



WSSFC 2022

Substantive Track – Session 3

Reverse Mortgages

Steve Kalscheur, J. David Krekeler

About the Presenters...

Steve Kalscheur did his undergraduate work in California majoring in business management. In 1998, he received a master's degree at the University of Wisconsin in Urban and Regional Planning. With close to 10 years of lending experience under his belt, Steve advanced his career into specialized methods helping retirees better understand and use reverse mortgages. In addition, he also recently started managing the various financial planning, healthcare, and estate planning aspects of a local trust. Steve's considerable research and educational background allows him to provide statewide continuing education classes to a variety of senior and retirement-oriented businesses. In June 2015, he gave CLE to the State Bar of Wisconsin on HECM reverse mortgages. Steve resides in Madison, Wisc., and has a 17-year-old son. He enjoys volunteering for non-profits, attending church services, traveling, and spending time outdoors with his son playing sports. He is also an avid cook and enjoys spending time with family.

David Krekeler founded Krekeler Law, S.C., (formerly known as Krekeler Strother, S.C.) in Madison, Wisconsin. After about eight years as a general practice lawyer, he's devoted his practice to solving financial problems for businesses, individuals, and farms. His largest single referral source group is probably family lawyers. He has represented thousands of people contemplating or going through divorce, and helped them keep businesses, eliminate debt, restructure payments, and facilitate the divorce process. He has authored numerous materials and teaches multiple seminars each year on bankruptcy and family law issues, all other debts issues, ethics and practice management matters. David publishes both a newsletter and blog on these topics as well. New this past year, he tweets (Twitter handle @jdkrek)! He is a past chair of both the BICR Section of the Wisconsin State Bar and of the Western District of Wisconsin Bankruptcy Bar. David is the current chair of the Solo and Small Firm Section. He is one of only five lawyers in the State of Wisconsin certified in Business Bankruptcy. In his personal time, David enjoys traveling with his wife, Mary, exercising, hanging out with his kids and grandkids and cooking for his family each Sunday.

Hank Sanders, One Trust Home Loans, San Diego, CA.

REVERSE MORTGAGES

What are they?

You see them on TV – Henry “Fonzie” Winkler and former Senator Fred Thompson

Predicted to increase in coming years

Our population age 65 and older will more than double, to over 98 million, by 2060. (US Census Bureau data)

People are working longer, but they are living longer as well. Although COVID reduced overall life expectancy, it is expected to again increase now.

96% of older Americans live in housing units like homes and apartments, as opposed to group housing such as nursing homes. (U.S. Census Bureau, “Centenarians: 2010.”)

About 78% of householders age 65 or older own their homes (U.S. Census Bureau, American Community Survey, 2014, Table B25007)

97% of these older homeowners spend at least 30% of their monthly household income on housing expenses. 30% is considered to be a housing cost burden. (U.S. Census Bureau, American Community Survey, 2014, Table B25093). Note: Housing expenses include mortgage payments, real estate taxes, property insurance, and utilities.

TYPES: The only reverse mortgage that is available in WI currently is FHA insured Home Equity Conversion Mortgage (HECM)

Non-recourse loan

No personal liability

Borrower will never owe more than the loan balance or value of the home, whichever is less. 12 U.S.C. 1715z-20(d)(7)

Allows older people to use home equity for other purposes

Often even if they might be unable to get conventional loan

The market is regulated by HUD and FHA. 24 C.F.R. 206

Who might benefit?

Those senior homeowners who are worried they will not have enough to get them financially through all of their retirement years

Seniors on a fixed income who want to supplement Social Security and other retirement income sources

Those seniors who want to protect the value of their home in retirement – FHA insured the loan

Those seniors seeking an alternative hedge to long term care costs and sequence of returns risk in retirement

Seniors who are house rich and cash poor who want to turn their home into a retirement plan

Seniors who have mortgages now but want to eliminate their payments as the RM pays off the traditional loan and frees up their payment for retirement needs

Seniors who want to make optional mortgage payments in retirement

Seniors who simply want more liquidity in retirement

Seniors who use to stop foreclosure

Advantages:

No monthly payment on loan

No minimum income but seniors have to meet Wisconsin residual income threshold requirement which looks at income after property expenses

No net worth requirement

But must have substantial equity in the home

HECMs can even be obtained while in Chapter 13 bankruptcy

If the Chapter 13 bankruptcy is going to remain open and under repayment at the close of the loan, the following must be met:

The lender must obtain a complete copy of the bankruptcy documents

The lender must determine that the borrower's payment performance in the Chapter 13 bankruptcy has been satisfactory, and all required payments have been made on time

The borrower has received written permission from bankruptcy court to enter into the mortgage transaction.

