682.215 – Income Based Repayment Plan:

- We had previously submitted a proposed a minor edit to 682.215(b)(1) to clarify that borrowers enrolled in IBR will have a ceiling payment that is the lesser of (1) 15% of their adjusted gross income that exceeds 150% of the federal poverty line divided by twelve, or (2) their payment amount in the FFEL standard plan based on a 10-year repayment period using the amount of the borrower's eligible loans outstanding at the time that the borrower started paying under the income-based repayment plan. This edit ensures that the regulations do not inadvertently set the ceiling payment at the amount of 15% of a borrower's adjusted gross income that exceeds 150% of the federal poverty line divided by twelve from the time that the borrower entered the IBR plan. For the sake of clarity, below is the text as it would read with the Department's proposed edits, with our additional changes highlighted in yellow:

…For the Income-Based Repayment Plan, a ~~borrower may elect to have their aggregate monthly payment recalculated to not exceed the applicable amount when the borrower initially enters the plan. The~~ borrower's aggregate monthly loan payments are limited the lesser of the amount the borrower would have paid under the FFEL standard plan based on a 10-year repayment period using the amount of the borrower's eligible loans outstanding at the time the borrower began repaying under the income-based repayment plan and ~~to no more than~~ 15 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty line ~~income~~ applicable to the borrower's family size, divided by 12….

682.405 – Loan Rehabilitation Agreement:

- We had previously proposed language to suspend AWG during rehabilitation and not to start forcible collection if rehabilitation is ongoing. This issue is very important to our constituency, and we believe that it merits further discussion with the Department to see if we can reach a resolution that works for all parties. For reference, our suggestions are below, highlighted in yellow:

34 CFR § 682.405(a)(3):

(i) If a borrower's loan is not being collected by administrative wage garnishment or offset of tax refunds, federal benefits, or federal payments, and the borrower enters into a rehabilitation agreement, collection will not start unless the borrower fails to make the payments as required by paragraph (a)(2). ~~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 collecting the loan by administrative wage garnishment until the borrower makes five qualifying monthly payments under the rehabilitation agreement, unless the guaranty agency is otherwise precluded from doing so under § 682.410(b)(9).~~

(ii) If a borrower's loan is being collected by administrative wage garnishment or offset of tax refunds, federal benefits, or federal payments when the borrower enters into a loan rehabilitation agreement, the guaranty agency must suspend collecting the loan until the borrower fails to make the payments as required by paragraph (a)(2). ~~After the borrower makes the fifth qualifying monthly payment, the guaranty agency must, unless otherwise directed by the borrower, suspend the garnishment order issued to the borrower's employer.~~

- We also previously proposed a minor edit to 682.405(a)(4)(ii) to account for the fact that ED restored eligibility for defaulted student loan borrowers who had previously rehabilitated their loans to rehabilitated them again under the Fresh Start program between March 1, 2020 and September 1, 2023, and that the rehabilitation program started on August 14, 2008. Therefore, the current limitation on rehabilitations should exclude any rehabilitation prior to August 14, 2008 and between March 1, 2020 and September 1, 2023.

685.209 – Income-Driven Repayment Plans

- We had previously submitted a proposal to fix the fact that “applicable amount” is incorrectly defined as it misstates that payments under PAYE are 15% of discretionary income. We hope that the Department will revisit our prior proposal for accuracy.
- There is a separate issue in this section of the regulations regarding RAP payments for married borrowers filing jointly, which we are addressing in a separate proposal.
- The OBBB allows borrowers who have consolidated Parent PLUS loans before July 1, 2026 and repaid using any IDR plan to enroll in IBR, and the Department has previously made clear that it interprets this language to allow such borrowers to enroll in IBR as soon as they've made at least one payment in an IDR plan. We are concerned that the language in 685.209(c)(5)(iii)(A) may restrict such borrowers from switching from ICR to IBR before July 1, 2028, contrary to the OBBB language and ED's prior interpretation. We recommend the Department amend that section to clarify that such borrowers may switch from ICR or other IDR plans to the IBR plan.