

# Bulletin

---

NUMBER: 2010-25

---

TO: Freddie Mac Servicers

October 29, 2010

---

**SUBJECT: SERVICER REQUIREMENTS RELATED TO STATE HOUSING FINANCE AGENCIES' MORTGAGE ASSISTANCE PROGRAMS**

With this *Single-Family Seller/Servicer Guide* ("Guide") Bulletin, we are providing guidance and requirements for Servicer interaction with state Housing Finance Agencies ("HFAs") that provide mortgage assistance to unemployed and/or underemployed Borrowers through their **unemployment mortgage assistance or subsidy programs** and/or **mortgage reinstatement programs**.

**Background**

Earlier this year, the federal government created the Innovation Fund for the Hardest Hit Housing Markets or Hardest Hit Fund ("HHF"), which provides funding for innovative measures to help homeowners in States that have been hit the hardest by the housing crisis and economic downturn. The HHF was created specifically for participating HFAs, which will use the funding to develop programs that provide temporary Mortgage payment relief to eligible unemployed or underemployed Borrowers so that they may seek employment or obtain job training without fear of losing their homes.

The Treasury's Making Home Affordable (MHA) Supplemental Directive 10-07 (Interactions with HFA Hardest Hit Fund Programs), gives general guidance to servicers of non-Government Sponsored Enterprise (GSE) mortgages on interacting with HFAs in connection with HHF programs. In this Bulletin, we are providing Servicers with guidance and requirements for interacting with and accepting funds from the HFAs under their respective unemployment mortgage assistance programs or mortgage reinstatement programs in connection with Freddie Mac-owned or guaranteed Mortgages.

Both programs are intended to provide temporary financial assistance to eligible Borrowers so that they can resume making scheduled Mortgage payments. The unemployment mortgage assistance program provides Mortgage payment relief by providing funds to pay a portion of or the full monthly Mortgage payment amount. The mortgage reinstatement program provides a one-time lump sum payment to assist in restoring a delinquent Mortgage to current status.

Program eligibility criteria and other program terms vary by participating HFAs.

**EFFECTIVE DATE**

**Effective immediately**, for Freddie Mac-owned or guaranteed Mortgages, Servicers must respond to HFA requests and accept funds provided on behalf of the Borrower under the HFAs' mortgage assistance programs.

To the extent that a Servicer's process and procedures must be updated to comply with the requirements for reporting the "Spreadsheet for Hardest Hit Fund Mortgages" to Freddie Mac specified in this Bulletin, the Servicer must take appropriate action as soon as possible, but no later than **February 1, 2011**, to provide the spreadsheet to Freddie Mac.

## **GENERAL REQUIREMENTS**

The following are general Servicing requirements for HFA unemployment mortgage assistance and reinstatement mortgage assistance programs. In addition to these general requirements, Servicers must also comply with the additional Servicing requirements unique to each HHF program outlined in this Bulletin.

Servicers must have procedures and specific points of contact in place to be able to respond to the HFA (or its designated third-party provider) requests and notifications with respect to Borrowers receiving assistance under the HHF. Subsequent references to the HFA include its designated third-party provider.

The HFA will determine Borrower eligibility criteria for financial assistance and perform the underwriting of the Borrower for all mortgage assistance programs. Servicers **may not** determine Borrower eligibility or communicate a determination of eligibility or qualification for an HFA program to a Borrower, although Servicers may refer potentially eligible Borrowers to the HFA in accordance with the relevant state HFA's requirements.

Upon notification from an HFA that a Borrower has been approved for mortgage assistance, the Servicer must obtain from the HFA a copy of any approval letter, or note and mortgage or other agreement describing the terms of financial assistance entered into with the Borrower, and retain the agreement or approval letter in the Mortgage file. The Servicer must review each agreement to confirm whether the funds provided by the HFA on behalf of the Borrower are in the form of a loan or restricted grant. If the HFA provides funds in the form of a loan or restricted grant, the Servicer must confirm that the agreement does not require the Borrower to make monthly or periodic payments on the loan or grant prior to a refinance of the Mortgage or sale of the property. If the agreement includes a monthly or periodic payment requirement prior to a refinance of the Mortgage or sale of the property, the Servicer must inform the HFA that the terms of such agreement are not acceptable. However, if State or federal law or the terms of the Mortgage require acceptance of the funds (e.g., the assistance is in the form of full reinstatement or full monthly Mortgage payment in accordance with the Note and Mortgage), then the Servicer must accept such funds.

