

Written testimony for

The Senate Hearing on Reverse Mortgages  
Senate Special Committee on Aging field hearing  
Chaired by Claire McCaskill on June 29, 2009

Submitted by:

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Chairperson Kohl, Ranking member Martinez and Senator McCaskill.

The reverse mortgage product has helped hundreds of thousands of seniors and has the potential to help many millions more. Overall, the product has been an amazing success story.

But we need to be concerned and ever-vigilant about this product and everything around its sale and administration. Despite the safeguards, there have been, and will be, examples of everything from deceptive advertising to financial exploitation. The recent dramatic changes in the marketplace have introduced new problems for consumers, counselors and lenders alike. Unfortunately, these changes have introduced new opportunities for abuses by lenders, as well.

Note: I refer below many times to an AARP study “Reverse Mortgages: Niche Product or Mainstream Solution? 12/2007. Here is the link:

[http://www.aarp.org/research/credit-debt/mortgages/inb999\\_rev mortgage.html](http://www.aarp.org/research/credit-debt/mortgages/inb999_rev mortgage.html)

Recommendations are given throughout this testimony. In addition, I have emphasized a few recommendations by calling them Recommendation #1, #2, #3.

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I think I have a valuable and somewhat unique perspective:

- I have done reverse mortgage counseling since 1993 and have counseled over 3,000 households.
- I have a Masters in Social Work (MSW) and am also a Licensed Clinical Social Worker (LCSW) in the state of Missouri.
- I teach a course in Gerontology at Webster University and have been a Social Work Practicum Instructor since 1978.
- I was first trained by AARP in 1993, benefitted from many AARP training conferences over the years and was associated with the AARP Reverse Mortgage Education Project throughout its existence.
- In my role as Director of Housing Options Provided for the Elderly (HOPE), I supervise both social workers and reverse mortgage counselors.

- I train new and advanced reverse mortgage counselors - now through NeighborWorks, and previously through AARP.
- I serve as a consultant to the National on Aging (NCOA), a new HUD intermediary this year, providing recommendations on their reverse mortgage counseling and training to new prospects.

Among the safeguards built into reverse mortgages is counseling. And that's my role. I and many others do a great job. But my disturbing observation is that some counseling is terrible and most counseling could stand some improvement.

### **A. The Role of the Reverse Mortgage Counselor.**

The role of a reverse mortgage counselor is not always well understood. As I explain to those I counsel:

“My role is to help you understand all the ins and outs of a reverse mortgage. I am your independent coach. My role is NOT to tell you what to do, but rather to inform you fully, so that you can make your own well-informed decision about whether or not, and when, to get a reverse mortgage.”

HUD's direction as to what counseling MUST include has been interpreted differently by many counseling agencies. In too many cases, clear direction from HUD is ignored. Admittedly, it is quite a challenge to keep up with the patchwork of HUD direction to counselors. HUD's direction comes to us from a 1994 handbook on reverse mortgage counseling and has been modified by Mortgagee Letters over the years. To make it more challenging, some of those Mortgagee Letters modify parts of previous Mortgagee Letters. Also relevant are the HECM Statute, HECM regulations and occasional emails from HUD to counselors which provide additional direction. [A new HUD protocol is in the works, and described as “available soon”, for going on three years now; hopefully, this document will provide up to date definitive direction to counselors at the time it is issued.]

The AARP Reverse Mortgage Education Project, with input from many reverse mortgage counselors, two other intermediaries and HUD, published a protocol in September 2005 which remains a helpful tool.

Here is HUD's direction to HECM counselors:

