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NOTE: Based on feedback from counseling agencies on the major sources of ineligibility determination, HUD has made the changes below as of 8.22.11. For more information on these changes, please see the announcement posted to the NFMC member site regarding the "Eligibility Criteria Changes for EHL P – 8.22.11".

1) Amount of Assistance: Maximum Need Cap. Pre-Applicants are eligible if Delinquent 1st Mortgage arrearage amount + 1 full monthly mortgage payment + 10 subsidized monthly mortgage payments (monthly mortgage payment amount minus expected monthly Homeowner Contribution Payment amount) is less than or equal to \$50,000.

2) Current Income for Substantial Reduction in Income Test. For current income, substantial reduction in income (difference between Pre-Event and current Income) will be calculated using the lesser of: (1) Combined 2010 AGI of all persons on the 1st lien mortgage and/or note *; and (2) Combined (all persons named on 1st lien mortgage and/or note) total of (a) self-employed and rental income, alimony dividend and interest (from 2010 tax return); and (b) wages, unemployment, disability/SSI, pensions/annuities/retirement plans and TANF (from previous four weeks).

* There are special rules: (1) for persons who were exempt from the Federal filing requirement in 2010, and did not file in 2010, and (2) for persons who are married filing jointly, with a spouse that is not named on the Pre-Applicant's first lien mortgage loan documents. CAs should carefully review the HUD memo explaining the most recent changes, and the forthcoming Guidelines Supplement.



Loss of Income

- **Is a loss of income due to the death of a spouse considered an eligible loss of income even though it is not is not unemployment or underemployment?**

A. *No, loss of income due to the death of a spouse is not an eligible event. EHL P emergency assistance is only available to homeowners who became involuntarily and temporarily unemployed or underemployed in 2009, 2010, or 2011, and have, as a result of that unemployment or underemployment, experienced a substantial reduction in income.*

- **How should the income of retired individuals be treated? For example, many households have another source of income in addition to Social Security income (i.e. retirement account, investments). These sources of income may have been reduced due to the economy, but they are not technically underemployed or unemployed. Could these households be eligible? What sort of documentation would be needed?**

A. *No, a reduction in retirement sources of income is not an eligible event. EHL P emergency assistance is only available to homeowners who became involuntarily and temporarily unemployed or underemployed in 2009, 2010, or 2011, and have, as a result of that unemployment or underemployment, experienced a substantial reduction in income.*

- **If a homeowner has fallen behind on their primary residence mortgage and experienced a 15% decrease in income due to a loss of rental income on a different property, can they be eligible for EHL P? Would this fall under the classification of “self-employment”?**

A. *Generally no, a reduction in non-primary residence rental income is not an eligible event. EHL P emergency assistance is only available to homeowners who became involuntarily and temporarily unemployed or underemployed in 2009, 2010, or 2011, and have, **as a result of that unemployment or underemployment**, experienced a substantial reduction in income.*

The only exception is for self-employed homeowners whose unemployment or underemployment resulted from the loss of rental income (e.g., small business owner whose business was maintaining rental properties, etc.).

- **Does the medical condition have to be that of one of the homeowners named on the mortgage or can it be a medical condition of a minor child that increased medical expenses and care expenses?**

A. *Yes, the medical condition, for purposes of EHL P eligibility, must have been experienced by the Pre-Applicant, and the Pre-Applicant must be named on the 1st lien mortgage loan documents (note and/or mortgage). A medical condition of a minor child is cannot constitute the event of becoming unemployed or underemployed as the result of economic conditions or medical condition.*

EHL P emergency assistance is only available to homeowners who became involuntarily and temporarily unemployed or underemployed in 2009, 2010, or 2011, and have, as a result of that unemployment or underemployment, experienced a substantial reduction in income.



- **If a Pre-Applicant had a reduction in income due to a loss of child support after his or her former spouse became unemployed/underemployed, could that situation be eligible? Does it make any difference if the child support is court-ordered or not?**
 - A. *No, loss of child support resulting in a substantial reduction in income cannot constitute the event of becoming unemployed or underemployed as the result of economic conditions or medical condition. EHLPEmergency assistance is only available to homeowners who became involuntarily and temporarily unemployed or underemployed in 2009, 2010, or 2011, and have, as a result of that unemployment or underemployment, experienced a substantial reduction in income.*

- **Is someone who received the full amount of unemployment (unemployment was part of 2009 AGI) and is now receiving public assistance eligible?**
 - A. *It depends. The Pre-Applicant must have lost his/her job, or had his/her hours reduced in 2009, 2010, or 2011 because of economic condition or medical emergency. A reduction in government assistance is not in itself an eligible event. The individual will need to be able to document the underemployment or loss of employment.*

- **If one of the people listed on mortgage is deceased, would a Pre-Applicant have to submit documentation that a person is deceased, since they won't be able to provide required info for all the people on the mortgage?**
 - A. *Yes, if the deceased individual is still listed on the 1st lien mortgage loan documents (the note and/or the mortgage) the Pre-Applicant (the individual who became involuntarily and temporarily unemployed or underemployed and consequently experienced a substantial reduction in income) must submit the death certificate of that individual, or complete and sign the Individual Listed on Mortgage Documents Deceased EHLPEffidavit, available through NWA.*

- **Many self-employed borrowers have tax returns with zero or negative AGI. For those borrowers it is impossible to show a 15% reduction in the current income when you're comparing zero.**
 - A. *A Pre-Applicant with zero or negative Pre-Event AGI, as reported on the Pre-Applicant's 2008 or 2009 (whichever is applicable) tax return is ineligible for EHLPEmergency assistance. Zero or negative current income may be included in the calculation of a Pre-Applicant's current income.*

Income Calculations

- **(UPDATED 8.22.11) When calculating CURRENT Income, is it a Year-to-date average?**
 - A. *No, current income is calculated based upon the Pre-Applicant's most recent consecutive four weeks of income.* The EHLPE Guidelines provide the following methodology:*
 - i. *Calculating Current Monthly Income: For each person (including the Pre-Applicant), current monthly income is the sum of –*
 - a. **Wages/Salary:** *Using paystubs from the most recent month or 4 weeks, annualize that income and divide by 12. For example, if bi-weekly pay stubs, sum the two pay stubs (covering 4 weeks), multiply times 13, and divide by 12.*
 - b. **Unemployment:** *Using unemployment payments from the most recent month, annualize the unemployment payments and divide by 12.*



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- c. **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 .
- d. **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.
- e. **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.
- f. **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.

*** BUT, for the substantial reduction in income test, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return). This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.**

- **Given the various forms that Pre-Applicant pay stubs may take, what is the proper methodology that should be used for calculating a Pre-Applicant's current monthly income?**
 - A. *The methodology to be employed is as follows:*
 - *Once-monthly Paycheck (one paycheck in 4-week period): No calculation needed. The gross income under this form of payment equals the Pre-Applicant's current monthly income.*
 - *Bi-Weekly Paycheck (two paychecks in 4-week period): Sum the gross income from the two pay stubs. Multiply this amount by 13. Divide this amount by 12. This final amount equals the Pre-Applicant's current monthly income.*
 - *Once-weekly Paychecks (four paychecks in 4-week period): Sum the gross income from the four pay stubs. Multiply this amount by 13. Divide this amount by 12. This final amount equals the Pre-Applicant's current monthly income.*
- **When calculating CURRENT Income for Self Employed, what is required, and how is it calculated? A year to date P&L would leave too much open to someone creating a simpler document just to qualify. It would make more sense to go back to 2010. For the gross income calculations, should it be based on total revenue before business expenses are deducted or do they use the net profit as the household's gross income?**
 - A. *All Pre-Applicants and Co-Applicants (if any) are required to submit their completed 2010 IRS 1040, or their completed 2010 IRS 1040 EZ, as applicable. Each self-employed, 1099, and seasonally employed Pre-*



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Applicant/Co-Applicant's current income is determined by using that person's 2010 Adjusted Gross Income (AGI) reported on Line 37 of the IRS 1040, and Line 4 of the IRS 1040 EZ.

