

(f) *Disbursement of HEAL loan.* (1) A lender must disburse HEAL loan proceeds:

(i) To a student borrower, by means of a check or draft payable jointly to the student borrower and the HEAL school. Except where a lender is also a school, a lender must mail the check or draft to the school. A lender may not disburse the loan proceeds earlier than is reasonably necessary to meet the cost of education for the period for which the loan is made.

(ii) To a nonstudent borrower, by means of a check or draft payable to the borrower. However, when a previous loan is held by a different lender, the current lender must make the HEAL loan disbursement check or draft payable jointly to the borrower and the holder of the previous HEAL loan for which interest is payable.

(2) Effective July 1, 1987, a lender must disburse the HEAL loan proceeds in two or more installments unless the loan is intended to cover a period of no more than one-half an academic year. The amount disbursed at one time must correspond to the borrower's educational expenses for the period for which the disbursement is made, and must be indicated by the school on the borrower's application. If the loan is intended for more than one-half an academic year, the school must indicate on the borrower's application both the approximate dates of disbursement and the amount the borrower will need on each such date. In no case may the lender disburse the proceeds earlier than is reasonably necessary to meet the costs of education for the period for which the disbursement or the loan is made.

(g) If the lender determines that the applicant is not creditworthy, pursuant to paragraph (c) of this section, the lender must not approve the HEAL loan request. If the applicant is a student, the lender must notify the applicant and the applicant's school named on the application form of the denial of a HEAL loan, stating the reason for the denial.

(h) The lender must report a borrower's HEAL indebtedness to one or more national credit bureaus within

120 days of the date the final disbursement on the loan is made.

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[48 FR 38988, Aug. 26, 1983, as amended at 51 FR 30645, Aug. 28, 1986; 52 FR 748, Jan. 8, 1987; 57 FR 28796, June 29, 1992; 58 FR 67349, Dec. 21, 1993]

§ 60.34 HEAL loan account servicing.

HEAL loan account servicing involves the proper maintenance of records, and the proper review and management of accounts. Generally accepted account servicing standards ensure that collections are received and accounted for, delinquent accounts are identified promptly, and reports are produced comparing actual results to previously established objectives.

(a) *Borrower inquiries.* A lender or holder must respond on a timely basis to written inquiries and other communications from a borrower and any endorser of a HEAL loan.

(b) *Conversion of loan to repayment status.* (1) At least 30 and not more than 60 days before the commencement of the repayment period, the lender or holder must contact the borrower in writing to establish the terms of repayment. Lenders or holders may not charge borrowers for the additional interest or other charges, penalties, or fees that accrue when a lender or holder does not contact the borrower within this time period and a late conversion results.

(2) Terms of repayment are established in a written schedule that is made a part of, and subject to the terms of, the borrower's original HEAL note.

(3) The lender or holder may not surrender the original promissory note to the borrower until the loan is paid in full. At that time, the lender or holder must give the borrower the original promissory note.

(c) *Borrower contacts.* The lender or holder must notify each borrower by a written contact, which has an address correction request on the envelope, of the balance owed for principal, interest, insurance premiums, and any other charges or fees owed to the lender, at least every 6 months from the time the loan is disbursed. The lender or holder

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must use this notice to remind the borrower of the option, without penalty, to pay all or part of the principal and accrued interest at any time.

(d) *Skip-tracing.* If, at any time, the lender or holder is unable to locate a borrower, the lender or holder must initiate skip-tracing procedures as described in §60.35(a)(2).

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[48 FR 38988, Aug. 26, 1983, as amended at 52 FR 748, Jan. 8, 1987; 57 FR 28796, June 29, 1992]

§ 60.35 HEAL loan collection.

A lender or holder must exercise due diligence in the collection of a HEAL loan with respect to both a borrower and any endorser. In order to exercise due diligence, a lender or holder must implement the following procedures when a borrower fails to honor his or her payment obligations:

(a)(1) When a borrower is delinquent in making a payment, the lender or holder must remind the borrower within 15 days of the date the payment was due by means of a written contact. If payments do not resume, the lender or holder must contact both the borrower and any endorser at least 3 more times at regular intervals during the 120-day delinquent period following the first missed payment of that 120-day period. The second demand notice for a delinquent account must inform the borrower that the continued delinquent status of the account will be reported to consumer credit reporting agencies if payment is not made. Each of the required four contacts must consist of at least a written contact which has an address correction request on the envelope. The last contact must consist of a telephone contact, in addition to the required letter, unless the borrower cannot be contacted by telephone. The lender or holder may choose to substitute a personal contact for a telephone contact. A record must be made of each attempt to contact and each actual contact, and that record must be placed in the borrower's file. Each contact must become progressively firmer in tone. If the lender or holder is unable to locate the borrower and any endorser at any time during the period when the borrower is delinquent, the

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lender or holder must initiate the skip-tracing procedures described in paragraph (a)(2) of this section.

(2) If the lender or holder is unable to locate either the borrower or the endorser at any time, the lender or holder must initiate and use skip-tracing activities which are at least as extensive and effective as those it uses to locate borrowers delinquent in the repayment of its other loans of comparable dollar value. To determine the correct address of the borrower, these skip-tracing procedures should include, but need not be limited to, contacting any other individual named on the borrower's HEAL application or promissory note, using such sources as telephone directories, city directories, postmasters, drivers license records in State and local government agencies, records of members of professional associations, consumer credit reporting agencies, skip locator services, and records at any school attended by the borrower. All skip-tracing activities used must be documented. This documentation must consist of a written record of the action taken and its date and must be presented to the Secretary when requesting preclaim assistance or when filing a default claim for HEAL insurance.

(b) When a borrower is 90 days delinquent in making a payment, the lender or holder must immediately request preclaim assistance from the Public Health Service. The Secretary does not pay a default claim if the lender or holder fails to request preclaim assistance.

(c) Prior to the filing of a default claim, a lender or holder must use, at a minimum, collection practices that are at least as extensive and effective as those used by the lender or holder in the collection of its other loans. These practices must include, but need not be limited to:

(1) Using collection agents, which may include its own collection department or other internal collection agents;

(2) Immediately notifying an appropriate consumer credit reporting agency regarding accounts overdue by more than 60 days; and

(3) Commencing and prosecuting an action for default unless: