

Revised HECM Counseling Protocol Reverse Mortgage Education Project AARP Foundation - August, 2005

Background

The protocol sets forth the policies and procedures that govern the counseling services provided by members of the AARP Foundation's HECM counseling network. It began as a one-page outline, but has grown larger in response to the many HECM-specific issues that arise when this type of counseling is actively managed.

As each issue has arisen, the Foundation's Reverse Mortgage Education Project has developed procedures or crafted policies to standardize and direct the delivery of HECM counseling services. HUD and industry representatives on the Project's Advisory Committee have provided significant input into the document, and much of it reflects negotiated outcomes on contentious matters.

The protocol provides the detailed guidance that counselors need to deal with the variety of unique situations and circumstances that characterize the HECM market. It plays a central role in generating the high quality ratings given by clients to AARP network counselors. These counselors must achieve the qualifying score on the HECM Counselor Exam and follow this protocol when providing HECM counseling.

Revised Version

The revised version (August, 2005) incorporates and integrates past additions on faxing HECM certificates to lenders, counseling non-owner and under-age spouses, and a staff commentary on lender steering issues. It also deletes the following procedural requirements:

- provision of generic consumer guide
- scripted screening of potential clients
- use of the Project's online client management system
- use of the Project's "overflow" client transfer system
- required data submissions and follow-up

The Project estimates that these procedural deletions will substantially reduce the amount of time needed to provide HECM counseling that meets the protocol's requirements.

The revised version also deletes a section on ongoing protocol development because it has never been used. Persons concerned about protocol provisions or implementation have preferred to raise these matters informally.

Finally, the revised version includes a change required by HUD that gives each telephone counseling client the option to be counseled before or after receiving the information packet described in section II of Part 1.

**HECM Counseling Protocol
Reverse Mortgage Education Project
AARP Foundation
Revised - August, 2005**

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HECM Counseling Protocol Reverse Mortgage Education Project AARP Foundation - August, 2005

This document sets forth the policies and procedures that govern Home Equity Conversion Mortgage (HECM) counseling services provided by members of the AARP Foundation's HECM counseling network. In addition to following this protocol in the provision of HECM counseling services, network counselors must achieve a qualifying score on a uniform national HECM counselor exam developed by the AARP Foundation's Reverse Mortgage Education Project. The Project, which also provides support services to the HECM counseling network, is funded by the U. S. Department of Housing and Urban Development (HUD) and the AARP Foundation.

Part 1 outlines the Project's HECM counseling procedures. **Part 2** presents the Project's policies on client privacy, elder abuse, lender steering, product comparisons, and counseling non-owner and under-age spouses. The **Appendixes** contain items referenced in Part 1, including a sample appointment confirmation letter, a disclosure on HECM counselors, lenders, and loan costs, a handout on the lending process, a proprietary loan disclosure, a handout on annuities, and a sample closeout letter.

Part 1 – HECM Counseling Procedures

To achieve greater counseling efficiency, the Project encourages its subgrantee national intermediaries and local agencies to refer first-time callers to generic resources such as the Project's free consumer guide ("Home Made Money") and websites at www.aarp.org/revmort and www.hecmresources.org. These resources answer many consumer questions without requiring counseling, thereby reducing the number of counseling requests. They also help clients know what to ask and get more out of the counseling process. Their use by consumers prior to counseling means that counselors can focus more on individual issues.

The Project also encourages its subgrantee intermediaries and local agencies to screen persons requesting counseling for HECM eligibility, estimated loan amounts, and basic consumer questions. These efforts can significantly increase the efficiency of a HECM counseling program because they screen out many callers who do not require counseling. As a result, more of the time of HECM counselors is devoted to the clients who most need their HECM counseling expertise.

The following outline contains a variety of information items. But it does not prescribe a specific order in which these matters must be discussed with clients. Each client's needs, situation, and capacities are different. So counselors must exercise discretion and judgment in tailoring the counseling content and format to each client. In particular, knowledgeable counselors may conclude that certain items should be given greater time and emphasis while other items should be treated briefly or eliminated based on a client's specific needs, situation, and capacities.

- I – Initial Client Assessment (may be completed immediately after screening or intake, or during first scheduled appointment; may be completed by trained assistants))
- A) Counselor identifies self and agency
 - B) Explains counselor role
 - 1) independent information and education only
 - 2) covering all available options including public benefits
 - 3) **no advice re: client's decisions**; client is responsible for own decisions
 - 4) client confidentiality will be respected
 - C) Checks to see if client has reviewed (or wants) consumer guide
 - D) Outlines counseling process (establishes professional rapport)
 - E) Intakes or confirms client data
 - 1) name(s), address, date(s) of birth
 - 2) home value, location, type
 - 3) existing debt on home
 - 4) unpaid Federal debt
 - F) Assesses client comprehension: hearing or language problems? legal capacity concerns? power of attorney issues? If necessary, makes referrals to local agencies
 - G) Identifies client needs & goals:
 - 1) main reason(s) for investigating reverse mortgages; personal & financial goals
 - 2) financial situation: income, assets, liabilities/debt, and, if appropriate, expenditures/budget and any concerns about preserving assets
 - 3) length of time person(s) plans to remain in home
 - 4) needed repairs
 - 5) scheduling preference
 - H) Describes individualized info packet (see II) and Counseling Session (see III)
 - I) Encourages participation by family & professional advisors (if telecounseling, confirms number of phones in home needed for other participants)
 - J) Explains procedural options (sending info packet in II before versus after counseling) and notes client choice in client record; if sending packet after counseling, proceeds to III and incorporates info packet items from II in counseling (if client has internet access, counselor may share printouts and other documents live during the counseling session via, for example, Windows' NetMeeting feature, or similar software)
 - K) Schedules next appointment (if applicable)
 - L) Offers to send or provides info on ordering “Home Made Money” (via 800-209-8085 or www.aarp.org/revmort)