Puerto Rico Tax Forms: Self-employed Pre-Applicants who are residents of Puerto Rico will submit their 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 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 2010 Form 481 ("Short Form") income tax returns. Adjusted gross income is recorded on page 1, Line 4.
 - The first two pages of all completed 2010 IRS Form 1040-PR and IRS 1040-SS income tax returns. Adjusted gross income (AGI) is reported on Line 27 of Part IV, Profit or Loss from Business (Sole Proprietorship).
- **If the self-employed person's business is a corporation is there any need for the corporation's tax return in determining 2009 income?**
 - A. No. Any corporate earnings that the Pre-Applicant is claiming as income would be documented as part of the Pre-Applicant's AGI on his/her individual tax return.
 - **If a homeowner is self-employed and their monthly financial statement does not agree with their tax return due to the depreciation schedule, how should the counseling agency advise the homeowner?**
 - A. Each self-employed Pre-Applicant/Co-Applicant's current income is determined by using that person's 2010 Adjusted Gross Income (AGI) reported on Line 37 of the IRS 1040, and Line 4 of the IRS 1040 EZ.
 - **Is there a conflict with comparing 2008 or 2009 Adjusted Gross Income to current gross income?**
 - A. ~~No, there is not a conflict. HUD is aware that comparing a Pre-Applicant's 2008 or 2009 Adjusted Gross Income to his or her current income is not a direct "apples to apples" comparison. However, in the Department's best judgment, the current approach is reasonable.~~ **SEE HUD'S REVISED POLICY ON THIS ISSUE DATED 8.22.11.**
 - **(NEW 8.22.11) Do I use current Income or Pre-Event Income to calculate DTI?**
 - A. Pre-Event Income (2008 or 2009, as applicable, combined AGI of the Pre-Applicant and all Co-Applicants (if any)).
 - **(NEW 8.22.11) NOTE: This is a correction of a previously released FAQ Can we adjust Pre-Event income if AGI is high because of a one-time event (e.g., liquidated annuity/retirement account, sold a business or other property, received a disability settlement, etc.)?**
 - A. No. Each Pre-Applicant is subject to the same standard for determining Pre-Event (prior to the Pre-Applicant's becoming temporarily and involuntarily unemployed or underemployed due to economic condition or medical condition) Income. Pre-Event Income is the total combined Pre-Event AGI of each



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individual named on the Pre-Applicant's 1st lien mortgage loan documents (mortgage and/or note), as recorded on the individual's 2008 or 2009 tax return (whichever is Pre-Event)¹.

- **How should rental income be calculated for EHLPE homeowners? Typically, when underwriting homeowner income to set budgets, affordability, etc., counselors only count 75% of rental income. Is there a similar practice with EHLPE?**
 - A. No, there is no similar practice for EHLPE for the evaluation of income from rental holdings. For current income, the CA is required to document the rental income reported on the Pre-Applicant/Co-Applicant's 2010 Federal tax return.

- **What is the methodology for calculating current income for small business owners? Will they need to submit a six or three month profit and loss statement?**
 - A. If the small business owner is self-employed or has 1099 income, his/her current income is determined by using that person's 2010 Adjusted Gross Income (AGI) reported on Line 37 of the IRS 1040, and Line 4 of the IRS 1040 EZ. All other small business owners are evaluated based on the regular current income documentation requirements.

- **Are households with zero or negative 2010 AGI and no other income ineligible because they cannot demonstrate they can afford \$150/month homeowner contribution?**
 - A. Pre-Applicants with No Second Mortgage/HELOC. No, the Pre-Applicant is not disqualified based on a current Income that is less than \$150. But, if approved for the EHLPE, the Pre-Applicant will remain responsible for making the required monthly Homeowner Contribution Payment (at minimum \$150, or, if approved for a hardship waiver, \$25²) for the duration of his/her assistance. Failure to make the required monthly Homeowner Contribution Payment is an event of default under the EHLPE loan documents, and will result in termination of assistance. Pre-Applicant's may have other sources of funding (savings, family, etc.) that could be used to make the required monthly Homeowner Contribution Payment.

 - Pre-Applicants with a Second Mortgage/HELOC. Yes, a Pre-Applicant with a Second Mortgage/HELOC is ineligible for EHLPE emergency assistance if his/her current Income (combined current income of all persons named on 1st lien mortgage loan documents (mortgage and/or note)) is less than \$150.

- **(NEW 8.22.11) If a homeowner received or receives income from non-taxable or partially-taxable sources, should the full amount or the "taxable" amount be used for purposes of determining pre-event income and current income?**
 - A. For Pre-Event Income, the EHLPE requires the use of the homeowner's AGI as reported on his or her tax returns (2008, or 2009, as applicable). For current Income (except for Puerto Rico residents and self-employed), the EHLPE requires that the CA evaluate wages, unemployment, disability/SSI, pensions/annuities/retirement plans, and TANF (CA guidelines provide more detail).

¹ Except in the case of (1) Pre-Applicants or Co-Applicants who are married filing jointly, with a spouse that is not named on the 1st lien mortgage loan documents; and/or (2) Co-Applicants who were exempt from the Federal tax return filing requirement in the Pre-Event year, and who did not file a tax return in that year. See Counselor EHLPE guidelines for more information.

² See Counselor Guidelines for a description of how the required monthly HCP is calculated, both initially, and in the event of a Hardship Waiver, and for a description of eligible Hardship Waiver events.



BUT, for the substantial reduction in income test, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return). This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.

- **(NEW 8.22.11) If a Pre-Applicant or Co-Applicant has 1099 income that has decreased each year since 2009, can we show his 1099's from 2010 as pre-event income and his current year to date 1099 income as his current income?**
 - A. *No. Individuals with 1099 income are evaluated for the EHLPE using the documentation requirements established for self-employed persons. Therefore, for 1099 income earners, current income for self-employed individuals is 2010 AGI, as reported on that person's 2010 Federal tax return. This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.*

- **(NEW 8.22.11) For current income, are we required to include all sources of income?**
 - A. *The CA determines current income (except for self-employed and rent, alimony, and dividend and interest) by evaluating wages, unemployment, disability/SSI, pensions/annuities/retirement plans, and TANF for the prior month. Income from self-employment and rent, alimony, and dividend and interest income comes from the 2010 1040 tax return (in Puerto Rico, the state tax return).*

BUT, for the substantial reduction in income test, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return). This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.