- 1) Understand the situation of the clients you are serving so that you can tailor the reverse mortgage counseling session to meet their needs.
  - This is not as easy as it sounds. Reverse mortgage topics/concepts are challenging to many: interest rates, indexes, margins, principal limits, TALCs, service set asides, credit lines, etc. - and anything connected with anything "mortgage" has considerable emotional baggage as well.
  - Understanding a client's relevant changing circumstances is extremely useful in targeting the topics discussed in counseling: current and future income, credit card debt, current and future expenses, current and future health issues, current and future home repairs, home modifications/ viability of home for the future, available support, current and future eligibility for benefit programs, etc.
  - For couples, change in income when a spouse dies or goes to a nursing home is an important consideration. (It is surprising how many people do not know how social security income or pension income will change once the spouse has passed away.)
  - The perfect counselor will also tune into the client's frame of reference, knowledge base, financial situation and value system, in order to provide information about reverse mortgages **in a way that the senior can understand it**. To be effective, the sophistication of the discussion must vary tremendously from client to client.
- 2) Educate seniors about the reverse mortgage product. As per HUD's direction, counselors must NOT tell seniors what to do, but rather inform them about all their options, so they can make their own informed choice about whether or not (and, very importantly, when) to use this loan.
  - This, too, is not as easy as it sounds. Variable rates, fixed rate loans, upfront mortgage insurance premium, current cost, total cost of the loan, future value of money, etc.
  - Recent changes in the marketplace result in many more variables in the marketplace that have existed in the past. This is complicated information. Counselors have had no direction from HUD on understanding or interpreting the new dynamics in our counseling. The result is that few counselors are likely dealing with the following adequately:
    - There are more variations in interest rates from sales person to sales person than ever before. Interest rate variation affects both the cost of the loan AND the available funds.
    - The availability of interest rate lock-ins (which allowed a borrower to know when they apply for the loan, the maximum interest rate that would be charged at closing), is now uncertain. Some lenders may offer such and some may not.

- Opportunities for predatory sales practices have increased in this environment. Examples:
      - Increasing interest rates, after loan application, in order to make more money on the sale (yield-spread premiums are available - paid by Fannie on loans sold above par).
      - Encouraging seniors to withdraw money at closing to increase the lenders yield-spread premium.
      - Bait and switch. (Attract customers by advertising lower rates than you intend to deliver).
    - Counselors need to keep up with HUD Mortgagee Letters. Mortgagee Letters change the HECM product, the information we provide it and the way we provide it. HUD also issues occasional counseling directives, which seem to have the weight of Mortgage Letters for counselors but are not archived fully, creating a tremendous challenge for counselors in keeping up to date on HUD's directions.
- 3) Provide information about alternatives to reverse mortgages. This is an extremely important part of reverse mortgage counseling. Although mandated by HUD, it is likely to be neglected altogether or given cursory attention by most counselors.
- Direct financial alternatives include using a regular home equity loan and refinancing an existing mortgage.
  - Postponing use of reverse mortgage for use some time in the future.
    - Many seniors may choose to use other assets first.
    - Many couples I have counseled have decided that they want to ensure that the surviving spouse has the ability to live in that home once one of them dies.
  - Alternatives (or things that might be used in addition to a reverse mortgage) include public benefit programs, home-repair programs, and the wide range of programs/services available to seniors. Such programs might be available instead of, or in addition to, a reverse mortgage.
  - A surprising number of seniors do not take advantage of programs available to them.
  - NCOA has created an online **“Benefits Check-up”** analysis which is extremely helpful to counselors in providing information about senior programs and service. “Benefits-check up” is currently offered by all NCOA counselors and many who have been trained by AARP. **All counselors should be offering this helpful service.**

## **B) Why some counseling is bad and most counseling could be improved.**

- 1) Interpretation of HUD requirements by Housing Counseling Agencies and Intermediaries. The counseling agencies largely determine and supervise what happens in the counseling session.
  - It is clear that counseling agencies, and all those involved, interpret HUD's directions differently and have different takes on what should be accomplished in counseling.
    - Some agencies use a prepared script and some a checklist, which correspond to that agency's interpretation of what should be covered.
    - But too often, counselors become too bound to their script, thereby inhibiting questions and neglecting the specific needs and circumstances of the client they are counseling.
    - AARP's Reverse Mortgage Education Project provided a protocol that many counselors are likely still using.
    - The National Council on Aging (NCOA) provides counselors with a protocol that emphasizes an evaluation of the client's current circumstances, including health and personal care issues.
  - Some housing counseling providers have apparently determined that counseling can be done properly in 60 or 90 minutes, start to finish, including all the paperwork, and that reading a script to clients is sufficient. Well, if that's the assessment, a minimal level of expertise is required of staff. And it certainly brings down the cost. But that is a misinterpretation of what HUD requires!
  - Cost issues. All counseling agencies must deal with cost issues. There is clearly an upper limit to the time any of us can average per case. HUD currently provides no direction as amount of time to be spent with clients (and gathers no data about total time spent on a case). My agency currently averages over 3 hours per case; I would like to average over 5 hours per case - in order to very thoroughly address all issues and topics.
    - But HUD has seemed to put give some guidance by limiting the fee to clients to \$125 (or the cost of doing business, whichever is lower); quality counseling cannot be provided for \$125 per case.
    - AARP recommended a reimbursement of \$150-200 per counseling in 2007 (See AARP study 12/2007).
  - Many counselors may just not understand the issues well enough to explain them fully and may not be given the time to research the many challenging situations/questions encountered.
  - Educational, skill and experience requirements for counselors are the responsibility of the Intermediaries and Local Housing Counseling Agencies. Since the expectations of what counselors need to accomplish varies so much, it is not surprising that expectations of staff and requirements for these counseling positions also vary remarkably.
    - Candidates for reverse mortgage counseling are likely to know little or nothing about programs and services for the elderly and have little or no education on elderly issues.

