

To: RISE Rulemaking Committee
From: Ashley Naporlee and Tamar Hoffman
Date: October 1, 2025
Memo: Proposal re increasing borrowers' success of completing rehabilitation agreements

Introduction:

This year, as many as 10 million borrowers—a quarter of the loan portfolio—may be in default.¹ In the OBBB, Congress intended to encourage and make it easier for borrowers to exit default by allowing borrowers to use a rehabilitation agreement twice. We propose that the Department implement other important improvements to its loan rehabilitation regulations to increase the likelihood that borrowers will successfully complete a rehabilitation agreement and resume repayment of their loans. Critically, the legal aid and consumer stakeholder groups have identified that borrowers often do not complete rehabilitation agreements because they are confused by the Department's continued use of its collection powers while they are making monthly rehabilitation payments. Low-income borrowers, in particular, often find that they cannot afford to make rehabilitation agreement payments while they are simultaneously subject to social security offset, wage garnishment, or tax refund intercept. This proposal explains why additional changes in the regulations are necessary and suggests regulatory language that would suspend collection activities while a borrower is making monthly rehabilitation agreements, which would increase the likelihood borrowers would complete the agreement, get out of default, and resume paying back their student loans.

Background

Currently the regulations are silent regarding what happens to Treasury Offset Program collections (tax refund offset, Social Security offset, and other federal payments offset) once the borrower is making payments in a rehabilitation agreement. The FFEL and Direct Loan regulations only state that wage garnishment will be suspended after a borrower makes their fifth payment under a rehabilitation agreement. See 34 CFR § 682.405(a)(3); 34 CFR § 685.211(f)(11). That a borrower must make five payments in a rehabilitation agreement before wage garnishment is stopped is *not* a statutory requirement. While in the past, some Department default servicers would agree not to initiate collections at the borrower's request while the borrower made payments under a rehabilitation agreement, this was up to the arbitrary discretion of the servicer. In addition, many borrowers do not know to submit a request to stop collections after entering a rehabilitation agreement. Thus, many borrowers struggled to complete their rehabilitation payments while continuing to endure hefty wage garnishments, federal benefits offsets, and tax refund intercepts.

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<https://www.ed.gov/about/news/press-release/us-department-of-education-begin-federal-student-loan-collections-other-actions-help-borrowers-get-back-repayment>

Collection While A Rehabilitation Agreement Is In Place Stops Borrowers From Exiting Default

Rehabilitation is a critical vehicle to help borrowers get defaulted loans back on track and demonstrate that they intend to continue repaying. However, legal aid attorneys often hear from borrowers that are confused and dismayed when they continue to be subject to collections after entering rehabilitation agreements. Continuing collection while a borrower is making rehabilitation payments is counterproductive to the purposes of rehabilitation. Rather than encouraging borrowers to stabilize their economic situation and resume repayment, allowing simultaneous wage garnishment, Social Security retirement or disability benefits offset, or tax refund intercepts, increases the likelihood that a borrower will not be able to afford completing rehabilitation. Many have experienced financial distress, which landed them in default, and are finally trying to get on their feet financially so they can repay their loans. However, if they are making two student loan payments at the same time, this drastically reduces the income they have available to pay for their basic living necessities, like housing, food, utilities, child care, and medical expenses. Indeed, prior to the payment pause, nearly 80% of borrowers were financially distressed and eligible for the minimum \$5 payments.² Legal aid attorneys and consumer advocates have heard many stories of borrowers giving up on rehabilitation and loan repayment, feeling powerless against a system that feels rigged against them even though the borrower is doing the right thing by trying to rehabilitate their loans so they can work towards paying back their loans.

Take the below two examples of low-income borrowers, one who is single, the other who is Head of Household with one dependent. Assume they live in New York State:

Example 1: Single - \$750 per year for healthcare

Family Size	Annual Gross Income	Monthly Gross Income	Federal Taxes	State Taxes	Social Security	Medicare	Disposable Income	Monthly Take Home	AWG (Up to 15% Disposable Income)	Rehab Payment (15% of discretionary Income)	Total Payment to Student Loans	% Take Home Pay	Remaining Monthly Balance
1	32,500	2,708	298	68	164	38	2,141	2,078	321	113	434	21%	1,644

Example 2: HOH, 1 Dependent - \$1100 per year for healthcare

Family Size	Annual Gross Income	Monthly Gross Income	Federal Taxes	State Taxes	Social Security	Medicare	Disposable Income	Monthly Take Home	AWG (Up to 15% Disposable Income)	Rehab Payment (15% of discretionary Income)	Total Payment to Student Loans	% Take Home Pay	Remaining Monthly Balance
2	40,000	3,333	356	180	201	47	2,550	2,458	383	103	486	20%	1,973

* Disposable income & take home pay calculations: [NY State Tax Calculator](#)

** Cannot leave you with less than 130x minimum wage (\$7.25) or \$942.50 per month: [Bureau of the Fiscal Services](#)

In both cases, the combination of a 15% wage garnishment plus having to make a rehabilitation payment that is 15% of their income above 150% of the federal poverty guidelines for their family size results in the borrower paying \$430-\$490 per month or 20% or more of their take

² Annual Report, CFPB Student Loan Ombudsman, Transitioning from Default to an Income-Driven Repayment Plan, 22 (Oct. 2016), available at https://files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf

home pay towards student loans. That means that they are left with less than \$2,000 per month to pay for rent, food, utilities and in the second example a child. For many, the rent alone will take up much of the remaining income, making it very difficult for them to pay for their other living expenses.