- **(NEW 8.22.11) Is there any exception for a person whose type of employment cannot provide a reliable current monthly income figure using the regular documentation requirements? For example, seasonal workers, seasonal employment, 1099 income earners?**
 - A. *Yes. If the CA determines that the person's employment is seasonal (the CA reasonably believes that the person's wages/income stream fluctuates by more than 50% based on the time of year because of the character of the employment), the CA may input into the monthly wage field of CounselorMax or HOPE LoanPort the person's current income by using that person's 2010 AGI (or equivalent in Puerto Rico), as reported on that person's 2010 Federal tax return divided by 12. This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.*

- **(NEW 8.22.11) Should an individual complete a profit and loss statement for undocumented income - for example odd jobs such as landscaping/self employment?**
 - A. *No. Profit and loss statements are not part of the EHLPE application process. Self-employed persons (and persons with 1099-reported or seasonal employment) are subject to a different income documentation*



requirement than other individuals. For current Income reporting requirements, see the EHLPE Counseling Agency Guidelines at pp.14-17, as well as the supplement dated [August 11, 2011]. For Pre-Event Income reporting requirements, see the Guidelines at pp.17-18.

PLEASE NOTE, for the substantial reduction in income test, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return). This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.

- **(NEW 8.22.11) How do I calculate a person's current income who has recently regained employment?**
A: The EHLPE requires the last four weeks of pay stubs, if any (except for self-employed persons, 1099 income earners, and persons with seasonal employment – see previous Q&A). The recently re-employed person should provide whatever pay stubs exist for the past four weeks.

PLEASE NOTE, for the substantial reduction in income test only, the CA will compare Pre-Event Income (combined 2008 or 2009 AGI, whichever is Pre-Event) to the lesser of: (a) 2010 combined AGI (of all persons on the 1st lien mortgage loan documents); and, (b) the combined current income (of all persons on the 1st lien mortgage loan documents) based on the regular current income calculation (e.g., pay stubs, unemployment checks, disability/SSI checks, and self-employment wages and rental income from 2010 tax return). This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.

Loan Payments, Escrows, Servicers

- **(UPDATED 8.22.11) What is used as the current mortgage payment?**
A. The arrearage amount (the current mortgage payment amount due at the time of EHLPE application) is the sum of all principal, interest, taxes, insurance, and foreclosure related fees, owed directly to the homeowner's Servicing Institution (taxes and insurance may be escrowed, or may have been paid by the Servicing Institution as a capital advance).

The monthly mortgage payment amount is the regular monthly mortgage payment amount that would be due on a monthly basis if the 1st lien mortgage was not currently delinquent. It includes the monthly amount of principal, interest, taxes and insurance (escrowed) owed directly to the Servicing Institution.

- **If homeowners don't have escrows when the loan is approved, can they add escrows anytime in the two years and then have them included in the benefit payments?**
A. Yes. However, there is no guarantee that additional EHLPE funds will be available to the Borrower. The escrowed expenses would require HUD to pay a greater amount in monthly assistance. If no new funds are made available to the Borrower, the amount of assistance obligated by HUD for the Borrower would not change. Consequently, the escrowed expenses may reduce the duration of the Borrower's Approved Assistance Period, and/or reduce the amount of the last assistance payment provided by HUD. Further, the



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Borrower remains subject to the EHLPEmergency assistance amount (\$50,000) and duration (24 consecutive months).

- **Homeowner is behind 2.5 yrs on property taxes. Can that be included into his loan? Taxes and insurance are not escrowed now, but guidance says payment will be based on PITI, so I assume taxes and insurance will be escrowed?**
 - A. *EHLPEmergency assistance may only be used to pay arrearages owed directly to the homeowner's Servicing Institution. EHLPEmergency funds may only be used to pay non-escrowed PITI arrearages if the Servicing Institution has paid the arrearage through capital advance.*

- **Can homeowner's association dues be covered in the loan? What if the HOA forecloses?**
 - A. *EHLPEmergency assistance is only available for the payment of eligible expenses owed directly to the homeowner's Servicing Institution. EHLPEmergency funds may only be used to pay escrowed HOA dues (monthly and/or arrearages), and non-escrowed HOA arrearages paid by the Servicing Institution through capital advance. If the HOA forecloses before the EHLPEmergency loan has been approved, the homeowner is not eligible for EHLPEmergency assistance.*

- **How would a change of servicer for the 1st mortgage be handled? Who should the homeowner contact if notified of a change in servicer?**
 - A. *If the servicing rights are sold prior to closing, the homeowner should contact his/her counseling agent.*

If the servicing rights are sold after closing, the homeowner should contact the FA 1-800 customer service number. HUD's Fiscal Agent will establish contact with the new servicer and ensure that the Borrower's emergency assistance is properly transmitted to the new Servicing Institution.

- **(UPDATED 8.22.11) What if a Pre-Applicant's servicer has stopped sending monthly statements? Is this person still eligible to apply for program assistance? (Apparently in some states the servicers stop sending the statements after a certain time if the homeowner remains delinquent.)**
 - A. *Yes. Pre-Applicants can meet the pre-application documentation requirements by submitting the most recently received monthly mortgage statement.*

If no mortgage statement is available, the CA may substitute the following documentation:

- (1) For servicer name, account number, and property address: the submitted Breach/Demand Letter (if the necessary information is provided therein);*
- (2) For amount of regular 1st lien monthly mortgage payment, date of last payment, address of the Pre-Applicant, remaining outstanding 1st lien mortgage balance: the Credit Report obtained by the CA (if the necessary information is provided therein);*
- (3) For proof of flood insurance in good standing: a copy of flood insurance policy in good standing.*

If the CA determines that the Pre-Applicant is eligible, the CA should upload a copy of the permitted alternative documentation for each eligibility criterion. This may mean that the CA uploads the same document more than one time, once for each applicable requirement.

- **What is the most recent monthly mortgage statement is a year or more old?**



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- A. *The most recent mortgage statement should be submitted. As with all EHLPEmergency Homeowners' Loan Program applications, HUD's Fiscal Agent will confirm the outstanding arrearage amount and the monthly mortgage payment amount with the homeowner's Servicing Institution.*
- **(UPDATED 8.22.11) What should we do about clients who have not received a monthly billing statement from their mortgage company and cannot locate an old one? The bank is refusing to issue them one. Is there any other acceptable documentation?**
 - A. *CAs should make the request for a statement with the Pre-Applicant.*

If no mortgage statement is available, the CA may substitute the following documentation:

 - (1) For servicer name, account number, and property address: the submitted Breach/Demand Letter (if the necessary information is provided therein);*
 - (2) For amount of regular 1st lien monthly mortgage payment, date of last payment, address of the Pre-Applicant, remaining outstanding 1st lien mortgage balance: the Credit Report obtained by the CA (if the necessary information is provided therein);*
 - (3) For proof of flood insurance in good standing: a copy of flood insurance policy in good standing.*