- Candidates lacking math and financial savvy may have difficulty ever learning fully the details of how a reverse mortgage functions, its many variations, etc.
  - Finally, the assessment, communication and teaching skills required of excellent counselors is not something that comes easily to many counseling candidates.
- 2) There has been lot of pressure to provide more counseling and to provide it quickly.
  - The huge growth in demand for reverse mortgages, and thus reverse mortgage counseling, resulted in waits of a month or more a couple of years ago. In this environment, counseling agencies and HUD felt the pressure to provide counseling more quickly.
    - There has been a National HECM Exam in existence for a number of years (currently required only for counselors who counsel out of state). In an apparent effort to qualify more counselors more quickly, the score needed to pass the exam was lowered. This is not the thing to do if our goal is to improve counseling!
    - The HECM exam was not revised for over 3 years (it was revised recently). During that time at least one counseling agency organized groups to share test questions with prospects to enable them to pass the test more easily. The result is that some current exam-passed counselors cheated to get a passing score.
  - Pressure from lenders. Salespeople, let's face it, want to close their sale. Anyone who has been a salesperson realizes that the longer it takes to close a sale, the more likely you are to lose that sale.
    - On-demand counseling (immediate counseling over the telephone) has been permitted by HUD, and developed to an extreme by some counseling agencies.
      - Of course, there are merits to quick service, and there are some circumstances where speed is a factor (foreclosure, for example); but it is hard to make the case that a quick decision on buying (anything) is preferable to a well thought out decision.
      - Besides the rush-factor, on-demand counseling is inadequate because it does not provide the senior with printouts that they can read ahead of the counseling and have in front of them during the counseling. This product is complicated and extremely challenging to understand. Clients benefit from having printouts in front of them when they go through counseling **which pertain to their particular situation**. Other written material is helpful as well.

- Given a salesperson's desire to close the sale, it is natural that a lender might evolve to using the counseling service least likely to interfere with there sale.
    - Quick, brief, especially on-demand counseling, is less likely to interfere with a sale than careful, complete counseling.
    - HUD requires a list of counselors be provided to clients among whom they must choose, and that the client themselves must request counseling, but these directives are often ignored or side-stepped.
      - I have come across situations where clients have told me they were called by the counselor, who got their name from a lender
      - Even when a list is provided by the salesperson, it would easy to direct them towards one agency, or even individual, over another.
      - My agency offers in-home, in-person counseling (the HUD recommended best way to do counseling) in St. Louis City and County. No one else in our area offers in-home counseling. Despite that fact, and the likely appeal of in-home counseling to many seniors, there are some local agents and companies who NEVER generate any referrals to us. Conversations with lenders have revealed their intent to use counselors that help them close their sales. (I have received a number of complaints "Your counseling cost me my sale!"). An informed client, not a "sale" is the purpose of counseling.
- 3) Lack of direction AND NEED for direction from HUD on the time it takes to complete reverse mortgage counseling. (There has been the indirect hint of time required by the limit of the counseling fee to \$125.)
- Time spent in counseling is clearly not the only indicator of quality, but it is clear that brief counseling is inadequate.
  - I have heard from a few clients that said their (previous) reverse mortgage counseling session took 15 minutes over the phone. I note that the GAO study just released reported that 4 of the 15 counseling sessions they "secretly shopped" provided counseling in under 30 minutes (and then falsified the record by reporting more time than was spent).

### **C. Recommendation to Improve Counseling #1 - Implement a “Secret Shopper” project.**

I am heartened to hear of the recent GAO study (reported on in this hearing) because it uses exactly this tool, and proves why it is so necessary.

There is a “Secret Shopper” Project already in the works. The “Quality Control Counseling Project” (QCCP) has been developed by the AARP Reverse Mortgage Education Project and has been in the works since 2006 and is ready to go. Its implementation would go a long way towards improving counseling.

