PUBLICATION

HAMP Help for the Unemployed

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On May 11, 2010, the United States Treasury Department issued Supplemental Directive 10-04 implementing the Home Affordable Unemployment Program (Unemployment Program), which provides servicers with additional guidelines to assist borrowers whose financial hardship is directly related to unemployment and who therefore may not be eligible for modification under the Home Affordable Modification Program (HAMP). Effective July 1, 2010 for all participating servicers, the directive requires servicers to consider the eligibility of such borrowers for a forbearance plan under the Unemployment Program during which their normal monthly mortgage payments are suspended or reduced.

To qualify for inclusion in the Unemployment Program, a borrower must meet the following criteria:

- The mortgage loan is a first lien mortgage loan originated on or before January 1, 2009;
- The mortgage loan is secured by a one to four unit property, one unit of which is the borrower's principal residence;
- The current unpaid principal balance must be equal to or less than $729,750 for a one unit property;
- The borrower is either behind on their monthly mortgage payments by no more than three consecutive months or it is reasonably foreseeable that the borrower will fall behind;
- The mortgage has not been previously modified under HAMP; and
- The borrower has not previously received forbearance under the Unemployment Program.

In addition, the Unemployment Program requires that the borrower be unemployed at the start of the forbearance period and able to document that he or she will receive unemployment benefits in the month the forbearance plan begins (even if the benefits expire before the forbearance period ends). Servicers, pursuant to investor or regulator guidelines, may require borrowers to obtain at least three months of unemployment benefits before they start any forbearance plan.

The minimum forbearance period is the lesser of three months or after notification that the borrower has regained employment. Servicers may extend the minimum forbearance period depending on investor and regulatory guidelines. During the forbearance plan, the borrower's monthly mortgage payments must be reduced to no more than 31% of the borrower's gross monthly household income, although a complete suspension of the borrower's payment obligation is within the discretion of the servicer. The servicer may require documentation to support the borrower's stated income, and the monthly payment amount during the forbearance period will be determined in accordance with investor and regulatory guidelines. If the borrower regains employment during the forbearance period, that period will end and the borrower, after submitting an Initial Package, will be evaluated for a modification under HAMP. When considering a borrower's eligibility for HAMP after re-employment or after expiration of the forbearance period, the borrower's monthly income must include the new employment income as verified by supporting documentation.

Borrowers currently participating in a HAMP trial period plan that become unemployed may seek consideration under the Unemployment Program if the borrower was not seriously delinquent (three monthly payments are due and unpaid) as of the due date of the first payment of the HAMP trial period plan.

Although there is no cost to apply for the Unemployment Program, late fees may accrue while the borrower is under evaluation for inclusion in the Unemployment Program or while the borrower is participating in a forbearance period. Servicers may not collect late fees during any forbearance period. Additionally, servicers may not conduct foreclosure sales or initiate foreclosure proceedings while a borrower is under evaluation for inclusion in the Unemployment Program or during any forbearance period.

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