If the CA determines that the Pre-Applicant is eligible, the CA should upload a copy of the permitted alternative documentation for each eligibility criterion. This may mean that the CA uploads the same document more than one time, once for each applicable requirement.
 - **If a homeowner misses a monthly EHLPEmergency Homeowners' Loan Program payment, what will the FA pay the servicer that month – the full monthly payment, the EHLPEmergency Homeowners' Loan Program portion only, or nothing?**
 - A. *In this case the FA will make no payment, and the Borrower's account is suspended until or unless the delinquency is cured (Borrowers should refer to the terms and conditions of their EHLPEmergency Homeowners' Loan Program loan documents). If the Borrower makes a double payment the next month, the FA will make a double payment on their behalf to bring the loan current again.*
 - **What happens if the Borrower misses or is late on more than one EHLPEmergency Homeowners' Loan Program payment?**
 - A. *A second missed or late EHLPEmergency Homeowners' Loan Program payment constitutes an event of default under the EHLPEmergency Homeowners' Loan Program loan documents; the Borrower's EHLPEmergency Homeowners' Loan Program assistance will be terminated and the Borrower will not be eligible for the five-year principal reduction component of the EHLPEmergency Homeowners' Loan Program.*
 - **What payment is a homeowner responsible for if they become ineligible for the program after the EHLPEmergency Homeowners' Loan Program loan has closed?**
 - A. *An EHLPEmergency Homeowners' Loan Program Borrower may be terminated early from the assistance period either because the borrower no longer needs the assistance (non-default) or because the Borrower defaults under the terms and conditions of the EHLPEmergency Homeowners' Loan Program loan documents. In both cases, the Borrower becomes responsible for making 100% of the Borrower's monthly mortgage payment due under the Borrower's 1st lien mortgage. Non-default Borrowers may be eligible for up to two months of grace period assistance. Absent fraud, no regular payment is due under the EHLPEmergency Homeowners' Loan Program loan. Generally, the Borrower will repay the EHLPEmergency Homeowners' Loan Program loan at the time of sale, or other transfer of the mortgaged property.*



- **What triggers EHL P Note repayment?**

A. *The homeowner will be responsible for repayment of the outstanding balance due under the EHL P Note, if, at any time during the term of the EHL P Note, the Borrower defaults under the terms and conditions of the EHL P loan documents. Absent fraud, no regular payment is due under the EHL P loan, but default does terminate the principal reduction of the outstanding loan balance. Generally, the Borrower will repay the entire outstanding EHL P loan balance at the time of sale, or other transfer of the mortgaged property.*

These are the events of default under the EHL P loan documents:

- (a) *Fraud in connection with the EHL P transaction (application included);*
- (b) *Breach of any term of the Note or the Security Instrument;*
- (c) *Breach of any term of Borrower's first lien mortgage;*
- (d) *Borrower no longer maintains the Premises as his/her principal place of residence;*
- (e) *Borrower sells, leases, or otherwise transfers any ownership interest in the Premises (except the lease of a unit other than Borrower's residence in a multi-unit single family residence, provided that Borrower reports the change in Income resulting from the lease to HUD); or*
- (f) *Borrower refinances, in which Borrower draws cash, any loan secured by a superior lien.*

- **(NEW 8.22.11) Should we include late fees in monthly mortgage payment amount?**

A. *No. The monthly mortgage payment amount is the regular monthly payment amount.*

- **(NEW 8.22.11) Can the Pre-Applicant make up some of their past due payment if it would make them eligible for the program?**

A. *No. The EHL P Statute requires a finding that the homeowner is financially unable to make full monthly mortgage payments. A person who brings funds to the table at closing calls into question their inability to make full monthly mortgage payments.*

PLEASE NOTE, HUD has revised its policy concerning the maximum assistance rules. Pre-Applicants are eligible for assistance so long as the Delinquent 1st Mortgage arrearage amount + 1 full monthly mortgage payment + 10 subsidized monthly mortgage payments (monthly mortgage payment amount minus expected monthly Homeowner Contribution Payment amount) is less than or equal to \$50,000. This policy has been included in the EHL P Counseling Agency Guidelines supplement dated August 24, 2011.

- **(NEW 8.22.11) How should monthly debt payments be determined for debts which don't require monthly payments and/or the homeowner has not been paying?**

A. *If there is a debt due that does not amortize on a monthly basis, the CA should use reasonable methods to annualize these non-monthly debts and divide this number by 12 in order to calculate a monthly payment amount. This policy has been included in the EHL P Counseling Agency Guidelines supplement dated August 24, 2011.*

The monthly payment amount is included in the overall calculation of a Pre-Applicant's DTI ratio, regardless of whether he or she is making timely monthly payments.

- **(NEW 8.22.11) Do we count deferred student loans in the debt payments for calculating DTI? If so, how do we calculate the term?**



- A. *Yes, we count deferred student loans. A deferment does not relieve the individual of the responsibility for the underlying debt.*

Taxes

- **What do you do if someone is currently utilizing an extension for their 2010 taxes and does not have a 2010 return yet (for example granted extension because of natural disaster)?**
 - A. *Any Pre-Applicant who is unable to submit a copy of his or her completed 2010 income tax return is has an incomplete application. Before the application can be forwarded to the fiscal agent, the pre-applicant will need to provide a copy of his or her completed 2010 income tax return. If the Pre-Applicant was not required to submit a tax return for 2010, they can provide their W-2 for 2010 along with an affidavit stating that they were not required to submit a tax return in 2010.*
- **(UPDATED 8.22.11) If a homeowner does not file the income tax returns for valid reasons, how do we process their application?**
 - A. *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 applicable tax year, 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 Pre-Applicant, and all Co-Applicant(s), if any, is still required to complete and sign the IRS Form 4506-T.

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.

** 1099 income earners and self-employed persons are not eligible to complete the Exempt from Federal Tax Return Filing Requirement Affidavit for tax years where that person earned 1099 or self-employed income. To be eligible for the EHL P, 1099 income earners and self-employed persons are required to submit completed tax returns for tax years (pre-Event and/or 2010) where that person earned 1099 or self-employment income. This rule applies even when the individual was exempt from the Federal tax return filing requirement.*

** For pre-Event income, the Pre-Applicant must have either: (1) Form(s) W-2 from the applicable tax year (2008 or 2009, whichever is pre-Event) (and sign the Exempt from Federal Tax Return Filing Requirement Affidavit); or (2) a tax return from the pre-Event year. This rule applies even when the individual was exempt from the Federal tax return filing requirement.*

- **A household has only one spouse on the mortgage, but they file their tax returns jointly. What would be used for the pre-event and current income?**



- A. *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. The CA will subtract the non-listed spouse's 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-listed spouse's W-2, if any, or affidavit, along with the Pre-Applicant and all Co-Applicant's (if any) tax returns.*
- **(NEW 8.22.11) Does the form 4506-T apply to Puerto Rico? Is there anything else necessary for Puerto Rico tax forms?**

A. *It depends. Residents of Puerto Rico that are required to file an annual income tax return with the United States Internal Revenue Service are required to sign and complete the 4506-T. Guidance pertaining to income tax requirements and forms for citizens of Puerto Rico who are not required to file an income tax return with the IRS can be found on pp. 15-16 of the EHLPE Counseling Agency Guidelines.*
 - **(NEW 8.22.11) Can a Pre-Applicant/Co-Applicant provide a tax transcript obtained from the local IRS office if he/she does not have a copy of his/her required tax returns?**

A. *Yes. The Counselor and the Pre-Applicant/Co-Applicant should work together to ensure that the type of transcript obtained includes all of the information necessary for the Counselor to make the required eligibility determinations. This policy has been included in the EHLPE Counseling Agency Guidelines supplement dated August 24, 2011.*
 - **(NEW 8.22.11) If an EHLPE applicant has a Federal tax lien filed against him but indicates that the lien is in dispute is this applicant eligible for funding under EHLPE?**

A. *No. A Federal tax lien is a priority lien. To provide assistance, the Pre-Applicant's delinquent mortgage must be in first position. If the Pre-Applicant or any Co-Applicant is subject to a Federal tax lien, the Pre-Applicant is not eligible for the EHLPE (if the CA finds a Federal tax lien on the credit report, the Pre-Applicant may submit official documentation uploaded with the credit report that demonstrates that the identified Federal tax lien has been released).*

Documentation

- **What documentation do you show for underemployment that corresponds to the termination letter for someone who is unemployed?**

A. *Any form of written notification from the Pre-Applicant's employer informing him or her of the fact that his or her total weekly/monthly work hours and wages/salary have been reduced.*
- **Is a Pre-Applicant whose employer is currently in business but that will not provide a letter of unemployment still eligible to apply for an EHLPE loan?**

A. *Yes. Pre-Applicants who attempt to obtain a termination letter from their previous employers and are unable to obtain such letter are permitted to complete and sign the applicable Unemployment Affidavit*



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which will satisfy the termination letter requirement. The Unemployment Affidavit is available through NWA. Note that this affidavit is only available to Pre-Applicants who were terminated. Pre-Applicants whose hours were reduced but continue to be employed by the same employer must obtain a letter from the employer documenting the reduction in employment.