The lender must include the payment amount in the court-approved payment plan in the borrower's expenses when calculating residual income

Credit rating not as important as with forward mortgage loans

Other than ability to pay property tax insurance, mortgage insurance and maintenance

Even then may be able to borrow – just less

FHA insures the loan. 12 U.S.C. 1715z-20

Disbursement and spending flexibility

No limitations on spending or use but it's recommended to be used in conjunction with an existing retirement

May receive loan funds:

Lump sum

Line of credit

Monthly payments for terms of years

Monthly payments for life

And may switch between them and do a mix and match of the above

Asset Protection

Payments are federally insured

No deficiency in event of default. 24 C.F.R. 206.27(b)(8)

Therefore, other assets and income are protected

Requirements

One of the borrowers must be at least 62 years old

Value of the home can't be more than \$970,000 HUDS current lending limit ...

Sufficient income (or escrow) to pay taxes and insurance

Tax payments can be set up to be paid directly or by a Life Expectancy Set Aside account. A LESA is established at the time the loan originates and is designed to cover the tax and insurance payments for the expected life of the loan (which is the same as the borrower's life expectancy)

If the borrower outlives the LESA, the borrower will have to pay taxes and insurance direct when the LESA is exhausted

Must have substantial equity in the home

The Process

Loan counseling

Required by HUD regulations. 12 U.S.C. 1715z-20

Counselor will explain and explore alternatives and issue a certificate after they can answer a set of questions at the end of the session

FHA will use its appraisal

3 day right to rescind

Unless loan is for purchase of new home

Repayment obligations at maturity – earliest of:

All borrowers have died

All borrowers have conveyed their interests in the property

Borrowers fail to occupy the residence for 12 consecutive months upon death

Upon death lender must allow 30 days for heirs to decide. 12 U.S.C. 1715z-20(j)

If heirs wish to keep, they may pay off at 95% of home's current fair market value, regardless of the loan balance. 24 C.F.R. 206.27(c)

But review the loan documents; there has been confusion over these provisions.
See *Santos v. Reverse Mortgage Solutions Inc*, 2014 WL 9886689 compared to
Chandler v. Wells Fargo Bank, N.A. 2014 WL 31315

Lender must give heirs at least 6 months to arrange financing

Surviving spouses are entitled to prevent the foreclosure as a spouse of the borrower, regardless of whether the spouse was also a borrower. See *Bennett v. Donovan*, 4 F.Supp.3d 5, 403 U.S. App. D.C. (2013)

Disadvantages

Upfront costs are high

Initial mortgage insurance premium (2%)

Origination fee (\$2,000 - \$6,000)

Closing costs

Appraisal

Title Insurance

Legal and drafting fee

Recording fees

All but appraisal may be paid from mortgage principal

Servicing Fee

Risk to other benefits

Who should consider?

Plan on staying in the house for at least several years

Ability to pay real estate taxes and homeowner's insurance

Who should avoid?

You might move out soon

You will not be able to pay taxes and insurance

Maybe if your spouse is not yet age 62 because that spouse will not be able to receive more reverse mortgage proceeds after you die

Bankruptcy Options

You might think that with no monthly payments of principle or interest that borrowers would not default on the payment obligations of a reversed mortgage. But those obligations extend to payment of taxes and insurance, and people with minimal fixed income do not always make these payments.

Bankruptcy, particularly under Chapter 13, provide such borrowers with an opportunity to cure their default over a period of up to 60 months. *In re Clark*, 738 F. 2d. 869 (7th Cir. 1984)

There can be downsides to bankruptcy for some reverse mortgage borrowers. Borrowers receiving monthly disbursements under a tenure or term plan will not be able to access this line of credit. all of the debtors' property becomes property of the bankruptcy estate when the case is filed, including the debtor's home equity. 11 U.S.C. 541(a)

Heirs might also benefit from filing their own bankruptcy cases. Doing so might enable heirs to keep the property even though the loan is matured and is in default. And they may be able to keep it and pay for only the fair market value of the property.

