



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

February 4, 2011

Mortgagee Letter 2011-09

**TO: ALL APPROVED MORTGAGEES
HUD-APPROVED HOUSING COUNSELING AGENCIES**

SUBJECT: Home Equity Conversion Mortgage (HECM) Counseling: Waiver of HECM Counseling Fees and Activities Included in the Time Recorded Portion of the HECM Counseling Certificate

Purpose This Mortgagee Letter (ML) provides guidance to counselors and lenders regarding

- when a HECM counseling fee should be waived,
- activities performed by a HECM counselor that are included in the amount of time recorded on form HUD-92902, Certificate of HECM Counseling, and
- allowing agencies to establish counseling fees based on certain criteria.

Note: The provisions in ML 2008-12, under the subheading “Appropriate Charges,” are superseded by new guidance in this ML under the subheading “Appropriate HECM Counseling Fee Charges”. The remainder of ML 2008-12 remains in effect.

Effective Date This guidance is effective 30 days from the date of this ML.

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Questions

If you have any questions regarding this ML, please call the FHA Resource Center at 1-800-CALL-FHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Signature

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ML 11-09.a HECM Fee Waiver Background

ML 2008-12 explains that HUD-approved counseling agencies providing HECM counseling may charge a fee for HECM counseling services as long as the cost

- is reasonable,
- is commensurate with services provided,
- does not create a financial hardship for the client, and
- meets the other requirements of the regulation.

Counseling agencies charging a fee should

Step	Action
1	Develop procedures for determining a client's ability to pay based on client's <ul style="list-style-type: none"> – income – debt obligations, and – other expenses.
2	Collect information from the client to make determination.
3	Document this determination in the client's file.

ML 11-09.b Standardized Procedure for Determining a Client's Ability to Pay a HECM Counseling Fee

Counseling agencies choosing to charge HECM fees should not collect a fee at the time of the counseling session from a client whose income is below 200 percent of the Federal Poverty level. Agencies may charge these clients a HECM counseling fee at closing provided the client has been advised during the counseling session of the amount of the fee.

Agencies charging fees are required to

- describe how this policy will be implemented and monitored in its housing counseling workplan, and
- document that the client's income is below 200 percent of the Federal Poverty level at the time of the HECM counseling session, and
- document that the client was advised of the amount of the counseling fee the client may be charged at loan closing.

Note: HHS's poverty guidelines can be found at <http://aspe.hhs.gov>.

Typically, these guidelines are revised annually in January. Agencies are responsible for using the current published figures.

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ML 11-09.c Documentation Required to Waive Fee

Clients will have to provide documentation at the counseling session that their income at or less than 200 percent of poverty by providing proof of income such as Social Security payment stubs, income tax return for previous year, or other forms of income verification.

Note: All documentation must be kept in a secure file at the counseling agency because of the personal information contained in the documentation. The client's confidentiality and privacy rights must be protected.

ML 11-09.d Appropriate HECM Counseling Fee Charges

ML 2008-12 explained that HUD had determined that a HECM counseling fee of \$125 for each counseling session constituted a reasonable and customary fee at the time of publication. However, since publication of ML 2008-12, the cost of providing HECM counseling services has increased.

Counseling agencies may charge more than \$125 for HECM counseling. HUD has determined that counseling agencies may establish a fee structure for HECM counseling, as long as the fee

- is reasonable and customary
- does not exceed a level commensurate with the counseling services that are provided, and
- is not being charged to pay for the same portion of or for an entire service that is already funded with HUD Housing Counseling grant funds or any other funds received for HECM or delinquency counseling.

Agencies must include their fee structure in their housing counseling workplan and must disclose this fee structure to clients during client intake. A client must not be turned away because of an inability to pay.

ML 11-09.e Activities Included in Time Recorded on Form HUD 92902, Certificate of HECM Counseling

Only the actual time spent meeting with the client, in person or by telephone, providing counseling may be recorded on Form HUD 92902, Certificate of HECM Counseling.

Other time spent on the client, such as intake, putting together the information packet, follow-up and any other time other than actual counseling time cannot be included on the Certificate of HECM Counseling.

Note: All the activities that are not included in the time recorded on Form HUD 92902 can be included when determining the cost of HECM counseling.

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**Information
Collection
Requirements**

The information collection requirements contained in this document are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0524. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.