- **Should we require clients who receive "1099s" and do not receive paystubs to complete the "Unemployment Affidavit"?**
 - A. Yes. Individuals who receive 1099s must complete and sign the Unemployment Affidavit – Self Employed.
- **One of our sub-grantees has a situation where he is divorced and his decree says he is responsible for the house however his ex is still on the mortgage and probably won't cooperate with providing documents. What should he do? Will this cause him not to be eligible?**
 - A. All persons listed on the 1st lien mortgage loan documents (on the note, on the security instrument (the deed of trust or mortgage), or both) must provide income information and complete and sign the applicable certifications. If the Pre-Applicant's former spouse is still on the mortgage, and is unwilling to provide the required documentation for eligibility purposes, then the Pre-Applicant is ineligible.
- **Similarly, if a Pre-Applicant has an ex-spouse who refuses to provide her 2009 & 2010 tax returns or any other documents as required by the EHL P program, but is willing to sign a quit claim deed, can the Pre-Applicant just provide his information if he is able to get a quit claim deed recorded?**
 - A. No. All persons listed on the 1st lien mortgage loan documents (on the note, on the security instrument (the deed of trust or mortgage), or both) must provide income information and complete and sign the applicable certifications. A Quit Claim deed does not legally release the Pre-Applicant's former spouse from her obligations under the terms of the 1st lien mortgage loan documents. If she is unwilling, as a co-signor to the Pre-Applicant's 1st lien mortgage, to provide the required documentation for eligibility purposes, then the Pre-Applicant is ineligible.
- **How long do counseling agencies have to retain ineligible Pre-Applicant screening worksheets?**
 - A. This detail should be spelled out under the Record-Keeping clause of any CA's EHL P agreement with NeighborWorks.
- **Is a Social Security card acceptable documentation for citizenship (typically the case for FHA loans)?**
 - A. No, see the list of documentation acceptable for citizenship that is posted at www.findehlp.org.
- **What is the best way to verify current rental income?**
 - A. For "current rental income", HUD requires the use of the applicant's 2010 IRS 1040 tax return.
- **Does the 4506T have to be completed using the fillable PDF format provided by HUD? Does the CA have to use the automatically generated 4506T by HLP?**
 - A. The CA is responsible for submitting a legible 4506T to the FA and may use any version of the form provided it allows HUD and HUD's authorized representatives (currently Bank of New York Mellon and Risk Management Group) permission to obtain their tax records.



- **Are originals required of any of the documentation?**
 - A. *Only the closing documents (EHL P Loan Description Acknowledgment, Note, and Security Instrument) require the wet signature of the Pre-Applicant and all Co-Applicants (if any). The CA may maintain all other required documentation in hard-copy or electronic form, and the documentation may be a copy of the original. HUD expects that the CA will only accept and submit required documentation that reasonably appears to be valid/accurate.*

- **Many rural Pre-Applicants have their utility bills sent to P.O. Box addresses. Will that suffice when asking for a utility bill? If not, what other documentation would be required to verify they reside in the said property?**
 - A. *Maybe. In order for the submitted utility bill to satisfy the principal residence requirement, the utility bill must, on its face, indicate that the service is provided to the street address of the mortgaged property (this should be the same address as the Pre-Applicant's submitted mortgage statement). The Pre-Applicant must submit a utility bill that meets this standard in order to be eligible for EHL P assistance.*

- **The guidelines specifically mention the counselors sending certified letters in a couple places – namely around when a homeowner is deemed ineligible after the counseling agency reviews their documents and if the homeowner is ineligible at recertification. Would another form of communication be acceptable (maybe email)? The counseling agencies are concerned about the cost of sending all these certified letters. If things are required to be sent certified mail, does someone have to sign for the letter?**
 - A. *The Counseling Agency is required to provide written notification to the Pre-Applicant through US postal mail or email (in each case where the Pre-Applicant has provided the Counseling Agency with an email address). Particularly with ineligibility determinations when time is of the essence, all counseling Agencies are encouraged to also contact the Pre-Applicant or Borrower by **telephone and/or email** to ensure the ineligibility notification was received and offer an appointment to discuss other forms of loss mitigation assistance and/or alternatives to foreclosure.*

- **(NEW 8.22.11) Can I use other submitted documentation in place of the monthly mortgage billing statement, if the Pre-Applicant cannot obtain such statement?**
 - A. *Yes. If no mortgage statement is available, the CA may substitute the following documentation in place of the required mortgage statement: (1) the submitted Breach Letter or equivalent for the servicer name, account number, and address of the property secured by the Pre-Applicant's delinquent 1st lien mortgage; (2) the Pre-Applicant's Credit Report for the amount of the regular first lien mortgage monthly payment, the date of the last payment, current address of the Pre-Applicant, and remaining mortgage balance; (3) copy of flood insurance policy in good standing, for Pre-Applicant's who indicate that the mortgaged property is in a flood zone.*

If the CA determines that the Pre-Applicant is eligible, the CA should upload a copy of the permitted alternative documentation for each eligibility criterion. This may mean that the CA uploads the same document more than one time, once for each applicable requirement.



- **(NEW 8.22.11)** If a homeowner was fired for cause according to her termination letter and subsequently appealed the decision and had it overturned, does the homeowner qualify under the unemployment or underemployment requirement?
 - A. *The EHL P statute limits assistance to homeowners who became unemployed or underemployed due to adverse economic conditions or medical conditions. A submitted termination letter indicating a person was fired for cause is proof that the person is not unemployed for statutorily authorized reasons. To overcome the evidence already submitted (the letter indicating that the termination was for cause) the Pre-Applicant would have to provide additional documentation from the prior employer or relevant court or administrative agency nullifying the first letter and indicating that she actually became unemployed or underemployed due to adverse economic conditions or medical conditions. If the termination letter indicates that the employee was terminated for cause, the Counseling Agency cannot process the Pre-Applicant's EHL P application without this additional documentation.*

- **(NEW 8.22.11)** Can an unlisted document (e.g., driver's license, Tribal citizen card) satisfy the citizenship documentation requirement?
 - A. *It depends. You can find the description of Citizenship Requirements (including permitted documentation), at: http://findehlp.com/documents/EHL P_CitizenshipshipandQualifiedAlienRequirements_2.pdf.*

If a U.S. citizen or non-citizen national cannot provide one of the documents listed under "Primary Evidence" (see link, above), the CA is authorized to accept a document listed under "Secondary Evidence". This includes "any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship." If a particular state driver's license or Tribal identification card establishes a U.S. place of birth or in some way indicates U.S. citizenship, it may fall under this category.