A basic provision in Chapter 13 is that the debtor cannot modify the rights of a creditor secured only by the debt towards principal residence. 11 U.S.C. 1322(b)(2). This generally prevents debtors from cramming down the law and home loan balance to the value of the property.

But an exception to this rule allows a Chapter 13 plan if the last payment on the original payment schedule for the claim is due before the date on which the final payment under the Chapter 13 plan is due. 11 USC 1322(c)(2). The Bankruptcy Code does not define the term "original payment schedule", but a recent Bankruptcy Court decision found that the underlying debt was to be repaid upon the death of the borrower. Thus, reverse mortgages which have matured due to death can be modified.

In re Sandoval, 640 B.R. 165 Bkr. E.D. Wis 2022, the debtor, who was the heir of the borrower, was able to pay \$45,000 spread over the 60 months of the chapter 13 plan, instead of the \$154,000 balance owed on the reverse mortgage loan.

Legal Issues

Whether "Borrower" includes everyone referenced as such in the preamble or only designated in other documents

Courts all over the country are divided

When the Borrower owns mortgaged property with someone else

Usually as spouse, but could be others

Heirs claiming bankruptcy relief after death of borrower

Debtor's property is property of bankruptcy estate even if debtor has no *in personam* liability

The United States Supreme Court held in *Johnson v. Home State Bank*, 501 U.S. 78 (1991) that a debtor may treat a mortgage encumbering property of the debtor in a Chapter 13 plan even if the debtor has no *in personam* liability because the secured lender has a claim against the property of the debtor

Even a party who is not a "borrower" under a reverse mortgage can provide for the loan in a Chapter 13 plans and can even modify the terms

Role of the Lawyer

Review and explain before loan taken out

Goals

Anticipate future problems

Estate planning

Prepare the heirs

Summary

Reverse mortgages are not for everyone

Work well in the right situation

Important to consider for lawyers dealing with:

Debt

Estate Planning

Divorce

There are only a handful of reverse mortgage services




Wisconsin Solo & Small Firm Conference 2022

**KREKELER
LAW, S.C.**

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HOME LOANS NWLS# 96375

**How Reverse
Mortgages
Work...**
*the basics and
advanced
planning
applications*



AGENDA


- ◆ WHAT IS A REVERSE MORTGAGE
- ◆ RETIREMENT CONCERNS ADDRESSED
- ◆ REVERSE MORTGAGE OPTIONS
- ◆ COMPARISON TO TRADITIONAL
- ◆ MISCONCEPTIONS
- ◆ INCREASED PURCHASING POWER
- ◆ FUNDAMENTALS – LINE OF CREDIT GROWTH
- ◆ HEALTH CARE USE EXAMPLE
- ◆ OTHER STRATEGIC USES

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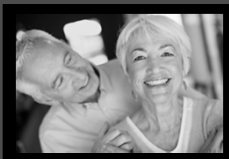
WHAT IS A REVERSE MORTGAGE



- ▶ Mortgage loan that increases purchasing power
 - ▶ Enables homeowners to maintain liquidity with optional monthly mortgage payments (P&I) *
 - ▶ Offers variety of products for homeowners
Refinance & Purchase: Age 62+ HECM
 - ▶ The available line of credit can grow over time
 - ▶ Loan balance plus any accrued interest does not have to be repaid to the lender until a maturity event occurs
-  Buyers required to remain current on paying property taxes, HOI, and HOA payments, and maintain property condition



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Longevity

- ▶ Ensuring clients don't run out of money



Lifestyle

- ▶ Beyond the basics to have cash flow to enjoy the most meaningful time of life



Liquidity

- ▶ Access to liquid assets in the event of an unforeseen events



Legacy

- ▶ Leaving something for individuals and causes that matter



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REVERSE MORTGAGE OPTIONS

FIXED & ARM LOAN OPTIONS

Used on various
property types:

- Single Family,
- 2-4 Unit,
- Townhouse,
- PUD,
- FHA/HUD-Approved
Condominium,
- Manufactured Home



HECM FOR PURCHASE (H4P)