II – Counselor develops and sends individualized information packet (via priority mail, fax, or email, if the appointment is within 14 days), which should include:

- A) Appointment confirmation letter is optional; a sample is included (see p. 15)
- B) “Important Information about HECM Counselors, Lenders, and Loan Costs” (see p.16)
- C) “Steps in the Reverse Mortgage Lending Process” (see p. 17)
- D) If client is considering an annuity: “Using a HECM To Buy an Annuity” (pp. 18-20)
- E) Client-specific loan printouts (using initial and expected interest rates)
 - 1) cash advances and itemized costs
 - 2) individual loan amortization schedule(s)
 - 3) future projections (including proprietary loan comparisons as appropriate)

F) Other client options as available & appropriate (see “Alternatives” database at www.hecmresources.org and www.BenefitsCheckUp.org) These may include:

- 1) selling & moving
- 2) deferred payment & other home repair loans
- 3) property tax deferral & relief
- 4) SSI & Medicaid
- 5) QMB/SLMB
- 6) other housing options (shared, congregate, assisted, etc.)
- 7) area agency on aging
- 8) other programs and options as appropriate

III – Counseling Session(s)

A) If client requested packet before counseling, counselor confirms client receipt and review of individualized info packet

B) Counselor reviews information on client's other options as available & appropriate

C) Reviews basic info on reverse mortgages in general (or, presents this information within the context of the HECM program, i.e., III-D below)

- 1) rising debt/falling equity
- 2) repayment requirement
- 3) nonrecourse limit
- 4) leftover equity (implications for borrower & heirs)
- 5) factors that determine loan amounts
- 6) borrower obligations - **especially taxes & insurance**
- 7) fee financing
- 8) retention of title
- 9) impact on public benefits

D) Discusses key HECM program features

- 1) eligibility, including any special problems relating to deed or property
- 2) principal limit versus home value (including 203-b limit if applicable)
- 3) payment plan options and changes
- 4) credit line growth
- 5) required repairs
- 6) loan costs, including “Important Information about HECM Counselors, Lenders, and Loan Costs”
 - a) application fee, appraisal fee, credit report
 - b) closing costs
 - c) origination fee
 - d) servicing fee
 - e) mortgage insurance premium
 - f) monthly versus annually adjustable interest
- 7) repayment requirements
- 8) borrower obligations
- 9) statement on tax implications
- 10) inquiry re estate planning services

E) Reviews financial implications via printouts, using initial and expected interest rates (if client gets more cash from a proprietary plan, include printouts for HECM versus proprietary plan[s]; see Product Comparison policy in Part 2)

- 1) cash advances and itemized costs
- 2) individual loan amortization schedule(s)
- 3) future projections/comparisons
 - a) total cash advances
 - b) total dollar costs
 - c) leftover equity
 - d) total annual average rates
- 4) loan/annuity combinations (only if client is considering an annuity; see Product Comparison policy and “Using a HECM To Buy an Annuity”): benefits, costs, choices, impact on public benefits
- G) Answers client questions & discusses options
- H) Encourages client to review consumer guide including Part 3 (“Other Choices”)
- I) Explains follow-up packet and next steps
 - 1) explains contents of follow-up packet (see IV below)
 - 2) loan processing & expected timelines
 - 3) ongoing access to counselor
 - 4) follow-up survey

IV – Project counselor sends follow-up packet (including items from II if client chose to be counseled before receiving section II info packet)

- A) Closeout letter (see sample on p. 21)
- B) As needed: revised printouts, additional information on alternatives and action plan
- C) HECM (and/or Home Keeper) certificate, including a duplicate copy for the client’s files
- D) Other materials as appropriate

Part 2 - HECM Counseling Policies

All HECM counseling must conform to the requirements of the Home Equity Conversion Mortgage (HECM) program as set forth in the HECM statute, regulations, program handbook (4235.1), and relevant HUD mortgagee letters (MLs), with particular emphasis on MLs 2004-25 and 2004-48. In addition, AARP Foundation network sub-grantee intermediaries and local agencies must maintain their HUD-approved status, which obligates them to follow HUD counseling requirements as specified in HUD Handbook 7610.1. The Project particularly encourages local agencies and counselors to be thoroughly familiar with their federal statutory obligation to provide full disclosure of all the required costs of HECM loans, discuss options other than a HECM, and the financial implications of obtaining a HECM loan.