As with all individuals applying to the EHL P (Pre-Applicants and Co-Applicants), completion of the citizenship status certification on the applicable certification statement is a requirement for participation.

- **(NEW 8.22.11)** How are people who have Temporary Protected Status (TPS) going to be considered? The citizenship documentation does not address the TPS issue.
 - A. *The Pre-Applicant/Applicant and all Co-Applicants, if any, must be eligible to receive a Federal public benefit under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. § 1611 (hereafter PRWORA). Persons who have been granted Temporary Protected Status to reside in the United States and who have not been approved for residency as a non-citizen national or qualified alien are not eligible for EHL P, because they are not a US citizen, non-citizen national, or qualified alien under PRWORA.*

Credit Reports

- **If the credit report shows charged off installment loans, accounts that the consumer has not been paying on, but they are still owed, are those payments still input in the debt payments?**
 - A. *Yes, the installment loan debt must be included in the calculation of DTI. The charge-off is irrelevant since it has no bearing on the consumer's responsibility for the debt.*



- **(UPDATED 8.22.11) What do we do when the mortgage does not show up on the credit report? How do we then determine number of times late in 2008 & 2009?**
 - A. *If there is no mortgage payment history included on the Pre-Applicant's credit report, you must use the DTI standard to evaluate the Pre-Applicant's ability to resume payment. THIS ONLY APPLIES IF THE MORTGAGE DOES NOT SHOW UP ON THE CREDIT REPORT AT ALL. IF THE MORTGAGE DOES APPEAR ON THE CREDIT REPORT, THE COUNSELING AGENCY IS RESPONSIBLE FOR PULLING A CREDIT REPORT THAT INCLUDES THE NECESSARY HISTORICAL INFORMATION.*
- **Is a tri-merge credit report required?**
 - A. *No. A tri-merge report is preferred when possible. A single bureau report is acceptable so long as the report contains the necessary information for the CA to make the required determinations.*
- **(NEW 8.22.11) If we have already pulled recent credit report for a homeowner, how old can it be to still be considered "current" for EHL P purposes?**
 - A. *The credit report must be dated within 30 days of the date of the application appointment.*
- **Will the FA be pulling an additional credit report?**
 - A. *No, this is the sole responsibility of each CA, and, in the event of appeal, each Pre-Applicant/Applicant who chooses to submit an updated credit report.*

[Breach Letter](#)

- **Can the breach letter be dated after June 1?**
 - A. *Yes. The June 1, 2011 requirement does not relate to the breach letter, rather it relates to the Pre-Applicant being 90 or more days delinquent on their mortgage by June 1 which is demonstrated through the Pre-Applicant's credit report.*
- **Would HUD accept a pre-foreclosure notice that has been sent by the foreclosing party as an alternative to the default letter?**
 - A. *The purpose of the requirement for the default letter is that the statute requires that the homeowner have received notice from the holder of the holder's intent to foreclose. As long as the pre-foreclosure letter (1) was received by the homeowner from the holder (or holder's agent, e.g., the Servicing Institution), (2) identifies an existing delinquency, AND, (3) indicates the holder's intention to foreclose (e.g., failure to cure the delinquency will result in the commencement or continuation of foreclosure proceedings), the pre-foreclosure letter can be an acceptable substitute to the default letter.*
- **If a homeowner does not have a breach or acceleration letter but they do have a NYS 90 day notice (required by law in NY) showing they are 90 days behind as of June 1 – would that suffice?**
 - A. *Yes, a notification from the servicer per the 2009 New York State Mortgage Foreclosure Law can serve in place of a breach letter because the letter: (1) was received by the homeowner from the holder (or holder's agent, e.g., the Servicing Institution), (2) identifies an existing delinquency, AND, (3) indicates the holder's intention to foreclose (e.g., failure to cure the delinquency will result in the commencement or continuation of foreclosure proceedings).*



- **Can the summons serve as a "Breach" letter?**
 - A. *It depends. The purpose of the requirement for the default/breach/acceleration letter is that the statute requires that the homeowner have received notice from the holder of the holder's intent to foreclose. To meet this requirement, the document submitted must: (1) be received by the homeowner from the holder of the delinquent mortgage (or holder's agent, e.g., the Servicing Institution), (2) identify an existing delinquency, AND, (3) indicate the holder's intention to foreclose (e.g., failure to cure the delinquency will result in the commencement or continuation of foreclosure proceedings).*

- **(NEW 8.22.11) Is a complaint filed by the mortgage holder in registry of deeds allowable to determine delinquency and risk of imminent foreclosure in place of the breach letter?**
 - A. *For the indication of imminent foreclosure requirement, a different document may substitute for the breach letter if the document: (1) was received by the homeowner from the holder (or holder's agent, e.g., the Servicing Institution), (2) identifies an existing delinquency, AND, (3) indicates the holder's intention to foreclose (e.g., failure to cure the delinquency will result in the commencement or continuation of foreclosure proceedings), the pre-foreclosure letter can be an acceptable substitute to the default letter.*

Types of Mortgages, Modifications

- **Is a delinquent USDA mortgage loan considered a delinquent federal debt? Or, does this fall under the category of being 90-days late on the mortgage?**
 - A. *Yes, a delinquent USDA mortgage loan constitutes a Delinquent non-tax federal debt under the applicable statute. For Pre-Applicants whose delinquent 1st lien mortgage is held by the USDA, HUD will waive the federal debt delinquency requirement. These Pre-Applicants, and any Co-Applicants, should cross-out the delinquent federal debt certification on the Applicant and Co-Applicant certification forms, respectively, and must complete a supplemental USDA Mortgage Certification, available through NWA, instead.*

- **Can a Pre-Applicant who has purchased his or her home through Habitat for Humanity qualify for an EHL P loan if he or she meets all the other criteria? Habitat for Humanity affiliates sometimes hold and service their mortgage the entire term rather than working with a servicer, so would that create a problem?**
 - A. *Yes. In such cases, the Pre-Applicant's Servicing Institution would be the holder of the mortgage, the Habitat for Humanity affiliate.*

- **Are Homeowners residing on tribal land and whose mortgages are guaranteed under the Section 184 program eligible for EHL P?**
 - A. *Yes. Homeowners residing on tribal land and whose mortgages are guaranteed under the Section 184 program are eligible to apply for and receive assistance under EHL P, assuming they meet all other program eligibility criteria. In short, no one is disqualified from applying for or receiving EHL P assistance solely on the basis of a Section 184 guaranteed mortgage.*

- **The Pre-Applicant certification form includes language attesting that the Pre-Applicant is the owner of either fee simple title or a 99-year leasehold interest in the subject property. However, neither of these is used to secure homeownership as this term applies to residences located on Native American trust land.**



Does this mean that Native American homeowners whose mortgages are insured under HUD's Section 184 program are ineligible to apply for EHLP?