FHA-insured,
non-recourse loan

- \$970,800 FHA
Max Claim amount
- For borrowers age 62+
- Offered in 49 states
(except NY)



PROPRIETARY JUMBO MORTGAGE

Non-FHA-
insured loan

- For borrower(s)
age 55+
- \$4MM in Loan Amount
- \$10MM Max Claim Amount
- Offered in select states
- Currently NOT in WI



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LET'S COMPARE

	REVERSE		TRADITIONAL (FORWARD)
FICO Score	No	✗	Yes
Monthly Payment	Optional	✗	Mandatory
Loan Amount > Home Value	Non-Recourse	✗	Borrower Responsible
Term	Maturity Event	✗	End of Loan Term (15 or 30 year)
Income Requirements	Residual Income Limits	✗	Debt to Income Ratios
Product Options	Fixed or Adjustable Rates	✓	Fixed or Adjustable Rates
Mortgage Insurance	FHA UFMIP and MIP	✓	FHA UFMIP and MIP
Property Ownership	Borrowers on Title	✓	Borrowers on Title
Property Charges	Pay Property Taxes, HOI, Flood HOA	✓	Pay Property Taxes, HOI, Flood HOA



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MISCONCEPTIONS

Home must be debt free before client can qualify!

- ✗ FALSE! One of the most popular reasons homeowners do a reverse mortgage is to payoff an existing mortgage or a HELOC.

The borrower and/or heirs will be left with debt in excess of the home's value!

- ✗ FALSE! If the home value is less than the mortgage balance, FHA insurance pays the difference upon loan maturity.

I will no longer be able to sell my home!

- ✗ FALSE! Like a traditional mortgage a reverse mortgage is paid off when the home is sold (no prepayment penalty).

Lender takes ownership of the home!

- ✗ FALSE! Just like a traditional mortgage, the owner remains on the title, so long as they continue to pay property taxes, homeowner's insurance and comply with loan terms.

Reverse Mortgage is only used as last resort for seniors without assets!

- ✗ FALSE! Reverse Mortgage also provides additional opportunities for mass affluent seniors looking to enhance retirement strategies.



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PURCHASING POWER WITH REVERSE MORTGAGE

John (age 74) & Jackie (age 69)

- ▶ Looking to purchase \$600K Home
- ▶ Keep monthly payment to \$0
- ▶ Own home free and clear
- ▶ Family size 2
- ▶ Want to move closer to grandkids and upside to 2,500 sq ft property
- ▶ Selling current home for \$550K and net 500K from sales proceeds



Purchase Options	Traditional (Forward)	Reverse
Cash available from home sale	\$500,000	\$500,000
New home purchase price	\$600,000	\$600,000
Reverse Mortgage	N/A	\$253,200
Settlement Including Closings Costs	Short to Close (100K delta from home sale + closing costs)	\$365,630 Down Payment/Fees \$134,370 Cash Left

Let's assume John & Jackie decide to obtain a traditional Forward mortgage with the same Down Payment amount as on the Reverse!

Monthly Principal & Interest	\$1,119 est. (CONV, LA \$234,370, 4% rate)	\$0 (payment optional)
Taxes & Insurance (annual taxes 5,500 / HOI \$1,500)	\$583 est.	\$583 est.
Total PITI	\$1,702	\$583 est.
Income Needed to Qualify (DTI vs. RI) Traditional financing 50% max DTI, Reverse RI)	3,404 DTI (est.) (\$1702/50% est.)	RI \$1931 (\$583 TI + \$998 fam size + \$350 sq. ft utility charges)

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FUNDAMENTALS TO UNDERSTAND

How much equity can I access?

01 Age

02 Interest Rates

03 Home Value

How can I access the equity?

1. Tenure payment

2. Term Payment

3. Revolving LOC

LOC – Line of credit



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FUNDAMENTALS TO UNDERSTAND

Line of Credit Growth

Your total credit line (principal limit) will increase monthly at the same rate at which an outstanding balance will accrue interest (interest rate + mortgage insurance premium).