The policies in this protocol cover the following:

- A) Client Privacy
- B) Elder Abuse
- C) Lender Steering
- D) Product Comparisons
- E) Counseling Spouses

A) Client Privacy

HUD's basic requirement on the confidentiality of client information is set forth in Part 4-8 of HUD Handbook 7610.1:

The counseling agency must hold in strict confidence all client information regardless of the source or sources from which it is received.

To further safeguard the privacy of counseling clients, the Project has adopted a policy of

- not accepting counseling requests by anyone “on behalf of” consumers, except for persons who are legally empowered to represent such consumers; and
- not providing information on the scheduling, progress, or outcome of any counseling case to anyone without the client’s express prior permission as documented by the counselor in the client’s record.

Persons who are legally authorized to represent consumers may be court-appointed guardians or conservators. They may also be persons holding a durable power of attorney as required in Part 4-6 of HUD Handbook 4235.1 who have been authorized to exercise this authority with respect to HECM counseling. When a valid power of attorney is being counseled instead of a homeowner, HUD does not require that the homeowner must also be counseled.

The Project is particularly concerned about subgrantee intermediaries or local agencies accepting counseling requests directly from lenders “on behalf of” consumers, or providing information to lenders about the scheduling, progress, or outcome of any counseling sessions. These practices undermine the independence of the counselor’s role, disrespect consumer autonomy, and violate the confidentiality of the counseling process.

By contrast, the Project’s policy makes it clear from the start that the intermediaries and agencies have a confidential relationship with the consumer that is independent of the lender. This message clarifies that

- the role of the counselor is separate from that of the lender; and
- the counselor’s job is to represent the best interests of the consumer.

This policy requires that consumers must request counseling on their own volition and at their own initiative. This helps ensure that it is the consumer who wants the counseling rather than a lender or someone else who wants the consumer to be counseled. It establishes from the beginning that the counselors will take their lead from the client (or the client’s legal representative), and will not act upon someone else’s view of what the client should or wants to do.

Faxing HECM Certificates to Lenders - Some lenders have asked counselors to fax them the counseling certificate when the counseling has been completed. In support of this request, they have asked consumers to sign a statement before the counseling has begun that requests the counselor to fax the certificate when the counseling is over.

The Project does not object to faxing certificates as long as doing so reflects the client's wishes as expressed by the client to the counselor at a time when the counseling has been completed. Any other approach would prejudice the outcome of the counseling or substitute a lender's wishes for those of the client. Accordingly, the Project has adopted the following policy:

- 1) If, when counseling has been completed, a client requests a counselor to fax a certificate to a lender, a counselor should comply with a client's request. The request must come directly from the client, and it must be made at a time when the counseling has been completed. In other words, the request must represent the client's wishes at a time when the client has completed counseling.
- 2) Such a request does not have to be in writing. If the client makes a verbal request, the counselor should note this fact in the client's record. In any case, the counselor should note the date of faxing and the number to which it was faxed in the client's record.
- 3) If a client makes such a request before counseling has been completed, a counselor should respond that he or she will be happy to comply if that is what the client still wants the counselor to do when the counseling has been completed. In these cases, the counselor should acknowledge the request, and then - when the counseling has been completed - ask the client if the client still wants the counselor to fax the certificate to a lender.
- 4) If a counselor receives a request to fax a certificate to a lender from anyone other than the client, a counselor should respond that he or she can only comply with a client's request to fax a certificate, and only if the request is made directly by the client at a time when the counseling has been completed.

B) Elder Abuse

Elder abuse means "any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult." Legal definitions vary from state to state, but may include abuse that is physical, emotional, sexual, or financially exploitative. They may also cover situations involving neglect or abandonment. Financial exploitation is the illegal or improper use of a person's funds, property, or assets. It includes the illegal or improper use of conservatorship, guardianship, or power of attorney. It can also involve cashing a person's checks without authorization or permission; forging a person's signature; misusing or stealing a person's money or possessions; or coercing or deceiving a person into signing any document, for example, a counseling certificate, a loan application, or mortgage documents. *Source: National Center on Elder Abuse (see "FAQs" and "The Basics" at www.elderabusecenter.org)*

“Sixteen states require anyone to report, and most other states require ‘human services professionals’ to report suspected elder abuse – including financial exploitation – of older persons. Reports can be made anonymously; conversely, most states' laws or policies require that there is no duty to report back to the person who lodges the complaint as their investigations and any actions or outcomes are confidential. All states provide statutory immunity, i.e. if someone reports about a problem in good faith, they can not be sued.” *Source: American Bar Assn. (at www.abanet.org/media/factbooks/eldt1.html)*

If a HECM counselor suspects elder abuse of any kind, the counselor should immediately report the case to the agency listed in the Project’s website as the “Elder Abuse” resource for the state in which the homeowner lives. The counselor should send a copy of the report to the HUD Home Ownership Center (HOC) HECM Point of Contact (POC) and to the Project. If a counselor suspects that a conservatorship, guardianship, or power of attorney may be invalid, the counselor should immediately refer the case to the HUD HOC POC and the Project.