A. *No. Native American homeowners whose mortgages are insured under HUD's Section 184 program **are eligible** to apply for EHLP. HUD has replaced the certification related to the type of property interest held by the Pre-Applicant.*

• **If applicants have received an FHA partial claim in the past are they eligible?**

A. *Yes. Having previously received the benefit of an FHA partial claim does not, by itself, disqualify a Pre-Applicant. Pre-Applicants must still meet all other EHLP eligibility requirements, including no more than two open liens against the mortgaged property, and no more than 1 60-day late payment in the calendar year prior to the Pre-Applicant's becoming unemployed or underemployed.*

• **If an applicant is currently in a trial mod, what sort of documentation will they need to provide? Is there any difference from a regular EHLP applicant?**

A. *Pre-Applicants in trial modifications will be required to provide documentation of the amount of the Pre-Applicant's non-modified monthly mortgage payment. Homeowners currently in a trial modification are not permitted to receive EHLP assistance unless they opt-out of their trial modification. If the Pre-Applicant is ultimately approved to participate in the EHLP, and the Pre-Applicant elects to receive EHLP assistance, the Pre-Applicant must submit documentation demonstrating that the trial modification has been terminated on or before closing.*

• **Scenario: A borrower filed bankruptcy about 2 years ago and it was discharged. The mortgage was not reaffirmed in the bankruptcy so he does not legally owe the debt but he is still in the house and has been trying to get a modification of the loan. Is he eligible for the EHLP?**

A. *No. The homeowner must be 90 days delinquent on his/her 1st lien mortgage, and at imminent risk of foreclosure.*

• **(NEW 8.22.11) Could someone with an owner-financed mortgage or mortgage from a local investor be eligible?**

A. *No. The EHLP statute only allows HUD to make Emergency Mortgage Relief Payments to banks, trust companies, finance companies, mortgage companies, savings and loan associations, insurance companies, credit unions, and other financial institutions which the Secretary finds to be qualified by experience and facilities. HUD's EHLP Counseling Agency Guidelines supplement dated August 24, 2011 restates this requirement.*

Bankruptcy

• **A homeowner may need to file Chapter 7 bankruptcy on credit cards - is it ok for people to file bankruptcy after the closing and during the 2 yr loan process?**

A. *The EHLP mortgage is subject to the same laws as any other mortgage in respect to bankruptcy; if the homeowner needs advice regarding the potential consequences of bankruptcy on an EHLP loan, the homeowner needs to contact a local bankruptcy attorney. Homeowners should consider whether the*



requirements of bankruptcy may cause the homeowner to default under the terms and conditions of the EHL P loan documents. HUD cannot provide legal advice regarding the consequences of bankruptcy on an EHL P loan. If the CA doesn't know of an attorney competent in local bankruptcy off-hand, it might refer the borrower to the bankruptcy chapter/section of the applicable state bar association.

- **Is the EHL P loan dischargeable in bankruptcy, should the homeowner foreclose before the entire loan is forgiven or if the homeowner sells the home and the sale doesn't cover the total amount owed (again, if selling prior to the entire loan being forgiven over the 5 years).**
 - A. *The EHL P mortgage is subject to the same laws as any other mortgage in respect to bankruptcy; if the homeowner needs advice regarding the potential consequences of bankruptcy on an EHL P loan, the homeowner needs to contact a local bankruptcy attorney. HUD cannot provide legal advice regarding the consequences of bankruptcy on an EHL P loan. If the CA doesn't know of an attorney competent in local bankruptcy off-hand, it might refer the borrower to the bankruptcy chapter/section of the applicable state bar association.*

- **With the prohibition on current bankruptcies, does it matter if a Pre-Applicant's mortgage debt is not being discharged through the bankruptcy?**
 - A. *No, it does not matter. A Pre-Applicant is not eligible for EHL P emergency assistance if the Pre-Applicant (and/or any Co-Applicant) is currently in bankruptcy.*

Primary Applicant and Co-Applicants

- **EHL P documents say 'all persons listed on the mortgage' – sometimes more than one person is on the mortgage but only one of them is on the note. Whoever is on the note is the person who has the financial responsibility – it's on their credit, their name is on all mortgage statements, the lender will only speak to them. Should everyone on the mortgage be included?**
 - A. *All persons listed on the 1st lien mortgage loan documents (everyone on the note, on the security instrument (deed of trust/mortgage), or both) must provide income information and complete and sign the applicable certifications.*

- **Does the applicant get disqualified if he applied in his name, and his name is on the deed (hence, he's part owner, so should be a co-mortgagor) but his wife is solely listed on the Note (so she's the "borrower"?). This speaks to a larger area of confusion: are we just considering the individual listed on the Note? Or the mortgage as well? What about other wage earners in the household: do their incomes factor into the income limit, or just the person on the Note or Mortgage?**
 - A. *The Pre-Applicant is the individual who became unemployed or underemployed due to economic conditions or medical emergency in 2009, 2010, or 2011. To be eligible as a Pre-Applicant, the individual needs to be listed on at least one of the 1st lien mortgage loan documents (either on the note, on the security instrument (the deed of trust or mortgage), or both). Just being listed on the deed is not sufficient.*

The income of all persons named on the 1st lien mortgage loan documents (on the note, on the security instrument (the deed of trust or mortgage), or both) must be included in determining the Pre-Applicant's eligibility for the EHL P. The EHL P does not factor in the income of wage earners in the household who are not listed on the 1st lien mortgage loan documents (on the note, on the security instrument (the deed of trust or mortgage) or both).



- **In the case where there is a married couple with only one spouse who signed the note, but both signed the mortgage deed, and the trigger event was experienced by the spouse who did not sign the note, is that household eligible?**

A. *The Pre-Applicant is the individual who became unemployed or underemployed due to economic conditions or medical emergency in 2009, 2010, or 2011. To be eligible as a Pre-Applicant, the individual needs to be listed on at least one of the 1st lien mortgage loan documents (on the note, on the security instrument (the deed of trust or mortgage), or both). Just being listed on the deed is not sufficient.*

- **Is additional due diligence related to the mortgage deed warranted to determine whether both parties are vested in title and, if so, would the household be considered eligible?**

A. *All persons listed on the 1st lien mortgage loan documents (on the note, on the security instrument (deed of trust/mortgage), or both) must provide income information and complete and sign the applicable certifications.*

The Pre-Applicant (as opposed to a Co-Applicant, if any) is the individual who became unemployed or underemployed due to economic conditions or medical emergency in 2009, 2010, or 2011. To be eligible as a Pre-Applicant, the individual needs to be listed on the 1st lien mortgage loan documents (on the note, on the security instrument (the deed of trust or mortgage), or both). Just being listed on the deed is not sufficient.

- **Is there a definition of co-mortgagor for this program?**

A. *No. But a co-mortgagor on the delinquent mortgage will be either a Pre-Applicant or a Co-Applicant for the EHL P.*

The Pre-Applicant (as opposed to a Co-Applicant, if any) is the individual who became unemployed or underemployed due to economic conditions or medical emergency in 2009, 2010, or 2011. The Pre-Applicant may have a Co-Applicant, or Co-Applicants.

Every person other than the Pre-Applicant who is listed on the Pre-Applicants 1st lien mortgage loan documents (on the note, on the security instrument (the deed of trust or mortgage), or both) is a Co-Applicant for purposes of the EHL P.

The Pre-Applicant, and all Co-Applicants, if any, must provide income information and sign the applicable certifications. If the Pre-Applicant is ultimately approved to participate in the EHL P, both the Pre-Applicant and all Co-Applicant's, if any, must sign the EHL P loan documents (EHL P note, security instrument, and loan description acknowledgment).