Example

Home Value:	\$600,000
Total Line of Credit (Principal Limit):	\$300,000
Payoff previous mortgage + financing cost:	\$100,000
Available Credit:	\$200,000 (total line - outstanding balance)
Interest Rate:	4.50%
Mortgage Insurance Premium:	0.50%
Credit Line Growth Rate:	5.0%



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LINE OF CREDIT GROWTH

Home Value:	\$600,000
Total Line of Credit (Principal Limit):	\$300,000
Payoff previous mortgage + financing cost:	\$100,000
Available Credit:	\$200,000 (total line - outstanding balance)
Interest Rate:	4.50%
Mortgage Insurance Premium:	0.50%
Credit Line Growth Rate:	5.0%

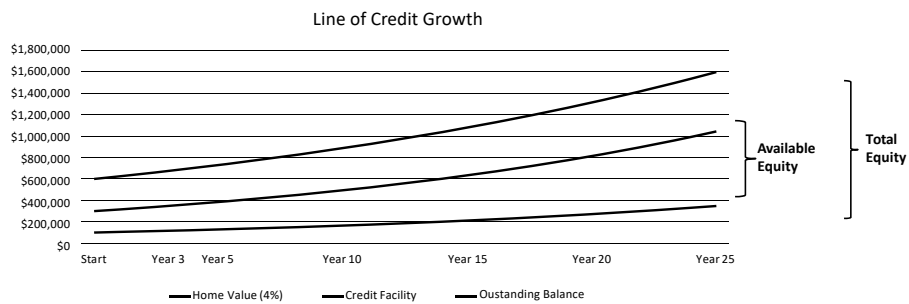
If you choose not to make any payments, what will happen?

	Start	Year 1	Year 5	Year 10	Year 25
Home Value	\$600,000	\$624,000	\$729,992	\$888,147	\$1,599,502
Total Credit Line	\$300,000	\$315,349	\$385,008	\$494,103	\$1,044,387
Balance Owed	\$100,000	\$105,116	\$128,336	\$164,701	\$348,129
Available Credit	\$200,000	\$210,232	\$256,672	\$329,402	\$696,258



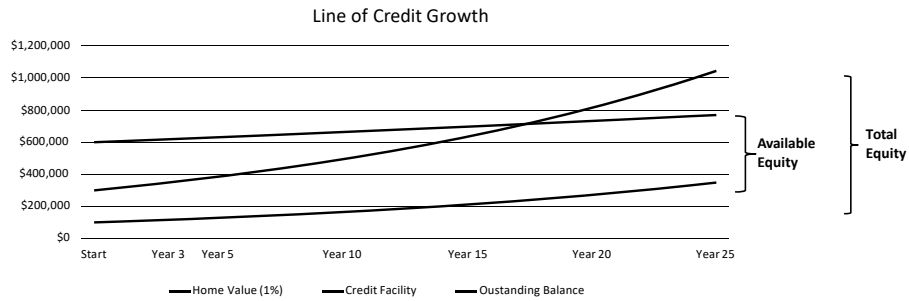
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LINE OF CREDIT GROWTH



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LINE OF CREDIT GROWTH



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LINE OF CREDIT USE FOR HEALTH EVENT



John (66) and Betty (65) Wilson

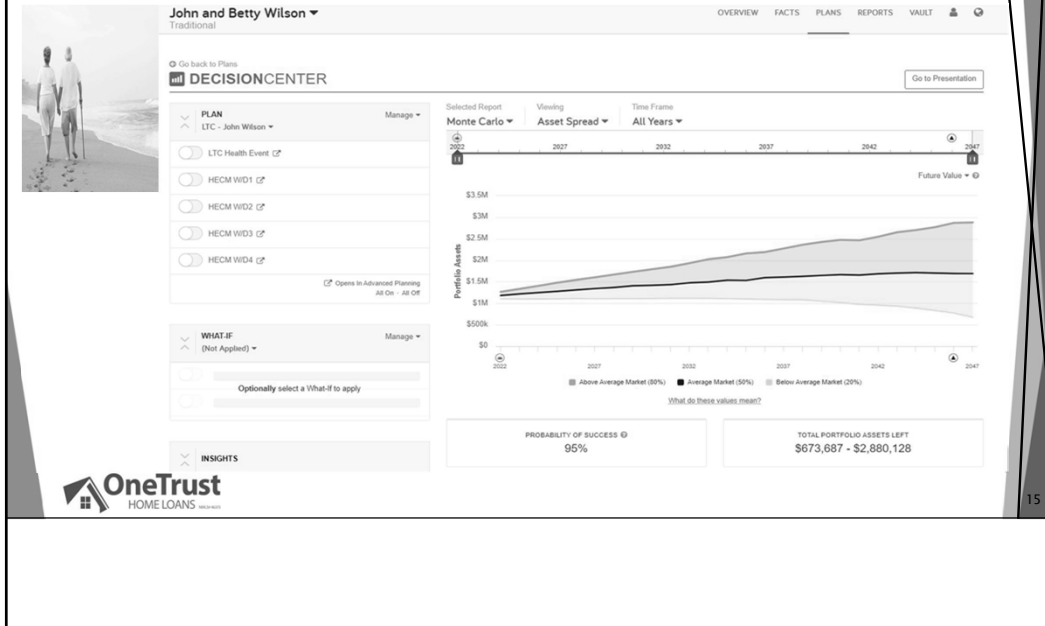
- \$750k Home, 0 Mortgage
- \$400k Investment Account
- \$800k IRA
- Retirement Income Need = \$100k/year
- \$4,500/month combined SS Benefits
- \$54k Annual Withdrawal from Investments (3.8%)