### **Borrower referral and authorization**

Servicers may refer potentially eligible Borrowers to the HFA in accordance with the relevant HFA's requirements; however, Servicers must not solicit Borrowers for participation in any HFA mortgage assistance program.

In connection with a Borrower's request for mortgage assistance under an HFA program, Servicers must receive written authorization signed by each Borrower to release his or her nonpublic personal financial information to the HFA and must provide the HFA with any relevant Borrower and Mortgage-specific information so that the HFA may complete its evaluation of the Borrower for assistance. The Borrower's written authorization to release his or her nonpublic personal financial information to the HFA and all communications with an HFA that includes a Borrower's nonpublic personal information must comply with Guide Section 53.8, *Compliance with Applicable Law*, and all applicable federal, State and local laws relating to data security, privacy and the safeguarding of Borrower personal information.

### **Mortgages with credit enhancements**

Servicers must comply with the requirements of the FHA, VA, RHS or mortgage insurer (MI) and obtain approval from the FHA, VA, RHS or MI, if applicable.

Any credit enhancement on a Mortgage will stay in place regardless of the Borrower's participation in an HFA's mortgage assistance programs.

### **Another relief or workout arrangement**

Servicers must not deny or delay consideration of a Borrower for a relief or workout option pending approval for HFA mortgage assistance and must not require a Borrower to first request financial assistance from an HFA as a condition of consideration for a relief or workout option.

If a Borrower is currently performing under another relief or workout arrangement that has not been completed and requests financial assistance from an HFA, the Servicer must permit the Borrower to continue with the relief or workout arrangement until he or she enters into either an unemployment mortgage assistance agreement with the HFA or a mortgage reinstatement agreement with the HFA that renders the existing relief or workout arrangement no longer appropriate as provided in this Bulletin.

### **Reporting to Freddie Mac**

Servicers must provide Freddie Mac with a list of all Mortgages for which assistance was provided for the prior month using the Spreadsheet for Hardest Hit Fund Mortgages located on [www.FreddieMac.com/singlefamily/service/hfa\\_relief.html](http://www.FreddieMac.com/singlefamily/service/hfa_relief.html). This spreadsheet must include the Servicer's loan number, Servicer name and current date in the filename, and must be submitted to **Hardest\_Hit@freddiemac.com** by the **fifth Business Day** of every month for all Mortgages that received assistance in the prior month.

### **Credit reporting**

Servicers must continue to report a "full-file" status report to the four major credit repositories in accordance with the Fair Credit Reporting Act (FCRA) and credit bureau standards as provided by the Consumer Data Industry Association (CDIA).

### **Acceptance and application of funds**

Funds from the HFA may be used to assist with payments a Borrower is required to make under a Home Affordable Foreclosure Alternatives (HAFA) Short Sale Agreement or short payoff under Guide Chapter B65, *Workout Options*.

Servicers must accept and treat funds submitted by the HFA in the same manner as if the Borrower submitted a payment to be applied towards the Mortgage. Such funds, including partial payments, received from the HFA must be processed in accordance with the requirements of the Guide.

For non-Escrowed Mortgages, the Borrower will continue to be responsible for payment of all Escrow-related expenses. The Servicer must process the Mortgage in accordance with the requirements of the Guide if it discovers non-payment of any charge otherwise payable by Escrow such as real estate taxes and property insurance.

### **Servicer notifications to HFA**

For Borrowers evaluated for or receiving assistance, the Servicer must notify the HFA of any:

- Changes or adjustments to the Borrower's monthly payment amount at least 45 calendar days prior to the change, as applicable, if the Borrower is receiving assistance under an unemployment mortgage assistance program
- Scheduled foreclosure sale that cannot be halted

### **Document retention**

Servicers must retain all documents, communications and information pertaining to the Borrower's mortgage assistance under an HFA program in the Mortgage file. In addition, Servicers must comply with the documentation retention requirements set forth in Chapter 52, *Mortgage File Retention*.