This has devastating consequences for borrowers. Legal aid attorneys regularly hear the following types of experiences from their student loan clients:

- A mother was expecting the Child Tax Credit and Earned Income Tax Credit to pay for medical expenses for her children. She entered into a rehabilitation agreement after being told to do so by a debt collection contractor for the Department of Education. Despite making on-time payments, she still had her tax refund seized. She could not afford to continue making payments and pay for her children's medical care, so she did not complete her rehabilitation agreement. That meant that she could not enroll in an IDR plan where she would have been eligible for \$0 monthly payments.
- A Social Security Disability Insurance recipient was barely able to cover both their rent and their food expenses. They entered into a rehabilitation agreement and thought it would mean the Social Security offset would stop. When it did not, they did not have enough income to cover basic expenses and continue to make payments. Convinced that the system was rigged, they did not complete their rehabilitation agreement, and continued losing their SSDI income.
- An adult woman entered into a rehabilitation agreement after being told that it was one way to stop wage garnishments. She was trying to take on overtime shifts to help cover the living expenses and cost of medical care for her disabled father. While she started making rehabilitation payments, however, the garnishment continued. Without a full paycheck, she could not cover both her and her father's expenses. She therefore stopped paying under the rehabilitation agreement even though she desperately wanted to remove her loans from default and start making payments again.

By suspending collections while a rehabilitation agreement is in place, borrowers will be much more likely to complete their rehabilitation. At the same time, borrowers will feel less like they are being punished by a draconian debt collection system and more confident that they can handle repayment of their student loans. Ultimately, this serves the purposes of encouraging rehabilitation and repayment, as intended by Congress, rather than serving to punish and discourage defaulted borrowers.

Proposed Regulations

The below proposed regulations (in blue, in addition to the Department's proposals which are in red), aim to make it clear that collection will not begin if a borrower enters a rehabilitation agreement and, if collections have already begun, collection will be suspended while the borrower is making payments in a rehabilitation agreement.

34 CFR § 685.211(f)(11)(Direct Loans)

(11)

(i) If a borrower's loan is not yet being collected by administrative wage garnishment, tax refund intercept, or any federal benefits offset, and the borrower enters into a rehabilitation agreement, collection activities will not begin while the borrower is making monthly payments under a rehabilitation agreement.

(ii) If a borrower's loan is being collected by administrative wage garnishment while the borrower is also making monthly payments on the same loan under a loan rehabilitation agreement, the Secretary ~~suspends~~ ~~continues~~ collecting the loan by administrative wage garnishment. ~~until the borrower makes five qualifying monthly payments under the rehabilitation agreement, unless the Secretary is otherwise precluded from doing so.~~

(iii) If a borrower's loan is certified to be collected by tax refund intercept or by any federal benefits offset when the borrower enters into a rehabilitation agreement, the Secretary suspends collection while the borrower is making monthly payments on the same loan under a loan rehabilitation agreement.

~~(iii) After the borrower makes the fifth qualifying monthly payment, the Secretary, unless otherwise directed by the borrower, suspends the garnishment order issued to the borrower's employer.~~

(iv) (A) Before July 1, 2027, a borrower may only obtain the benefit of a suspension of administrative wage garnishment while also attempting to rehabilitate a defaulted loan once.

(B) On or after July 1, 2027, a borrower may only obtain the benefit of a suspension of administrative wage garnishment while also attempting to rehabilitate a defaulted loan a maximum of twice per loan.

34 CFR § 682.405(a)(3) (FFEL Loans)

(i) If a borrower's loan is not yet being collected by administrative wage garnishment, tax refund intercept, or any federal benefit offset and the borrower enters into a rehabilitation agreement, collection activities will not begin while the borrower is completing the rehabilitation agreement.

(ii) If a borrower's loan is being collected by administrative wage garnishment while the borrower is also making monthly payments on the same loan under a loan rehabilitation agreement, the guaranty agency must ~~continue~~ ~~suspend~~ collecting the loan by administrative wage garnishment. ~~until the borrower makes five qualifying monthly payments under the rehabilitation agreement, at which point the order will be lifted. unless the guaranty agency is otherwise precluded from doing so under § 682.410(b)(9).~~

(iii) If a borrower's loan is certified to be collected by tax refund intercept or any federal benefits offset when the borrower enters into a rehabilitation agreement, the guaranty agency must suspend collection while the borrower is making monthly payments on the same loan under a loan rehabilitation agreement.

(4) (i) After the loan has been rehabilitated, the borrower regains all benefits of the program, including any remaining deferment eligibility under section 428(b)(1)(M) of the Act, from the date of the rehabilitation. ~~Effective for any loan that is rehabilitated on or after August 14, 2008, the borrower cannot rehabilitate the loan again if the loan returns to default status following the rehabilitation.~~

(ii) A loan may only be rehabilitated once between August 14, 2008 through June 30, 2027. On or after July 1, 2027, a loan may only be rehabilitated a maximum of two times over the loan's lifetime, regardless of when the loan was made.