John has health event at age 75 that lasts 4 years @ current cost of \$80k/year



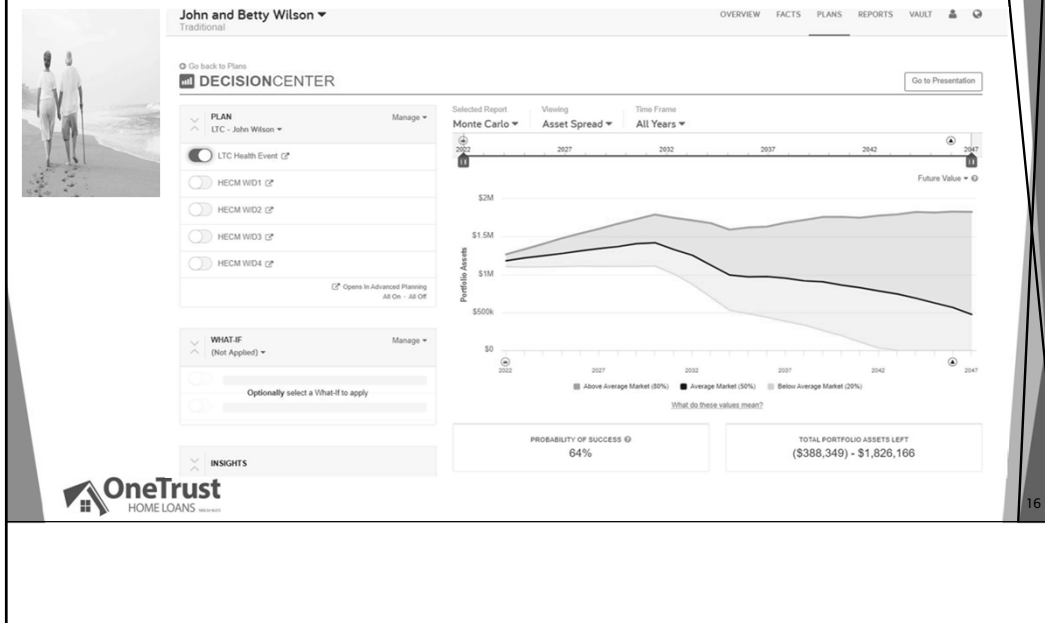
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LINE OF CREDIT USE FOR HEALTH EVENT



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LINE OF CREDIT USE FOR HEALTH EVENT



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LINE OF CREDIT USE FOR HEALTH EVENT



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STRATEGIC USES OF A REVERSE MORTGAGE



Asset Strategy

Help retirement savings last longer



Retirement Home

Purchasing a retirement home that best fits their needs (right size, move closer to family)



Social Security

Bridging social security deferral gap



Mortgage Payoff

Paying off existing mortgage (requirement of the loan)



Home Repair

Funding home repairs or renovations



In-Home Care

Fund or Supplement in-home care



Cover Bills

Paying off medical bills, vehicle loans, credit cards or other high interest debts



Line of Credit

Establish an LOC for unexpected expenses



Gift

Proceeds can be used for almost any reason, including inheritance

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