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HUD Part II Summary

November 15, 2010

Moderator

Alan Jaffa, Safeguard Properties

Panel

William Collins, U.S. Department of Housing and Urban Development

Matt Martin, U.S. Department of Housing and Urban Development

Sarah Martin, U.S. Department of Housing and Urban Development

Jodi Gaines, Claims Recovery Financial Services

Tracy O'Donnell, Chase

Tracy Hager, Mortgage Contracting Services

Cindy Constantino, CoreLogic Claims and Default Management Services

Claims Overview

The second HUD session began with Sarah Martin addressing post-claim reviews. The auditors have confirmed that they will accept the published FAQ's as an extension of the guidelines when performing an audit.

Currently HUD does not have the capability to accept supplemental claims electronically. The HUD claims system A43C is separate from P260. Considerations to integrate the two systems are underway, but no timeframe has been given. An integration of the two will assist in addressing EDI (electronic data interchange) errors. Currently if a claim submission errors out and needs to be re-sent, a hard copy must be mailed in. Servicers are responsible for maintaining hard copies of all claim files.

Servicers are currently required to submit three pieces of information to P260 for Part A reviews:

- Part A claim to include the copy of foreclosure deed, deed to HUD, and documentation of tax payments
- Title package, which is most often uploaded by the servicer's attorney
- Part B – E Claim to include copy of over allowables and all supporting photos to support preservation costs and documentation to support insurance funds

Servicers must provide access to the attorneys to be able to upload title packages into P260. However, if there are errors or rejections they are unable to view which specific packages have issues. Servicers would like P260 to be enhanced so that they can see rejections submitted on their behalf.

William Collins provided information on Part B and C reviews. MCB is reviewing to see what work has been completed, if it was completed correctly, and for the approved allowable. Also they will be reviewing for supporting before and after photo documentation and reviewing all preservation costs.

Detroit Evictions

The eviction process in Detroit, MI was one of much discussion. Currently the sheriff's bailiff completes the eviction, rather than the servicer's vendor as in all other jurisdictions across the country. HUD requires removal photos for the claim process, but the bailiffs do not always provide them. HUD stated that a photo of a full dumpster will be sufficient; they do not require before interior photos. The field services provider cannot assist the bailiffs in the eviction so stronger communication needs to exist between the field services provider and the attorneys to ensure that this is being done correctly.

P260 Documentation for Post-Claim Audits

The panel inquired about the use of P260 by the HUD post-claim auditors. Martin stated that servicers are still required to maintain the claim files even with the implementation of the P260 system because there is no requirement to upload the all loan documentation to P260. A representative from Yardi Systems confirmed that documentation retention is indefinite; no destroy date exists at this time.

Servicers inquired as to the potential "double jeopardy" of two audits being completed on the Part B- E claims—the first review by MCB at claim submission and the second review by the HUD auditors in a post claim audit. The concern is regarding a potential discrepancy in interpretation by the two different reviews and the potential length of time that passes between the two. HUD and MCB should be completing the same review so the interpretations should be the same. Both will be reviewing all preservation costs related to a property as well as photo documentation. Martin agreed to review several case examples where this may not have occurred.

Error Codes

Error codes need to be resolved within 20 days, as HUD feels this is a sufficient amount of time and requires detailed notes indicating steps taken to address the errors before an extension will be approved. When the error codes are not resolved in the required timeframe, HUD will quit claim the deed out of their name.

Collins added that a property is not truly protected until all claims are paid. FSM contractors are not assigned until Part A is transferred successfully. MCB now notifies the servicers of errors via e-mail to reduce the number of days that pass without protection of the property. Concerns were raised by the servicers that the required 20-day resolution is not always realistic when HUD can take up to three weeks before responding to the servicer. MCB added that error codes are not transferred into P260

so MCB is not aware when those are out there and servicers have been advised to limit follow-up to every 10 days. Martin noted a need for follow-up on this process. In recognition of this being a new issue, Collins and Martin will review step 0 error codes and associated follow-up within the required 20-day resolution period.

Claim Blocks

Martin addressed a question regarding a current servicer being held responsible for errors on loans acquired from other servicers. There is no official guide that an error code can or cannot be placed on a current servicer. HUD will need to review on a case-by-case basis. There is currently no reporting that goes out on claim blocks, so clients are concerned about not being notified. Martin responded that HUD Claims does note why a claim block is granted in every circumstance. A block can only be removed if the requestor removes it.

Photo Requirements

Robert Klein expressed concern on behalf of clients on the standard of proof of “before” and “after” photos. He mentioned that “tens of thousands of dollars in claims have been disallowed” in post-claim audits. HUD auditors responded back that they prefer to see color photos over black and white, especially when reviewing grass cuts.

A question was asked regarding the date stamps on photos in cases where the camera retains the factory default of 01/01/01 and whether that would negate the ability to claim for reimbursement the work completed. A current HUD auditor contracted by HUD, Heidi Shranz, responded that those cases have come across their reviews and the work is claimable when it is clear that the date on the photo is a result of user error in setting the date on the device; however, when the date on the photos is after the invoice date, the work will be cited.

Short Sale Claims

Matt Martin offered clarification regarding P260 not being designed for short sales or pre-foreclosure sales. P260 is designed for properties that are to convey into HUD’s inventory.

Jodi Gaines inquired as to the recent HUD audit findings surrounding short sale claims and cost on the settlement statement being cited as “not reasonable.” HUD established a preliminary sheet of allowable and non-allowable costs that was shared with the post-claims group. The reference sheet is available for guidance and is not all-inclusive; updates will be made as appropriate and the sheet is posted on HUD’s Web site for reference. Variance requests can be submitted through EVARS.

General Q&A

The end of the session was opened up for questions from the audience regarding any topics discussed, or any additional questions that were not addressed in the course of the conversations that took place in the two HUD sessions.

Q. Will HUD issue clarification on the allowance of year round grass cuts in southern states such as Florida, Texas and California?

A. HUD acknowledges the need for year round grass cuts in areas where grass will continue to grow; it remains the servicer's responsibility to maintain the property and avoid citations. Servicers are also reminded to comply with state and local code.

Q. What is the process for the servicer to address properties absorbed by the local government by eminent domain?

A. Matt Martin advised that these requests will be reviewed on a case-by-case basis. HUD is still researching the non-conveyance claim process and will assist the servicers with these rare cases as they occur.

Q. Why are demand letters issued for the full cost of debris removal when maybe only one small item was inadvertently left behind?

A. MCB will review rebuttal requests to adjust the amount of the demand down to reflect only the cost to remove the item(s) in question. William Collins reiterated that MCB was given instruction to only issue a demand letter for the actual costs associated with what remains at the property.

Q. How soon is the FSM getting out to the property after conveyance to HUD?

A. The FSM is required to inspect the property within 24 hours of conveyance.

Q. Will insurance deductibles be considered as a reimbursement cost?

A. Not at this time.

Summary

Significant discussion regarding the new "philosophy" surrounding the P&P guidelines issued in ML 2010-18 and the posted FAQs reaffirmed the industry's hesitation to take a "logical" approach to preserving the property versus following the written language as in the past. Sharon Lundstrom responded that the guidelines have been written so as not to prescribe each action, but rather to allow servicers to do what is best for the property. Lundstrom reassured the audience that a logical approach is to be followed for each property and should post-claim audit reviews disallow the reimbursement then HUD will address at that time.