



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF POLICY
DEVELOPMENT AND RESEARCH

August 11, 2011

MEMORANDUM FROM: Todd M. Richardson, Project Director, EHL P
TO: NeighborWorks® America
SUBJECT: Summary of Revisions to Emergency Homeowners' Loan Program
(EHL P) Counseling Agency (CA) Guidelines

Per our recent conversations, and in order to assist the EHL P CAs in the rapid incorporation of changes that HUD has made to certain EHL P policies and procedures, the following summary is provided describing recent revisions to the CA Guidelines document. This summary includes a description of previous policies, a description of the current policies, and the effect that any such changes will have upon the procedures and methodologies that the EHL P CAs are to employ while processing program applications. More detail can be found in the CA guidelines.

Pre-Event Income

- **Previous Policy:** This figure was calculated based upon the 2009 Adjusted Gross Income of the Pre-Applicant and all other persons named on the Pre-Applicant's first lien mortgage (with exception for Puerto Rico).
- **Current, Revised Policy:** Pre-Event Income is required to be the income from a time prior to unemployment or underemployment. To calculate this, HUD has determined that if a borrower became unemployed or underemployed in 2010 or 2011, that pre-event income is based on 2009 Adjusted Gross Income of all persons listed on the mortgage.

However, if the borrower became unemployed in 2009, the CA is to use the 2008 Adjusted Gross Income of all persons listed on the mortgage.

Pre-Applicants who became unemployed or underemployed prior to January 1, 2009 are not eligible for EHL P emergency assistance. HUD believes that Pre-Applicants who became unemployed or underemployed prior to January 1, 2009 are not reasonably able to resume full monthly mortgage payments after EHL P assistance has ended. (The Bureau of Labor Statistics show that 89 percent of persons return to the workforce in less than 53 weeks.)

Not required to submit a tax return. 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 (e.g., 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 in lieu of a completed tax return:

1. Form(s) W-2 from that tax year (if any); and
2. A completed and signed "Exempt From Federal Tax Return Filing Requirement" Affidavit (provided to CAs by NWA).

The counselor will add the W-2 wage income for the Pre-Applicant and/or any other individual named on the Pre-Applicant's 1st lien mortgage loan documents (Co-Applicant) to the Adjusted Gross Income for the Pre-Applicant's overall pre-event income figure.

Couples Filing Jointly:

- **Previous Policy:** In cases where a Pre-Applicant/Applicant and his/her spouse have filed their federal income tax return jointly, but where his or her spouse is NOT named on the 1st lien mortgage, the income of the Pre-Applicant's/Applicant's spouse will still be calculated for purposes of evaluating program eligibility under this criterion. In other words, the earnings of any spouse who is not a co-mortgagor but whose income is reported under an income tax return that is filed jointly with his or her mortgagor spouse will not be separated out for purposes of calculating a Applicant's income under this criterion.
- **Current, Revised Policy:** Limited Exception: Married Filing Jointly - 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.

Ability to Resume Payments:

- **Previous Policy:** HUD presumes that if a Pre-Applicant was able to make their payments prior to their unemployment or underemployment that they will be able to resume payments after they resume employment. To estimate this, the previous policy was to look at a Pre-Applicant's credit report and if they had fewer than two 60 day late payments in the 24 months of 2008 or 2009 on their first or second mortgage, they were found eligible. If they failed this test, then the Pre-Applicant would need to meet the test of current debt to pre-event monthly income ratio of 0.55 or less.
- **Current, Revised Policy:** The current policy is revised such that the borrower is deemed eligible if they have fewer than two 60 day late payments on their first mortgage and/or second mortgage (you are allowed one 60 day late on each) in the **12 month** calendar year *prior* to the unemployment or underemployment event. Specifically, if a borrower became unemployed or underemployed in 2011, they are deemed eligible if they have fewer than two 60 day late payments on their first mortgage and/or second mortgage during the 12 months of calendar year 2010. If they became unemployed or underemployed in 2010, they

are deemed eligible if they have fewer than two 60 day late payments on their first or second mortgages during the 12 months of calendar year 2009. If a borrower became unemployed or underemployed in 2009, they are deemed eligible if they have fewer than two 60 day late payments on their first or second mortgages during the 12 months of calendar year 2008. Borrowers that became unemployed or underemployed in 2008 or earlier are ineligible for EHLP assistance.