C) Lender Steering

“Lender steering” means inducing a client to contact, select, or avoid a specific lender or lenders. Lender steering can eliminate or sharply reduce client choice in the selection of a lender by substituting the steering party’s judgment for the consumer’s. It can also constitute a real or apparent conflict of interest on the part of a counseling agency or counselor. Such conflicts can undermine the independence of the counselor’s role in fact or in the perception of their clients.

The clearest way to avoid steering is by not ever presuming that a client wants to contact a lender unless the client specifically asks for help in finding a lender. By being purely responsive rather than anticipatory or leading in this regard, counselors can avoid steering and the appearance of steering. But if a client does initiate a request for help in finding a lender, then – in response to an autonomously and explicitly expressed need – counselors should tell them about HUD’s most up-to-date list (at <http://www.hud.gov/ll/code/llplcrit.html>) or give them a copy of it. The Project requires this specific approach because it ensures that only clients who expressly request help in finding a lender will be given information about contacting lenders, and that the information they receive will be a list provided by HUD rather than by a counselor or agency.

Counselors should also be careful not to promote, represent, recommend, or speak for any specific lender or lenders. In particular, they should not let their past experience with a given lender – be it positive or negative – lead them inadvertently to steer their clients toward or away from any specific lender. Problems with lenders should be reported to HUD. It is the responsibility of HUD to regulate lender behavior. Counselors should not attempt to do so by steering their clients toward or away from any specific lenders.

The Project requires that counselors be especially careful to avoid actual, inadvertent, or the appearance of lender steering with respect to loan costs. Because it can easily become or be interpreted as promoting, representing, or recommending a particular lender or loan officer, counselors should not speak for any lender or loan officer about the specific prices they charge. Some loan fees may be negotiable between a lender or loan officer and a consumer, and the fees charged by a given lender or loan officer in one case or at one time may be different from the fees they charge in another case or at another time. Providing accurate, comprehensive, fairly presented, and up-to-date comparative pricing information on all lenders and loan officers is a virtually impossible goal to achieve. Therefore, counselors should not provide either comprehensive or partial lender-specific or loan officer-specific pricing information.

On the other hand, counselors should not protect lenders against price competition. To the contrary, they should equip their clients to be informed consumers about allowable loan costs and allowable lender prices. They should carefully explain which loan costs are required in order to obtain a loan, and which are not. They should clearly identify the specific loan costs that may vary from lender to lender or be negotiable with a lender or loan officer. And they should also explain the maximum amount that HUD permits HECM lenders to charge for specific loan costs. To stress the importance of this information, the Project requires counselors to provide a disclosure (attached to this protocol) to their clients entitled “Important Information on HECM Counselors, Lenders, and Loan Costs”.

Over the past five years, the Project has been developing and refining a lender steering policy that provides specific guidance to counselors on these issues. The current policy appears below:

- 1) HECM counselors should explain to their clients that
 - a) at any given time, all HECM lenders in a given area are likely to charge the same interest rates, the same mortgage insurance premiums, and similar third-party closing costs.
 - b) HECM origination and servicing fees and third-party closing costs can vary from lender to lender.
 - c) origination and servicing fees are subject to specific maximum amounts established by HUD (and what the current maximums are).
 - d) third-party closing costs are limited by HUD to what is “usual and customary” in any given area (and provide a current estimated total of all such costs, noting that the total actually charged by any given lender is likely to be “in the general vicinity of the estimate, but may be more or less than that amount”).
 - e) HECM origination and servicing fees and third-party closing costs may be negotiable between a lender and a consumer.
 - f) the origination and servicing fees and third-party closing costs a lender charges one borrower may be different from what they would charge a different borrower at another time.
 - g) counselors do not promote, represent, or recommend any specific lender or lenders.
 - h) counselors do not speak for any lender or lenders about what they charge clients for origination or servicing or third-party closing costs.
 - i) counselors do not provide information on the specific origination or servicing fees or third-party closing costs being charged by specific lenders.

- j) lenders are the best source of information about the origination and servicing fees and third-party closing costs they charge.
 - k) generic information on selecting a lender can be found in AARP's booklet on "Home Made Money."
- 2) HECM counselors should not
- a) promote, represent, or recommend any specific lender or lenders.
 - b) speak for any lender or lenders about what they charge clients for origination or servicing fees or third-party closing costs, for example,
 - by providing information on the specific origination or servicing fees being charged by any specific lender or lenders; or
 - by suggesting that a client not agree to pay more than any specific amount (other than the maximums established by HUD) for origination or servicing fees or third-party closing costs; or
 - by providing loan printouts based on the specific origination or servicing fees or third-party closing costs that a counselor identifies as being the amounts currently being charged by any specifically named lender or lenders, unless the client has independently obtained this information and requested its inclusion.
 - c) presume that a client wants to contact a lender or lenders.
 - d) induce a client to contact a specific lender or lenders, for example,
 - by providing a lender name or list to a client who has not asked for help in finding a lender or lenders, or
 - by discussing with clients any prior experience with a specific lender or lenders.
- 3) HECM counselors should provide a list of HECM lenders to a client only if a client initiates a request for help in finding a HECM lender or lenders. This list should be the one on HUD's website at <http://www.hud.gov/l/code/lplcrit.html>.