- **If there is a co-owner but no co-borrower on the first mortgage (another individual on the deed but not on the mortgage), do we still gather and enter co-owner information and add them as a co-borrower after August 1st when we start preparing loan applications and submitting it on the portal? Or do we only enter co-borrower information if a co-borrower currently exists on the first mortgage?**

A. *It depends. The EHL P requires that the income of all persons named on the 1st lien mortgage loan documents be included when evaluating the eligibility of any Pre-Applicant. This includes all persons named on the 1st lien mortgage note and/or security instrument (mortgage or deed of trust). CAs should*



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not include information of individuals not named on the 1st lien mortgage note and/or security instrument (mortgage or deed of trust).

- **If only one spouse is listed on first mortgage and is deceased, and the surviving spouse is listed on the deed but not the mortgage, could the surviving spouse be eligible? Similarly, if a deceased parent is listed on the mortgage, and a child inherits property, but is not on deed or mortgage, could the child be eligible?**
 - A. *To be eligible for EHL P emergency assistance the Pre-Applicant (the individual who became involuntarily and temporarily unemployed or underemployed and consequently experienced a substantial reduction in income) must be named on the 1st lien **mortgage** loan documents, meaning the note and/or the mortgage.*

- **Can a person who is acting as power-of-attorney for the homeowner (who's ill/incapacitated) be listed as the applicant on the application? He does have legal authorization to act on the homeowner's behalf.**
 - A. *The named Pre-Applicant should still be the individual who became involuntarily and temporarily unemployed or underemployed and consequently experienced a substantial reduction in income as the result of medical emergency or economic conditions. The individual with power of attorney may sign on the Pre-Applicant's behalf. Documentation of the power of attorney must be submitted to the CA, and included in the package to the FA (if any).*

- **Pre-Applicant is in the process of assuming the home loan that was in her deceased spouse's name only. Can she proceed with EHL P if the assumption is completed prior to submitting the full application?**
 - A. *If the Pre-Applicant had an eligible Pre-Screening Worksheet, the Pre-Applicant should be evaluated by the CA for eligibility based on the information and documentation provided by the Pre-Applicant at the time of the application appointment.*

HOPE LoanPort

- **(NEW 8.22.11) Regarding a legal name and married name/other name (nickname, shortened name). Which name do we use for HLP?**
 - A. *The individual should be identified on the application by whatever name is used on the mortgage. If the individual's name varies between submitted documentation, enter the other name in the notes. This policy has been included in the EHL P Counseling Agency Guidelines supplement dated August 24, 2011.*

- **(NEW 8.22.11) HOPE LoanPort requires "Lender Email ID" and "Lender Website" as part of the EHL P question form, but that information is not available on all mortgage statements our counselors are getting. Is there a way to bypass these two fields if the information is unavailable (such as writing in "Unknown"), or is it possible to make these optional fields?**
 - A. *Please enter "NA".*

- **(NEW 8.22.11) EHL P Pre-Applicant is delinquent on a loan held at zero percent interest, but Hope LoanPort (HLP) does not allow for input of 0% interest rates. Are there any restrictions on 0% mortgages? If not, what should the counselor enter there so they can proceed to submit the case to the FA?**



- A. *There is no EHLPE restriction prohibiting the provision of program assistance to a homeowner with a 0% mortgage. We will work with HLP to correct this problem and until then the Counselor should put in the lowest interest rate accepted by HLP.*

Other

- **Is there any exception to the maximum two lien rule? For example, many homeowners have received down-payment/closing cost assistance when they purchased the home in the form of a zero interest, zero payment forgivable loans in third position. Can a household in this situation still be eligible? Does it make any difference if the third lien will be extinguished during the EHLPE assistance period? Could they be eligible if the lien holder is willing to subordinate to the EHLPE loan?**

A. *No. There is no exception to the maximum two lien rule.*
- **If a homeowner does not have flood insurance, can they obtain flood insurance before intake package submission to FA? Yes. What if recent rezoning places the property in a flood zone that was not in place before and homeowner was unaware? Can this be remedied by obtaining the policy?**

A. *Yes.*
- **What are the EHLPE requirements pertaining to a Pre-Applicant's foreclosure sale that is scheduled to occur between August 24 and October 22. Will the sale date be stopped because the EHLPE application has been submitted and is pending approval, closing and processing – which presumably will take place during this 60 day period?**

A. *The homeowner cannot have a sale date before August 24 (30 days after the July 22 deadline). The CA should not submit the application of a homeowner whose property is scheduled for sale on or before August 21 at the time of application appointment. However, a Pre-Applicant is permitted to request a foreclosure hold from his/her Servicing Institution. If the Servicing Institution grants the Pre-Applicant's request, the CA may submit the Pre-Applicant's application to the FA via HLP.³*
- **What happens if there is a foreclosure sale scheduled for after Aug. 22 but during a time period before the servicer returns the reinstatement amount to HUD?**

A. *HUD expects that the servicer will not provide the reinstatement amount and the borrower will be ineligible. However, a Pre-Applicant is permitted to request a foreclosure hold from his/her Servicing Institution. If the Servicing Institution grants the Pre-Applicant's request, the CA may submit the Pre-Applicant's application to the FA via HLP.⁴*
- **The HUD EHLPE Guidelines instruct the CAs to exclude Pre-Applicants with homes scheduled to be sold at a foreclosure auction on or before August 24, 2011. However, the formal application process asks Pre-Applicants to certify as to whether a foreclosure sale is scheduled within 30 days of the date of their application appointment. Which date is HUD using for a determination of eligibility?**

A. *HUD has updated its formal application process to use the same requirement as the guidelines. Pre-Applicants whose mortgaged property is scheduled for foreclosure sale on or before August 24, 2011, are*

³ Documentation may be required. Check with NWA for more information.

⁴ See fn. 4, above.



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not eligible for EHLPE emergency assistance. In such cases, CAs should provide the Pre-Applicant with the opportunity to request that the Pre-Applicant's servicer suspend, cancel, or otherwise place a hold on the sale while the Pre-Applicant's EHLPE application is evaluated for eligibility. If the Pre-Applicant's request is granted by the Pre-Applicant's servicer, the cancellation or suspension supersedes the sale date, and the Pre-Applicant will not be disqualified under the August 24th criterion, and the CA should, provided all other eligibility requirements are met, upload the Pre-Applicant's EHLPE application to the FA via HLP for further evaluation.

- **(NEW 8.22.11) Does the opportunity for Pre-Applicants to request a temporary foreclosure hold for sale dates occurring on or before August 24th require CAs to reconsider homeowners previously disqualified as part of the application screening process?**
 - A. *No. HUD provided the guidance concerning foreclosure sale dates prior to August 24th, to make clear that the temporary hold, if in place, supersedes any previous notice from the holder to the homeowner.*

- **Can you clarify whether the principal residency requirement applies to all co-signers on the mortgage and/or who it specifically applies to?**
 - A. *The primary residency requirement only applies to the Pre-Applicant (the individual who became involuntarily and temporarily unemployed or underemployed and consequently experienced a substantial reduction in income).*

- **From HUD field staff: Will EHLPE counseling be included in biennial HUD reviews of HUD HC agencies, if they provided service?**
 - A. *Yes.*

- **If a homeowner was given too much in unemployment benefits and now owes money to the Department of Workforce Development, does that count as being delinquent on a federal debt?**
 - A. *No. The Department of Workforce Development is a state agency, not an Agency of the Federal Government as defined under 31 CFR § 285.13(a).*