Consistent with existing policy, if they fail the payment history test, then the Pre-Applicant would need to have a debt to pre-event monthly income ratio of 0.55 or less to qualify.

“First Eligible, First Offered”:

- **Previous Policy:** CAs participating in the random Pre-Applicant selection process were required to first schedule application appointments with Pre-Applicants named on the Select List. No appointments were to be scheduled with Waiting List Pre-Applicants unless or until any Select List Pre-Applicants were first deemed to be ineligible for program assistance.
- **Current, Revised Policy:** HUD estimates that there is adequate funding to serve all of the likely eligible applicants from the approximately 43,000 Pre-Applicants that passed the initial screen. As a result, the limits HUD had placed on application processing are not needed. Agencies can adopt a “first eligible, first offered” (FEFO) application process as follows:
 - Agencies 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.
 - Beginning August 15th, agencies may notify 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 “selected” 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 with additional documentation/information and that funding may no longer be available.
 - For agencies that have received pre-application screening worksheets in numbers that exceed their ability to process them in a timely manner, NeighborWorks should encourage those agencies to transfer excess Pre-Applicants to agencies with excess

capacity. In addition, NeighborWorks should help facilitate these transfers by identifying agencies that have indicated capacity to process the Pre-Applicants.

Hardship Waivers:

- **Previous Policy:** No such policy previously.
- **Current, Revised Policy:** At the time of 5b counseling, approved Borrowers paying the \$150 minimum may submit an application for a Hardship Waiver in order to request a reduction in their required minimum Housing Contribution Payment to the greater of \$25 or 31% of their current income. The hardship waiver is allowed in limited circumstances, including expiration of unemployment benefits and significant out-of-pocket medical costs.

In order to be eligible to first submit this application, a Pre-Applicant must participate in the post-loan approval counseling session (5b) with his or her CA. Hardship Waiver criteria and procedures are described in the revised CA Guidelines.

Trial Mortgage Modifications:

- **Previous Policy:** Pre-Applicants participating in any public¹ or proprietary loan modification program were deemed ineligible for assistance under the EHLP.
- **Current, Revised Policy:** Pre-Applicants/Applicants whose 1st lien mortgage has been temporarily modified (“trial modification”) and reduced under any public or proprietary loan modification program **and** who meet EHLP eligibility requirements can apply for assistance under the EHLP while they are participating in the trial modification. However, homeowners cannot simultaneously participate under both types of mortgage relief programs. Any Pre-Applicant/Applicant who is approved to receive EHLP Emergency Mortgage Relief Payments is required to decide which mortgage assistance option they will exercise, either EHLP or their current payment modification. If they are approved for EHLP they will be required to exit their trial modification prior to closing the EHLP loan. Pre-Applicants should continue to participate in their trial modification until they have received a commitment from HUD.

First Lien Home Equity Line of Credit:

- **Previous Policy:** No such policy previously.
- **Current, Revised Policy:** If a Pre-Applicant’s 1st lien mortgage is a Home Equity Line of Credit (HELOC), he or she is still eligible to apply for and receive program assistance, so long as he or she meets all other EHLP eligibility requirements. If the Pre-Applicant’s application is determined eligible by the CA, the FA will be required to ensure that the Applicant’s Servicer has closed the HELOC and will not otherwise allow the Applicant to access to the line of credit for the life of EHLP assistance and payback period.