## **UNEMPLOYMENT MORTGAGE ASSISTANCE PROGRAM**

### **Overview**

HFA unemployment mortgage assistance programs extend Mortgage payment relief to eligible Borrowers by funding all or part of a Borrower's Mortgage payment. The HFA will determine Borrower eligibility criteria for financial assistance, monitor the Borrower for continued eligibility during the period of mortgage assistance, and will:

- Establish the amount of Borrower contribution to the Mortgage payment (if any) and the period of assistance
- Document the terms of the agreement for mortgage assistance

- Collect Borrower payments, if required, for subsequent submission to the Servicer
- Remit a full contractual payment to the Servicer on behalf of the Borrower each month during the period of assistance

### **Foreclosure actions**

Upon notification that a Borrower is conditionally approved for mortgage assistance under an unemployment mortgage assistance program, a Servicer must not refer the Borrower's Mortgage to foreclosure or conduct a scheduled foreclosure sale for 45 days unless the HFA notifies the Servicer that the Borrower has been determined to be ineligible for mortgage assistance. In addition, a Servicer must not refer the Mortgage to foreclosure or conduct a scheduled foreclosure sale during the period of mortgage assistance unless the full Mortgage payment is not received from the HFA in a timely manner.

Servicers are reminded that to the extent that they suspend foreclosure proceedings, they must ensure that they take all appropriate action necessary to preserve the right to re-commence foreclosure proceedings from the point of suspension should the Borrower fail to qualify for HFA mortgage assistance or should the payment not be received from an HFA in the month in which it is due during the term of HFA mortgage assistance.

Servicers are not required to accept mortgage assistance payments if a notice of trustee/sheriff sale has been recorded, and the trustee/sheriff sale is scheduled less than seven days from the date the Servicer is notified of Borrower approval by the HFA.

Servicers must notify the HFA if a scheduled foreclosure sale cannot be halted because a court with jurisdiction over the foreclosure proceeding (if any) or public official fails or refuses to halt the sale.

### **Borrowers receiving HFA assistance**

With the exception of a short sale or deed-in-lieu of foreclosure (DIL) under Chapter B65 or Chapter D65, *Home Affordable Foreclosure Alternatives*, a Borrower receiving **unemployment mortgage assistance** from the HFA may not simultaneously receive a relief or workout option. If the Borrower is in a Trial Period under the Home Affordable Modification Program (HAMP) when approved for unemployment mortgage assistance, the Servicer must notify the Borrower in writing that participation in the HFA's unemployment mortgage assistance program will cancel participation in his or her existing HAMP Trial Period Plan upon receipt of the first payment from the HFA.

Once a Servicer receives funds from the HFA on behalf of the Borrower, the Servicer must cancel any existing relief or workout arrangement with the Borrower, unless the relief or workout arrangement is a short sale/short payoff or DIL or the Borrower has signed a Modification Agreement for a permanent modification under Chapter B65 or Chapter C65, *Home Affordable Modification Program*.

**For example**, if the Servicer receives funds from the HFA for a Borrower who has **not executed a Home Affordable Modification Agreement** and is in a HAMP Trial Period, then the Servicer must cancel the HAMP Trial Period Plan with the HAMP Program Administrator. (Refer to "Reporting the cancellation of a HAMP Trial Period Plan" for additional requirements.)

### **Transition from HFA assistance to other alternatives to foreclosure**

Within 30 days following notification that the Borrower has been re-employed or within 30 days prior to expiration of the period of assistance, whichever is earlier, Servicers must re-evaluate the Borrower for a reinstatement or relief option as provided in Chapter A65, *Reinstatements and Relief Options*, or a workout option in accordance with the sequence provided in Section B65.1, *Introduction*.

Although Section C65.4, *Eligibility*, provides that a Borrower may be eligible for only one Trial Period Plan, Servicers may consider a Borrower to be eligible for another HAMP Trial Period Plan for purposes of this Bulletin, if the Borrower was performing in accordance with the terms of the previous Trial Period Plan (i.e., making timely Trial Period payments) prior to entering into a mortgage assistance agreement with the HFA.

If the Borrower is eligible for another HAMP Trial Period once HFA assistance ends, he or she must be evaluated for a new Trial Period based upon the Borrower's status (including income) at the time of the

new evaluation and must not resume/restart the previously cancelled HAMP Trial Period Plan. The Borrower shall not be denied the protections of Section C65.7.1, *Foreclosure Actions and Borrowers in Bankruptcy*, due solely to the cancellation of the previous HAMP Trial Period Plan because of HFA assistance. In addition, pay for performance and pay for success incentives will be based on the new HAMP Trial Period Plan effective date, and the Borrower shall not receive credit for payments made under the cancelled HAMP Trial Period Plan.

