There is a higher standard that HUD sets in order for an Applicant to file an appeal in response any instance where the FA determines an Applicant to be ineligible. In addition to the documents submitted by the Pre-Applicant and that person's credit report, the FA will also conduct a title run-down and receive information directly from the Applicant's mortgage servicer. Therefore, because these criteria can be verified and documented independently by the FA, the following eligibility categories **are not appealable**:

- **Delinquency/imminent risk of foreclosure.**
- **Number of 60-day late payments on 1st, and, as applicable, 2nd lien mortgages in 12 months prior to Pre-Applicant's becoming unemployed/underemployed.**

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- All of these criteria will be confirmed directly by the FA through the Applicant's servicer.
 - **NOTE:** With regard to **total number of 2nd lien delinquencies**, the Applicant can still appeal this to HUD as the FA will not have contact with the Applicant's 2nd lien servicer (except in cases where one servicer holds both of an Applicant's mortgages).
 - **Foreclosure sale scheduled to occur on or before August 22, 2011.** If any such sale has not been canceled or postponed by the time that the FA requests the Applicant's reinstatement amount from his or her servicer, or if his or her servicer otherwise refuses to cancel or postpone the foreclosure sale in order to facilitate the EHLP application process, the Applicant cannot receive EHLP emergency mortgage assistance.
 - **Principal residence**
 - **Total number of recorded liens**
 - **Federal lien(s), flood insurance**
 - All of these criteria will be reviewed and confirmed by the FA through the rundown of the Applicant's property title.

Determinations of ineligibility that are based on any of the other program criteria can be appealed by the Applicant according to the appeals package submission standards described under "Appeal of Decision Concerning Pre-Applicant Eligibility" in **Section 4, except that Applicant appeals of FA determinations of ineligibility are sent directly to HUD's Office of Housing Counseling.** The deadline for the submission of Applicant appeals to HUD's Office of Housing Counseling is **Monday, August 29, 2011.** Due to statutory deadline for obligation of funds to Borrowers, all HUD determinations shall be final, and the Applicant will not have the opportunity to further appeal his or her application if found ineligible by HUD.