¹ Making Home Affordable: <http://www.makinghomeaffordable.gov/programs/lower-payments/Pages/default.aspx>

Foreclosure Sales:

- **Previous Policy:** Any Pre-Applicant whose servicer had scheduled a foreclosure sale for his or her principal residence on or before August 22, 2011, was ineligible for assistance under the EHLF. Pre-Applicants were required to certify as to whether a foreclosure sale is scheduled within 30 days of the date of their application appointment.
- **Current, Revised Policy:** Pre-Applicants whose homes are scheduled to be auctioned at foreclosure sale on or before August 22, 2011, remain ineligible to apply for the EHLF. However, HUD has authorized CAs provide such Pre-Applicants with the opportunity to request that the Pre-Applicant's Servicing Institution postpone, cancel, or otherwise put the scheduled sale on hold while the Pre-Applicant's EHLF application is evaluated for eligibility.. If the Pre-Applicant's Servicing Institution elects, at its discretion, to grant any such request, the Pre-Applicant in question is no longer ineligible under this criterion.

HUD has removed the certification related to foreclosure sale date from both the Pre-Applicant and Co-Applicant Certification Statements.

Student Loan Delinquencies:

- **Previous Policy:** Pre-Applicants are ineligible for EHLF Emergency Mortgage Relief Payments if they are delinquent on the payment of any debts owed to the United States federal government, including student loans.
- **Current, Revised Policy:** Borrowers should obtain deferment or forbearance on a delinquent federal student loan before submitting their application and include a copy of the deferment or forbearance documentation with the credit report that is uploaded into CounselorMax or HLP.

Increased Borrower Income Reporting Triggers:

- **Previous Policy:** Borrowers are required to report an increase in their monthly Income if any such increase results in: A 50%-or-greater decrease in the amount of monthly Emergency Mortgage Relief Payments; **OR** the restoration of more than eighty-five percent (85%) of the Borrower's pre-event Income; **OR** A reduction of the Borrower's Emergency Mortgage Relief Payments to \$0.00.
- **Current, Revised Policy:** Borrowers are required to report an increase in their monthly Income if: (1) the increase has occurred for a period of at least 90 calendar days (3 consecutive months); **AND** (2) the Borrower's increased monthly Income equals the **LESSER** of either **\$750** greater than the Borrower's post-event monthly income; **OR** **greater than 85%** of the Borrower's pre-event Income (HUD will provide actual dollar amount for the Borrower's reference on the Borrower's Commitment Letter, Loan Description Acknowledgment, and monthly EHLF HCP statement).

Decreased Borrower Income:

- **Previous Policy:** Borrowers were required to report a decrease in income to their CA based upon specified criteria.
- **Current, Revised Policy:** Borrowers are no longer required to report a reduction in income in order to remain eligible for ongoing program assistance. However, if a Borrower does choose to report this change in order to request a modification in his or her monthly assistance and minimum contribution payment, his or her decreased income must meet the following criteria:
 - The Borrower's current (post-event) monthly income decreases by a minimum amount of **20%**; **AND**
 - The decrease has occurred for a period of at least 90 calendar days (3 consecutive months); **AND**
 - The Borrower has participated in the program for a minimum of **4 months**.

Bankruptcy:

- **Previous Policy:** Pre-Applicants/Applicants are ineligible for EHLPP Emergency Mortgage Relief Payments if any of his or her personal and/or business-related debts are currently being discharged through bankruptcy proceedings.
- **Current, Revised Policy:** Pre-Applicants are ineligible for EHLPP 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)") has personal and/or business-related debts currently being discharged through bankruptcy proceedings as of the date of their application appointment.

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 EHLPP emergency assistance.

Unemployment and Underemployment Letters:

- **Previous Policy:** All Pre-Applicants were required to submit a termination letter, except for self-employed Pre-Applicants and Pre-Applicants whose previous employer was no longer in business, who are instead required to submit the applicable Unemployment Affidavit.
- **Current, Revised Policy:** Any Pre-Applicant who is unable to obtain a termination letter from his/her previous employer may complete and sign the applicable Unemployment Affidavit, which requires, among other things, certification that the Pre-Applicant attempted to obtain the required termination letter, and was unable to do so.