HUD Mortgagee Letter (ML) 2004-25 provided specific direction on three topics addressed by this protocol's Lender Steering Policy: Lender Steering, Costs to Obtain a HECM, and Prohibition on Dissemination of Specific Loan Product Information. Since the publication of ML 2004-25, questions have been raised about the implementation of these sections of the ML and the Protocol's Lender Steering Policy. This section of the protocol responds to those questions.

A comparative review of ML 2004-25 and the protocol does not uncover any incompatibilities between these documents with respect to lender steering. To the contrary, the relevant text of the ML is very similar to - and wholly consistent with - Part 2-C of the Protocol. The ML is less detailed than the Protocol in these areas, but the direction it provides is consistent with the Protocol's provisions.

The basic challenge for counselors is twofold: on the one hand, they must avoid price-based steering; but on the other hand, they must not insulate lenders from price competition. The goal of the Protocol is to provide specific guidance and direction to help counselors meet this two-part challenge.

Two main issues have been raised about implementation of the ML and the Protocol's Lender Steering Policy: price negotiability and "shopping around" for lower prices.

The first issue is the language that counselors should use in discussing price negotiability. Both the ML and the Protocol prohibit the provision of specific prices purportedly being charged by any individual lender or loan officer. The Protocol also more specifically proscribes various implications, hints, or other indirect suggestions of specific prices. These more detailed prohibitions mean that counselors must be careful about indirectly or inadvertently suggesting the specific prices charged - or the negotiability of prices charged - by a given lender or loan officer.

Project counselors should therefore not state that the price being charged by a given lender or loan officer "is negotiable," "should be negotiable," "can be negotiated," or "can be negotiated to [a specific dollar figure]." Instead, they should state that the price "may be negotiable," which implies that it may or may not be negotiable, that counselors do not provide information on the prices charged by specific lenders, and that lenders are the best source of information about the prices they charge.

The second issue concerns "shopping around" to obtain lower prices. In this area, counselors must be careful not to impose their values and preferences on their clients. Therefore, they should not direct or urge all of their clients to shop around for lower prices.

But counselors must tell all clients 1) which HECM loan costs may vary from lender to lender, or may be negotiable with a lender, and 2) the maximum amount that HUD permits HECM lenders to charge for specific loan costs.

If a client expresses concern about what he or she deems to be high prices or otherwise asks how lower prices might be obtained, a counselor should explain that counselors do not provide information on the prices charged by specific lenders, and that lenders are the best source of information about the prices they charge. In short, they should explain that consumers concerned about prices can obtain comparative pricing information by asking lenders about the prices they charge.

D) Product Comparisons

A small percent of HECM counseling clients consider a proprietary reverse mortgage such as Fannie Mae's "Home Keeper" loan or Financial Freedom's "Cash Account" loan. A small percent also consider converting a HECM into a "reverse annuity mortgage" by using HECM proceeds to purchase an annuity.

To ensure that these clients have the independent information they need to assess these alternatives, and to document that this information has been provided, the Project requires that counselors take specific steps in each situation.

- 1) Proprietary Products – For clients considering a proprietary reverse mortgage, counselors should prepare side-by-side comparisons of a HECM versus the proprietary plan or plans using loan comparison software specified by the Project that meets its Model Specifications for Comparing Reverse Mortgages. The printouts should include
 - a) (if the client selects a creditline) future remaining creditline projections based on creditline draws specified by the client;
 - b) a comparison of estimated loan details at closing;
 - c) projected loan comparisons at various future times, including projected figures for total cash received, cash remaining, and total cost expressed in terms of total dollars and a total annual average rate; and
 - d) amortization projections for each selected loan providing year-by-year details

The counselor should send these comparisons to the client, explain them during the counseling session, and, if appropriate, send revised comparisons. The counselor should also explain the paragraph about proprietary reverse mortgage costs and benefits in "Important Information about HECM Counselors, Lenders, and Loan Costs" on page 16.

- 2) Annuities – The federal Truth-in-Lending Act (TILA) recognizes the unique difficulty of evaluating the total cost of a reverse mortgage that is used to purchase an annuity. The Project requires its counselors to supplement specialized TILA cost disclosures for these two-part transactions by giving to clients who are considering them the 3-page textual disclosure that begins on page 18 of this protocol. In addition, the Project also requires that counselors
 - i. explain the disclosure to the client, and
 - ii. annotate the HECM counseling certificate to indicate that the “client is considering purchasing an annuity with loan proceeds.”