### **Cancellation of agreement**

If the Servicer does not receive a full contractual payment from the HFA in the month that it is due, it must consider the mortgage assistance with the HFA to be cancelled and resume normal Servicing activity (including resumption of collection activities as applicable) in accordance with the requirements of the Guide. The Servicer must use good business judgment to determine whether mitigating circumstances caused the payment to be late (such as a clerical error on part of the HFA). Exceptions must be documented and retained in the Mortgage file.

### **Reporting requirements**

#### *Reporting to Freddie Mac*

Servicers must notify Freddie Mac via an Electronic Default Reporting (EDR) transmission within the first three Business Days of the month following the month in which they received notification that the Borrower entered into an agreement with an HFA for mortgage assistance. Servicers must report default action code 09 (“Forbearance Plan”) and default reason code 016 (“Unemployment”) and provide the date they were notified that the Borrower entered into such agreement with the HFA.

Servicers are expected to report default action code 09 on a Borrower who is current on the Mortgage if their servicing system permits such functionality. However, if servicing system functionality does not permit such reporting, Servicers are not required to do so.

Servicers must continue to report each month that the Borrower is receiving mortgage assistance from the HFA until the period of assistance ends.

#### *Reporting the cancellation of a HAMP Trial Period Plan*

For Borrowers that are in a HAMP Trial Period and have been approved for unemployment mortgage assistance, the Servicer must:

- Cancel the HAMP Trial Period Plan with the HAMP Program Administrator in the month in which the mortgage assistance agreement becomes effective; and
- Save the Mortgage in Workout Prospector<sup>®</sup> to the applicable “Borrower Declined Terms/Ineligible” status

Note: If a Servicer determines that a Borrower is eligible for another Trial Period Plan once the period of mortgage assistance ends, it is required to report the new Trial Period in the HAMP Reporting Tool. The HAMP Reporting Tool will be modified to facilitate the reporting of another Trial Period Plan for the same Borrower. Within 30 calendar days of the availability of this new functionality, the Servicer must begin reporting the required data into the HAMP Reporting Tool from that point forward. In the interim, the Servicer must retain the required data elements for subsequent reporting once system functionality becomes available.

## **MORTGAGE REINSTATEMENT PROGRAM**

### **Overview**

To assist eligible Borrowers with reinstating their Mortgage, the HFA will deliver a one-time lump sum payment through Automated Clearing House (ACH) credit or other method acceptable to the Servicer. The Servicer may not require reinstatement to occur before any relief or workout option in the Guide, but the HFA may agree to do so if it is deemed appropriate for the Borrower.

Except as otherwise noted in this Bulletin, Servicers must process the reinstatement in accordance with the Guide.

## **Foreclosure actions**

Upon notification that a Borrower is conditionally approved for mortgage assistance under a mortgage reinstatement program, Servicers must not refer the Borrower's Mortgage to foreclosure, or conduct a foreclosure sale for 45 days, unless the HFA notifies the Servicer that the Borrower has been determined to be ineligible for mortgage assistance. Servicers are reminded that, to the extent that they suspend foreclosure proceedings, they must ensure that they take all appropriate legal action necessary to preserve the right to re-commence foreclosure proceedings from the point of suspension should the Borrower fail to qualify for HFA mortgage assistance.

Servicers must notify the HFA if a scheduled foreclosure sale cannot be halted due to situations where a court with jurisdiction over the foreclosure proceeding (if any) or public official fails or refuses to halt the sale.

## **Borrowers receiving HFA assistance**

Once a Mortgage is reinstated, Servicers should evaluate each Borrower's individual circumstances to determine if additional assistance in the form of a relief or workout option is appropriate. However, Servicers must not cancel a Borrower's HAMP Trial Period Plan as a result of reinstatement provided under an HFA's mortgage reinstatement program.

## **Reporting requirements**

Servicers must report the reinstatement to Freddie Mac in accordance with the requirements of Section A65.10, *Reporting and Processing the Reinstatement*, and Section 64.10, *Monthly Electronic Default Reporting (EDR)*.

## **CONCLUSION**

If after reviewing this Bulletin you have any questions about your role in the HFAs' mortgage assistance programs as part of the HHF initiative, please contact your Freddie Mac representative or call (800) FREDDIE and select Servicing.

Sincerely,

A handwritten signature in black ink that reads "Tracy Mooney". The signature is written in a cursive, flowing style.

Tracy Mooney  
Senior Vice President  
Servicer Relationship & Performance Management