

Committee on Healthcare Financing

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1050 30th Street N.W.
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March 30, 2015

Mr. Roger Miller
Deputy Assistant Secretary
Office of Healthcare Programs
Department of Housing & Urban Development
451 Seventh Street, S.W., Room 6264
Washington, D.C. 20410

Re: Filing of Operator Financial Statements

Dear Mr. Miller:

I am writing on behalf of the members of the Committee on Healthcare Financing to express our concern with HUD's new process that requires FHA Lenders to submit to HUD operator financial statements. Many of our members have been working with the Mortgage Bankers Association's FHA Servicing Subcommittee and have, via the MBA, submitted to HUD a list of concerns regarding the new submission portal as well as suggestions on how to improve the data collection. We are writing to express our support for the MBA's suggested changes, as discussed below.

We agree with HUD's increased efforts to collect data on the operator side of the loan transactions. As HUD indicated in its March 6, 2015, letter to "All Section 232 Lenders/Serviceers," the success of "a residential care facility depends almost entirely on the facility's viability as an ongoing business enterprise." And, we agree with HUD that the collection of operator financial statements more frequently than annually can improve HUD's asset management of its Section 232 portfolio as it will provide more current information.

However, many of our members have expressed concern that the method HUD plans to implement for submitting operator financial data could lead to inadvertent errors and increased liability on FHA Lenders. Because the FHA Lenders are being required to input operator financial data directly, many members have expressed concern that they lack the capacity to effectively review the numerous (in some cases hundreds) of quarterly financial reports, extract the necessary data, and then properly insert it into the HUD portal. Therefore, the MBA has proposed that HUD adopt a standard Excel template that the operators could complete and that the FHA Lenders could upload into the HUD portal. The members believe that allowing operators to insert their information directly will insure more accuracy, as well as enable HUD to hold the appropriate party, i.e. the operator, accountable for data errors.

As we have seen with the LEAN program, HUD has the capability to design effective and informative data templates for lender underwriting and appraisal reviews; so a HUD-designed template for this vital asset management function is well within the capabilities of the Office of Healthcare Programs.

As we have previously discussed with your staff, we also are greatly concerned with the level of certification that HUD will require of the FHA Lenders at the time of submission of the financial statements. Simply stated, the FHA Lenders cannot provide any certification as to the accuracy of information contained in the operators' financial statements. Those certifications must come directly from the operators. Additionally, our members have expressed concern that mortgage insurance payments could be curtailed or denied if HUD determines that information submitted by the FHA Lender on behalf of the borrower or operator is not accurate. Therefore, we request that HUD clarify both its lender certification requirements and confirm to FHA Lenders that filing financing statements on behalf of operators will not result in a curtailment of an insurance claim.

In addition to the above discussed concerns, the FHA Lenders have found several other operational issues with the portal that need to be addressed prior to the commencement of submissions. Therefore, we join the MBA is asking HUD to meet with FHA Lenders as soon as possible to have a detailed discussion of the MBA recommendations and to develop any necessary changes to the portal. And, we of course would appreciate the opportunity to participate in those discussions with HUD and the MBA servicer group.

As always, we appreciate your willingness to listen to and work with the FHA Lending community. We hope that we can work together on this issue to develop an effective system for the submission of operator financial statements to HUD.

Very truly yours,

A handwritten signature in black ink, appearing to read "Roderick D. Owens". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Roderick D. Owens
Executive Director