E) Counseling Non-Owner and Under-Age Spouse

HUD requires that all owners must be counseled. But counselors need guidance in dealing with the following circumstances:

- 1) the owner’s spouse is not an owner;
- 2) the spouse is an owner at time of counseling but intends to quitclaim before closing;
- 3) the spouse is an owner and 61 years of age or younger at time of closing but will either

- a) turn 62 before closing, or
- b) will not be 62 at closing but intends to quitclaim before then.

As a matter of policy, some lenders require non-owner or quit-claiming spouses to participate in the counseling and sign an acknowledgement that they are not entitled to benefits under the loan, and that the loan will become due and payable based upon specified events related to the owner. On the other hand, some loan officers and clients have asked counselors not to counsel such spouses, and some spouses have objected to being counseled.

To decrease the likelihood that these spouses will be unpleasantly surprised to learn about the loan or its requirements at a later date, our Project has had an informal policy that requires the counseling of these spouses. When any owner or spouse has strongly objected to this policy, the Project has either declined to provide the counseling, or provided the counseling and annotated the certificate to reflect who was not counseled.

The HECM statute clearly requires that borrowers must be counseled as an eligibility criterion. But it does not provide similar authorization to require the counseling of non-borrowers.

The Project has made the following recommendations to HUD:

- HUD should clarify its “all owners must be counseled” policy to make clear that all spouses of any age who are owners at the time of counseling must be counseled.
- HUD should encourage the counseling of non-owner spouses of any age, and require them to sign a HUD-prescribed acknowledgement that they are not entitled to benefits under the loan, and that the loan will become due and payable based upon specified events related to the owner.

Until a HUD policy is established in this area or unless directed by HUD to proceed otherwise, the Project will continue following the informal policy described above.

SAMPLE Appointment Confirmation Letter on Agency Letterhead

<Date>

<Homeowner's Name>

<Homeowner's Address>

<Homeowner's City, State, ZIP>

Dear Homeowner,

Thank you for requesting counseling through <agency>. This agency does not endorse or recommend any reverse mortgage loan or lender. Our role is to provide you with the independent information you need to make your own best decisions about these loans and other alternatives. The counseling explains the key features of reverse mortgages in general, and provides detailed information on specific loans available to you. It covers the costs, benefits, and financial implications of these loans. It also provides information on less costly alternatives to reverse mortgages.

Your counseling session is scheduled for <DATE> at <TIME.> I will call you for your counseling session at that time. To prepare for this counseling, please review the enclosed materials. They include “Important Information about HECM Counselors, Lenders, and Loan Costs,” loan comparisons, individual loan information, a sample of the HECM counseling certificate, “Steps in the Reverse Mortgage Lending Process,” and any other information that may be related to your situation. Please have these materials on hand for the counseling session. You will also want to have paper and pencils handy to take notes. The counseling session will last approximately one hour.

When the counseling is complete, I will send you a “Certificate of HECM Counseling.” When you sign this certificate, you will be verifying that you have been counseled by me. ~~My agency needs a copy of this signed document to request payment for the counseling session. And y~~ You will need a signed copy if you decide to apply for a federally-insured HECM loan within the next six months,

Sincerely,

<Counselor Name>

Housing Counselor

Enclosures

Important Information about HECM Counselors, Lenders, and Loan Costs

The role of counselors in the Home Equity Conversion Mortgage (HECM) program is to discuss information with you that will help you make your own decisions about these loans and other alternatives.

HECM counselors do not promote, represent, or recommend for or against any specific lender. They do provide general information on factors you may want to consider in selecting a lender. If you ask, these counselors will give you a copy of the lender list posted by the U. S. Department of Housing and Urban Development (HUD) at www.hud.gov/ll/code/llplcrit.html.

HECM counselors will tell you

- which costs are required in order to obtain a HECM loan, and which are not;
- which HECM loan costs do not vary from lender to lender;
- which HECM loan costs may vary from lender to lender, or may be negotiable with a lender; and
- the maximum amount that HUD permits HECM lenders to charge for specific loan costs.

But they do not provide any information on the prices charged by any individual lender or loan officer. The prices that a lender or loan officer charges one borrower at one time may be different from what they would charge another borrower or at another time. Lenders and loan officers are the best source of information about the prices they charge.

HECM counselors do not endorse any reverse mortgage product or lender. But they want you to have the information you need to make an informed decision about these loans and other, less costly alternatives.

The HECM program generally provides greater cash benefits and costs less than other private sector reverse mortgages. But for some consumers, a different private sector reverse mortgage may provide greater cash benefits, although it generally costs more. If you are considering a different private sector reverse mortgage, your counselor is required to give you detailed comparisons of the total costs and benefits of this loan versus a HECM.

Your HECM counselor is required to discuss all of the information on this page with you. If you have any questions about this information, ask your HECM counselor.

