

To: RISE Rulemaking Committee

From: Ashley Naporlee and Tamar Hoffman

Date: October 10, 2025

Memo: **Proposal re increasing successful borrower transition into repayment through rehabilitation**

By increasing the number of opportunities that borrowers have to rehabilitate their loans out of default from one to two in the OBBB, Congress intended to increase the number of defaulted borrowers who can repay their loans after successful rehabilitations, thereby avoiding the need for loan forgiveness to benefit both the borrowers and taxpayers. **But, having to make two student loan payments at the same time - one through rehabilitation and one through wage garnishment, Social Security retirement and disability offset, or tax refund offset - drastically reduces the income borrowers have available for basic life necessities, such as rent, food, transportation, utilities, medical necessities, and child care, while also making monthly rehabilitation payments.**

In order to achieve Congress's intent, we propose amending the rehabilitation regulations to provide for preventing or suspending involuntary collection after a borrower has entered a rehabilitation agreement. We also propose amending the proposal for Direct Loans to clarify that a borrower may rehabilitate a loan two times, mirroring the language of the proposed FFEL regulation language, as required by the OBBB. Finally, we have proposed a minor change to reflect that borrowers who rehabilitated during the pandemic payment pause [are permitted to rehabilitate again](#) if they fall back into default.

The regulations are currently silent regarding what happens to Treasury Offset Program collections (tax refund, Social Security, and other federal payments offsets) once the borrower has entered a rehabilitation agreement. While in the past some Department default servicers would agree to refrain from initiating collections at the borrower's request when they entered a rehabilitation agreement, this was up to the arbitrary discretion of the servicer. In addition, many borrowers did not know they could make this request. The regulations also do not address whether offsets may be suspended when a borrower starts making rehabilitation payments.

With respect to wage garnishment, the FFEL and Direct Loan regulations similarly do not address whether entering a rehabilitation agreement prevents initiation of wage garnishment. Moreover, there is no statutory requirement that the Department wait until the fifth rehabilitation payment to suspend wage garnishment, as the regulations currently require. See 34 CFR § 682.405(a)(3); 34 CFR § 685.211(f)(11). In fact, the Department can suspend wage garnishment upon execution of a rehabilitation agreement.

Rehabilitation is a critical vehicle that allows borrowers who have defaulted to get back on track financially and demonstrate that they intend to repay their loans. Many borrowers, however, will be unable to successfully complete rehabilitation if wage garnishment, federal benefits offsets, and tax refund offsets either begin or continue while borrowers are attempting to rehabilitate their loans. Thus, simultaneous collection will put rehabilitation out of reach for many borrowers and is counter to Congress's intent to encourage repayment through increased rehabilitation opportunities.

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 Missouri:

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

Family Size	Annual Gross Income	Monthly Gross Income	Federal Taxes	State Taxes (Missouri)	Social Security	Medicare	Disposable Income	Monthly Take Home
1	\$32,500	\$2,708	\$155	\$54	\$168	\$39	\$2,292	\$2,229

AWG (up to 15% disposable income)	Rehab Payment (15% of discretionary income)	Total Payment to Student Loans	% Take Home Pay	Remaining Monthly Balance
\$344	\$113	\$457	21%	\$1,772

Example 2 - Single, 1 dependent - \$1100 per year for healthcare

Family Size	Annual Gross Income	Monthly Gross Income	Federal Taxes	State Taxes (Missouri)	Social Security	Medicare	Disposable Income	Monthly Take Home
2	\$40,000	\$3,333	\$230	\$83	\$207	\$48	\$2,765	\$2,673

AWG (up to 15% disposable income)	Rehab Payment (15% of discretionary income)	Total Payment to Student Loans	% Take Home Pay	Remaining Monthly Balance
\$415	\$103	\$518	19%	\$2,155

Source: <https://www.adp.com/resources/tools/calculators/states/missouri-salary-paycheck-calculator.aspx>

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 approximately 20% of their take home pay towards student loans. That means that they are left with significantly less each 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 while making rehabilitation payments.

Allowing involuntary collection while a borrower is attempting to rehabilitate a loan will significantly reduce the number of borrowers who are able to complete rehabilitation, thus reducing the number of borrowers who transition into repaying their loans. This is contrary to Congress's intent in the OBBB and to the interests of taxpayers.

As such, we propose the following changes to 34 CFR § 685.211(f)(11) and 34 CFR § 682.405(a). Our proposed edits are highlighted in yellow, and the Department's prior proposed language remains in red.

34 CFR § 685.211(f)(11)(Direct Loans)

(f) Rehabilitation of defaulted loans.

(1) A defaulted Direct Loan, except for a loan on which a judgment has been obtained, is rehabilitated if the borrower makes 9 voluntary, reasonable and affordable monthly payments within 20 days of the due date during 10 consecutive months. The Secretary determines the amount of a borrower's reasonable and affordable payment on the basis of a borrower's total financial circumstances.

...

(11)

(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 (f)(1). 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 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.

(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 Secretary suspends collecting the loan until the borrower fails to make the payments as required by paragraph (f)(1). 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.

(iii) (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. A loan may only be rehabilitated once between August 14, 2008 through March 1, 2020 and from September 1, 2023 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, excepting rehabilitations prior to August 14, 2008 and between March 1, 2020 and September 1, 2023, regardless of when the loan was made.

(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) (FFEL Loans)

(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.

(iii) ~~On or after July 1, 2027, a~~ borrower may only obtain the benefit of a suspension of administrative wage garnishment ~~one time per each while also attempting to rehabilitate a defaulted loan once.~~

(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 **March 1, 2020 and from September 1, 2023 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, **excepting rehabilitations prior to August 14, 2008 and between March 1, 2020 and September 1, 2023,** regardless of when the loan was made.