- The basic idea would be for skilled trainers to pose as senior clients in order to evaluate the service being provided: intake, counseling and release of the certificate.
- The counseling session can then be evaluated. Results of the evaluation could include:
  - Praise for a job excellently done.
  - Tips to the counselor for some small improvements.
  - Mandates for training, based on inadequate counseling.
  - Suspension, pending re-training, based on severe misinformation or improper counseling.
  - Referral to appropriate HUD staff in the case of a fraudulent counseling certificate being issued (There will be examples where the counselor spent 15 minutes over the phone but indicated 60 minutes on the counseling certificate.
- Listening to counseling is really the only way to effectively determine fully what counselors are actually doing.
- This project would provide important insights to improve and focus the training of new and existing and future counselors.
- AND let’s not wait another 3 years to implement this. An ongoing project of this sort will get across to counseling agencies very quickly:
  - That fraudulent counseling certificates and brief counseling are not acceptable.
  - That HUD is serious about enforcing its requirements. I picture agencies actually reading HUD’s mortgagee letters and other directives to make sure they are in compliance.

### **D. Recommendation to Improve Counseling #2 - Fund counseling adequately.**

We need to go back to the drawing board on how best to fund reverse mortgage counseling. Create a think-tank on how to fund reverse mortgage counseling.



Some thoughts on funding counseling, where we are now and where we will go:

- Step 1, of course, is to know what you want done.
- Step 2, is to determine the cost.
- Step 3, is to see that counseling is adequately funded (includes administration and training). The current funding includes: Client fees, agency matching funds, HUD grants.
  - i. An important positive change was made last year. Lenders are now prohibited from giving money to counseling agencies. But, the implementation of HUD regulations allowing agencies to charge up to charge seniors up to \$125, and the methods by which they may do so, has resulted in new problems. Further, the current funding methods are likely inadequate for the long term.
  - ii. Problems with the current method of charging client fees.
    - 1. Many counseling agencies are charging clients up-front for the counseling. While HUD stipulates that clients need not pay if they are in hardship situation, defining a hardship situation is not clear. In some cases, clients do not know whether they can afford to pay for counseling until they know whether or not they will get the loan. In the vast majority of cases, clients can afford counseling if they get the reverse mortgage.
    - 2. Taking this into account, some agencies (my own included) only charge a fee when (and if) the client closes on the loan. Of course this plays havoc with budget planning since the loan might not close for 6 months or more - but it's manageable.
  - iii. One idea (not new): Create a pool - all fee income goes into a general pool. Agencies performing reverse mortgage counseling draw funds from the pool based on the number of clients they serve (limited by their cost of doing business). In my view, lender contributions to this pool might also be allowed, because it would be clear that there is no way to influence the result of the counseling.
  - iv. **Whatever the solutions** to adequate funding might be, it will take a coordinated think-tank to do a good job and explore any unintended consequences before it is implemented. I volunteer to be part of the think-tank.

### **E. Recommendation to Improve Counseling #3 - Provide quality initial training and ongoing support to counselors.**

- Central to this effort would be a website with resources, and a responsive forum. (There is an existing prototype: the AARP counselor website. It still exists, but is woefully out of date and currently has little or no paid staff supporting its operation. It is a good start to what I imagine.)
  - i. Staffed by paid, experienced counselors.
  - ii. Ongoing involvement by HUD staff.
  - iii. Kept up to date.
- Training should be available in a variety of forms (all would serve a purpose):
  - i. In-person training and conferences, such as have existed under AARP's and NeighborWorks for a long time
  - ii. New on-line training Webinars - less costly and a way of learning that will be preferable and more productive for many.
  - iii. Model counseling sessions - demonstrations of quality counseling available on line.
  - iv. One-on-one coaching for new counselors, where an experienced counselor listens in on the counseling session in order to provide feedback and focus training.

### **F. Recent Marketplace Changes**

In April 2009, two terrible developments for reverse mortgage borrowers occurred:

- Interest rate margins jumped and have mostly been rising since.
- Some lenders stopped allowing rate locks of the margins.