This information was developed by the AARP Foundation's Reverse Mortgage Education Project under a grant from the U. S. Department of Housing and Urban Development. Neither AARP nor the AARP Foundation endorses any specific reverse mortgage lender or product. Revised August 2005 - AARP Foundation - 601 E Street NW, Washington DC 20049

Steps in the Reverse Mortgage Lending Process

A) APPLICATION

- 1) **When you apply**, you will be asked to select a payment plan: a creditline, monthly advances (term or tenure), or a combination of a creditline and monthly advances. You may also be asked to select a monthly or annually adjustable interest rate, and to decide if you want your property taxes and homeowner insurance paid directly by advances from your loan. (Many lenders do not ask you to make all of these decisions until later in the process.)
- 2) **You will need to provide information** required by the lender, including a photo ID, verification of your Social Security number, a copy of the deed to your home, information on any existing debt (liens) on your home, and your counseling certificate. You will also be asked to pay a loan application fee, which covers the cost of a home appraisal and a minimal credit check.

B) PROCESSING

- 1) **Your lender orders** an appraisal, title search and insurance, lien payoffs, and any other services needed to complete the loan. An appraiser comes to your home to assess its value and physical condition. If the appraiser finds structural defects that require repair, to be eligible for the loan, you must hire a contractor to make the repairs.
- 2) **Your lender submits** all required information to the lender's underwriting department, which determines if everything needed to close the loan is correctly completed.

C) CLOSING

- 1) When your loan is approved by the underwriting department, **a date for closing the loan is set**, and the final loan documents are prepared. A closing is a meeting at which you sign all the loan documents. It is generally handled by the title company or the lender. Some states require you to retain an attorney to be present at closing.
- 2) **After closing, you have 3 business days in which to cancel the loan.** When this three-day "recission" period is over, loan funds can be paid to you, and can be used to pay off any existing debt on your home. A new lien is placed on your home to secure the reverse mortgage. Your loan is then sent to the "servicing" department, or to another company that specializes in servicing reverse mortgages.

D) AFTER CLOSING

- 1) Unless you have arranged to have your taxes and homeowner insurance paid directly from your loan proceeds, **you are still responsible** for making these payments. If you do not, the lender can use loan proceeds to make the payments or – if none remain – the lender can make the entire loan due and payable.
- 2) The loan "servicer" sends you your loan advances and periodic loan statements. **No repayment is due until** the death or permanent move from the home by the last living borrower, the sale of the home, or any thing else that results in the home no longer being the principal residence of at least one borrower. The repayment obligation cannot be greater than the home's value at the time the loan is repaid.

Using a HECM To Buy an Annuity

Are you considering using a Home Equity Conversion Mortgage (HECM) to purchase an annuity? If you are, here are some facts you need to know about

- your loan options,
- annuity benefits,
- annuity costs,
- public benefits, and
- annuity choices.

your loan options

You can decide how to have a HECM loan paid to you. You can select

- an immediate cash advance;
- a creditline account that lets you take cash advances at times and in amounts that you select;
- a fixed monthly cash advance for a specific number of years, or for as long as you live in your home; or
- any combination of immediate cash, creditline, or monthly advance.

So you don't have to buy an annuity in order to get monthly cash advances. You can get them directly from a HECM without buying an annuity.

annuity benefits

An annuity can give you monthly cash advances for life - no matter where you live. By contrast, monthly HECM advances can only last for as long as you live in your home. If you sell or move, you stop getting them. So in considering an annuity, you should think about how long you expect to remain in your home.

If you want annuity advances that are the same amount every month, be sure to get a "fixed" annuity. Cash advances from a "variable" annuity may depend on the stock market or other investments that are more risky or volatile. Although they may provide a fixed monthly advance for a while, "variable" annuities can result in a smaller monthly advance after their guarantee periods end.

Fixed monthly annuity advances that continue for life no matter where you live may be smaller than the fixed monthly loan advances you can get from a HECM for as long as you live in your home. A lender can show you how much you could get each month from a HECM. You can also get an estimate at www.rmaarp.com. You may want to compare this monthly loan advance to the annuity advance you could get.

You may also want to consider that if you were to move into a nursing home and qualify for Medicaid, most of the annuity advances and proceeds from any sale of your home would be used to pay for nursing home costs.

Another option would be to take monthly cash advances from a HECM creditline*. The calculators beginning at www.rmaarp.com** can estimate how long you could take a monthly creditline advance of any specific amount. You may also want to consider that you can change these loan advance amounts to meet your changing needs. You could even take all remaining funds if you choose. By contrast, annuities lock you into a fixed monthly advance for life.

*Creditline option not available in Texas.

**When you reach the "Loan Calculator Estimates" page, scroll down to the "Creditline" button, and click on it.

annuity costs

Using a HECM to buy an annuity is generally more expensive than getting monthly HECM advances. If you buy an annuity with loan proceeds, you will have a larger immediate loan balance, and that means greater interest charges, especially in the early years of the loan. But if you live beyond your life expectancy, a HECM/annuity combination can become less costly than a HECM alone.

How can you compare the cost? Software that meets AARP's model specifications for comparing reverse mortgages includes the cost and benefits of an annuity purchased with HECM loans. Printouts from this software show you the total amount you would owe, and the total rate you would pay with – versus without – an annuity throughout the loan. This detailed report makes it easy to compare your choices.

To find out if the cost comparison you get from a lender or annuity company meets AARP's model specifications, send it to rmcounsel@aar.org (email), 202-434-6068 (fax), or to this mailing address: AARP Reverse Mortgage Education Project, Rm B4-460, 601 E St NW, Washington DC 20049. Include your name, address, and phone number.

If lenders know you intend to buy an annuity with a HECM, they are required by federal Truth-in-Lending law (12 CFR 226.33) to give you a Total Annual Loan Cost (TALC) disclosure that includes the annuity. If you want to make certain that you get it, send your lender a letter requesting a TALC disclosure that includes the annuity.

Generally, the least expensive HECM/annuity plans work like this: You take a HECM in two parts: as a lump sum at closing, and as a "term" monthly advance for a specific number of years. You then use the lump sum to buy a "deferred" annuity that will begin sending you monthly annuity advances in the first month after the HECM loan advances end.

A deferred annuity is less costly than an "immediate" annuity (which sends you monthly annuity advances immediately after the loan is closed). So long as you do not move before the annuity advances begin, a deferred annuity would give you continuing monthly advances for life. This approach is likely to cost less or provide greater monthly advances than you would get by purchasing an immediate annuity.

On the other hand, if you die before the advances from a deferred annuity begin, you and your heirs would get no cash benefits from a deferred annuity unless you select an optional "period certain" or "death benefit" (see **annuity choices**). (Note: A "deferred" annuity should not be confused with a "tax-deferred" annuity, which may or may not provide fixed monthly advances for life.)

Anyone who sells you an annuity will be paid a sales commission from the money you use to buy the annuity. If you want to know how much they will be paid, ask them what their sales commission would be. Also ask if the annuity includes a "surrender" fee that you would have to pay if you decide later on to discontinue the annuity.

public benefits

Annuity income does not affect your Social Security or Medicare benefits under current law. But if you are eligible for Supplemental Security Income (SSI), you need to understand that annuity income will jeopardize your benefits from this and possibly other programs.

Annuity advances are counted as income by SSI. So they can reduce SSI benefits dollar-for-dollar, and might make you ineligible for other programs.

By contrast, loan advances generally are not counted as income by SSI, and are not counted as assets if you spend them within the calendar month you receive them. (*Source: American Bar Association, Reverse Mortgages: A Lawyer's Guide, 1997, p. 36*)

If you now receive - or expect to become eligible for – SSI or similar programs (for example, Medicaid), be sure you understand exactly how annuity income would affect your eligibility and benefits.

annuity choices

An annuity is only as safe and sound as the company that provides it. So you may want to ask the annuity company for its ratings from the firms that provide them.

For example, one recognized consumer finance specialist suggests that consumers should look for companies with at least three of these five ratings: A+ from A. M. Best, AA+ from Fitch, Aa3 from Moody's, Aaq from Standard & Poor's, B from Weiss.

Many annuity plans offer an optional cash refund (or “death benefit”) to your heirs upon your death. This reduces the overall cost to your estate. But it also reduces the amount of your guaranteed monthly annuity advance. Be sure to consider these options carefully.

Some annuities provide monthly advances for a fixed period of time. If you are considering this type of “period certain” annuity, you may want to compare it with the monthly loan advance you could get for the same amount of time from a HECM “term” plan. You may also want to compare how much you would end up owing in each case.

conclusion

Only you can decide what best fits your needs. But it makes sense to be careful when considering a major financial decision about choices that may be new to you. So take the time you need to

- learn what you need to know,
- get answers to your questions,
- compare your choices carefully, and
- discuss your choices with people you trust who have no financial interest in your decision.

This information was developed by the AARP Foundation's Reverse Mortgage Education Project under a grant (HC 02-0000-011) from the U. S. Department of Housing and Urban Development. 11/03

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AARP Foundation
601 E Street NW, Washington DC 20049

SAMPLE Closeout Letter on Agency Letterhead

<Date>

<Homeowner's Name>

<Homeowner's Address>

<Homeowner's City, State, ZIP>

Dear Homeowner,

Thank you for participating in the reverse mortgage counseling session I recently conducted with you. Please take whatever time you need to thoroughly review the information that I have shared with you before making any decisions that will affect your financial future. If you need more information, or if you have more questions, please call me at any time.

Enclosed are two copies of a "Certificate of HECM Counseling." Keep one copy for your personal records. If you apply for a HECM loan within the next six months, sign and give the second copy to your HECM lender. The lender will need this signed copy to verify that you have been counseled within six months of loan application.

Two months from now, I will be calling you to ask if you have any more questions or made any decisions about reverse mortgages or other alternatives.

Also at about that time, the AARP Foundation's Reverse Mortgage Education Project will send you a "Consumer Satisfaction Survey." The purpose of this survey is to help the Project evaluate and improve HECM counseling services. You can help by filling out and returning the form. The Project promises to protect the confidentiality of your responses, and to use them for statistical purposes only.

If you need any further assistance, please do not hesitate to call me at any time.

Sincerely,

<Counselor Name>

Housing Counselor

Enclosures