

CHAPTER 13 MORTGAGE MODIFICATION MEDIATION PROGRAM (MMM)

The Chapter 13 Mortgage Modification Mediation Program (MMM) is a new program in the U.S. Bankruptcy Court for the Eastern District of Wisconsin to help qualified Chapter 13 debtors keep their homes. MMM is designed for Chapter 13 debtors who cannot afford their current mortgage payment, but have steady income to pay a modified mortgage payment. MMM sets up an informal meeting between the debtor and the lender conducted by a neutral mediator who acts as a discussion facilitator. The mediator cannot force a lender to modify a mortgage, but can help the debtor and the lender reach an agreement. MMM is a way for the debtor and lender to discuss whether modifying the mortgage is possible. The goal of MMM is for the debtor and lender to agree to a permanent mortgage modification.

MMM is a voluntary program, and MMM has the support of the Bankruptcy Court. The Judges encourage qualified Chapter 13 debtors and lenders to try the program. MMM has been designed with protections for debtors and lenders alike.

To start the process, the debtor files a Motion to Participate in MMM and serves a copy on the lender. The lender has 21 days to respond to the Motion. The Motion states the requirements to qualify for MMM, including:

- Debtor has regular income and is the owner occupant of a residential property used as debtor's primary residence (investment properties do not qualify).
- Debtor has a mortgage balance of less than \$729,750, and the mortgage payment is not affordable due to financial hardship.
- Debtor will make monthly post-petition mortgage payments of 31% of debtor's gross monthly income or 75% of the Debtor's current mortgage payment, whichever is less, starting the next monthly scheduled due date (plus any grace period) after the Motion is filed. Debtor agrees to a "Doomsday Provision" so that if debtor misses one of these modified mortgage payments, the automatic stay is lifted without a hearing.
- Debtor must have filed complete bankruptcy schedules, and must supply lender with last 2 years' signed tax returns, last 60 days' pay advices, and any other documents lender requests. No mediation will be scheduled until all documents are provided, and failure to supply the documents is grounds for dismissal from the program.
- Debtor must pay a mediation fee of \$125 to the mediator and attend the mediation session. This fee is not refundable under any circumstances. The mediation is to be completed within 60 days of the appointment of the mediator.
- If MMM is successful and the mortgage is modified, the debtor agrees not to voluntarily dismiss the Chapter 13 bankruptcy for 9 months, to enable the debtor to establish a track record of paying the modified mortgage payments. Also, the debtor agrees to a "Doomsday Provision" for one year so that if the debtor misses a modified mortgage payment, the automatic stay may be lifted without a hearing.

- If MMM is not successful, the debtor agrees that either the automatic stay will be lifted or the debtor will promptly propose an amended Chapter 13 plan to pay the original mortgage.

Mortgage lenders participating in MMM will also pay \$125 to the mediator. By consenting to MMM, the lender agrees that a representative with settlement authority will participate in the mediation sessions by telephone or video conference and that the lender will act promptly and in good faith to consider a permanent modification. If the MMM is successful, the lender will promptly prepare the necessary documents, and the Court will approve any modification agreed upon by the debtor and lender.

By participating in MMM, the lender and debtor agree to entry of a Mortgage Modification Mediation Order. This is only a summary. Debtors and lenders are encouraged to read the terms of the Motion, Consent and Order to familiarize themselves with the terms of the program.

Questions about MMM can be directed to Mr. Sean McDermott in the office of the Clerk, U.S. Bankruptcy Court at 414-297-3291.