The impact of the combination of these two occurrences includes:

- 1) Yield-spread premiums are paid to lenders who sell loans to Fannie "above par".
  - Last year, legislation was passed to decrease the allowable origination fee on homes over \$200,000 in value. Yield-spread premiums create the possibility of lenders making significantly more money: 50%, 75% maybe more that.
  - While yield-spread premiums have always allowed lenders to make more than the origination fee, it don't believe it was ever as much more as it is today.
- 2) Without rate locks, lenders may come back to borrowers to tell them that rates have changed, less money is available and at a higher interest rate. Borrowers will find it difficult, perhaps impossible, to discover if an increased rate change is truly a factor of marketplace changes or a lender's desire to increase their own fees (because of the yield spread premium).

- 3) This environment creates the possibility that lenders could encourage borrowers to take out more money at closing than they need. While unwise for the borrowers, this would increase the lenders profit when a yield spread premium is used.
  - 4) This environment increases the possibility of bait and switch tactics: attract a borrower with a rate you do not intend to offer, and raise it later.
- I note that there has been no guidance from HUD on how counselors might deal with the changes in this marketplace. How about a webinar training to coach counselors on such developments?
  - In practice, few counselors are tuned into these issues. Many counselors likely throw up their hands for lack of ability to know how to best advise our clients. I know that some have determined, quite improperly, that such discussion is NOT within the counselor's role.
  - The bottom line for consumers is that many are likely paying more and getting less money than they might if they had a full grasp of the marketplace (and could successfully cope with all its vagaries).

## **G. Other topics**

- 1) New products (see AARP study 12/2007: "Reverse Mortgages: Niche Product or Mainstream Solution?")
  - Creation of new products for borrowers who don't need much money.
  - Expansion of current product benefits without refinance costs.
  - A problem with the current fixed rate product is that all available funds must be withdrawn right away. Create a hybrid product which allows some money to be drawn out immediately at a fixed rate and remaining funds to be available in a credit line with a variable rate on those funds.
- 2) Greater use of HECM for foreclosure prevention.
  - Some clients can use a HECM to prevent foreclosure. In cases where available HECM funds can pay off all debt, this is straightforward.
  - But creative approaches have been used successfully which negotiate a short payoff of a current loan, thereby preventing foreclosure even when funds from a HECM appear to be inadequate.
  - Bill Brennan and Nancy MacLeod of Atlanta Legal Aide are the gurus on this kind of effort (404-377-0701).
  - They have proposed expanding this effort and allowing foreclosure prevention dollars to be used to do so.
- 3) Fix the credit line growth rate problem.
  - There was an error made in computer software which calculates credit lines for HECM borrowers. The result is that credit lines are being misstated. This needs to be corrected.

- 4) Non-recourse limit. The HUD handbook, loan officers and counselors all told their clients that neither they nor their heirs would ever owe more than the value of the home at the end of the loan, a protection provided by HECM insurance. But a recent HUD mortgagee letter reinterprets the non-recourse limit to only be available if heirs sell the home. This revisionist interpretation is a betrayal to hundreds of thousands who were told otherwise. (See AARP study, 12/2007).
- 5) What if the loan is not insurable by HUD?
  - o This could happen if the lender makes a mistake (and perhaps for other reasons).
  - o While most lenders are likely to correct their errors, even at their own expense, there apparently is no requirement from HUD to do so.
  - o This issue needs examination and a means to ensure that clients are not in jeopardy as a result of the loan's failure to become insurable by HUD.
- 6) What takes so long? Many worthwhile improvements have been planned for years. Unfortunately, when HUD has said "soon" it has really been "soooooooooooooooooooooooooooooon". While my description often gets a laugh, it is a very serious criticism. Planned HUD actions are often important improvements that will benefit seniors once they are implemented, delayed implementation means lesser service.
  - o I am sure funding is part of the problem.
  - o **For HUD to a great job, adequate funding is needed.**
- 7) Lender-counselor communication. HUD rules are clear: counselors cannot communicate with lenders about clients; counselors cannot inform lenders when, or even who, is scheduled to be counseled. Lenders cannot call on behalf of their clients to request counseling. I continue to get such requests, even though I do not oblige; some lenders give me the impression they search for, and can find, a counseling agency that will tell them what they want to know (i.e. ignore HUD rules).

I love my role as reverse mortgage counselor. It provides an opportunity to help seniors and their families understand this loan. Just as importantly, it helps them consider options besides, or in addition to, a reverse mortgage. Many, many seniors are not connected to the range of services /programs available. So, whether the senior decides to use a reverse mortgage or not, my connection with them has the potential to help them improve their financial situation and quality of life by connecting them with programs and services from which they can benefit.

Thank you for the opportunity to discuss these issues.

Sincerely,

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