NCHER BRIEFING

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Weekly Rundown

The NCHER Weekly Rundown, which includes the latest information on important events in Washington, DC, is available today and can be downloaded from the **NCHER website**.

NCHER, EFC, NASLA Send Letter to House and Senate Budget Committees in Support of AMF

Last week, NCHER, along with Education Finance Council and the National Association of Student Loan Administrators, sent a letter to the House Budget Committee and a letter to the Senate Budget Committee urging them to provide an exemption to the current budget rules to continue to include the payment of Account Maintenance Fees (AMF) in the budget baseline developed by the Congressional Budget Office (CBO). In the letters, the trades say AMF is a critical resource that funds college access and success programming, including current efforts to complete the Free Application for Federal Student Aid (FAFSA), and enables state-based and nonprofit guaranty agencies across the country to provide delinquency and default support and other services to struggling Federal Family Education Loan Program (FFELP) borrowers. CBO recently reached out to House and Senate Committee staff making them aware that the current authority for the U.S. Department of Education to pay AMF to state and nonprofit guaranty agencies has dipped below $50 million, the threshold that CBO uses to determine what federal policies are included in the budget baseline developed every January and revised in March. The budget baseline developed by CBO factors all existing policies in effect that have been passed by Congress in a given calendar year. When extending any policy – like AMF – for another year, its inclusion in the baseline makes the cost of the provision budget-neutral as it assumes that such policy will be extended by both chambers. If AMF is not included in the baseline, the House and Senate Appropriations Committees will need to dedicate specific and new discretionary funding for the provision. The letter says that both House and Senate authorizers and appropriators understand the importance of the AMF and have specifically amended the Higher Education Act to extend its funding through the annual appropriations process for the past nine years. Congress has passed the extension each year – as well as other expired authorities - even though the authority's permanent authorization expired in 2014.

Department of Education Releases Draft Notice Inviting Guaranty Agencies to Participate in Voluntary Flexible Agreement

Today, the U.S. Department of Education published a draft notice for publication in the Federal Register inviting guaranty agencies to enter into a Voluntary Flexible Agreement (VFA) to support vulnerable borrowers in resolving their delinquent or defaulted loans quickly, maximize long-term repayment success of borrowers exiting default with immediate enrollment in Income-Driven Repayment (IDR) plans available under the Direct Loan program, and ensure stability in the Federal Family Education Loan (FFEL) Program as the number of outstanding loans continues to decline over the coming years.

The deadline for submission of interest is 21 days after publication in the Federal Register, which is expected tomorrow.

The scope of the VFA includes the following:

- Compensation: The Department expects that the VFAs will include a replacement for all compensation paid to guaranty agencies, with the exception of the Account Maintenance Fee (AMF) and reimbursement into the Federal fund for claims paid to lenders. The replaced compensation includes the default aversion fee, refunds of the default aversion fee, and revenues from collections on defaulted loans usually charged to borrowers in the form of fees. Instead of this revenue, guaranty agencies would receive (1) a special account maintenance fee or SAMF calculated based on the guaranty agency's outstanding net guarantees using the same formula as the AMF and (2) a successful resolution fee or SRF paid when a borrower with at least one loan in default at a guaranty agency successfully consolidates all their defaulted loans at that guaranty agency into the Direct Loan program.
- Outreach Activities: The Department expects that, in addition to continuing their current default aversion assistance work, under a VFA, guaranty agencies will focus their efforts on borrower outreach and counseling, with a focus on options that will help borrowers return to good standing and access repayment programs and benefits that will promote successful long-term repayment on their loans.
- Loan Transfers: To ensure that the guaranty agency can focus its efforts on loan counseling and consolidation, under the VFA, guaranty agencies will adopt a schedule for transferring defaulted loans to the Department. The oldest loans will be transferred to the Department immediately after the effective date of the VFA, while newer defaults will be transferred after a set period if they are not otherwise successfully resolved, such as through consolidation, discharge, or pay off.
- Future Planning: To ensure long-term success and stability for the FFEL Program, all guaranty agencies that enter into a VFA with the Department will map their loan data and systems to at least one other guaranty agency acceptable to the Department. The goal is to ensure that a successor agency is ready to perform the agency's functions if the agency participating in the VFA becomes unable to meet its responsibilities.
- Timing: The Department expects that the VFAs will have a term of two years and expects to enter into VFAs with all or the vast majority of guaranty agencies.

The notice says that it has been 14 years since the last new FFEL Program loan was made. As the number of outstanding FFEL loans continues to steadily decline, the revenues available to guaranty agencies to fund operational budgets are also decreasing. The Secretary expects that over the next several years many guaranty agencies may struggle to continue providing stable services for borrowers, lenders, and the Department under the existing compensation structure. The continued decline of the number of outstanding FFEL loans and the loss of associated revenue means it will likely be harder for guaranty agencies to maintain the systems and staff needed to provide quality services for vulnerable borrowers, which creates an unacceptable risk of loss to the Department and Federal taxpayers. The Secretary believes that a structured and predictable compensation model for guaranty agencies will help protect the integrity of the outstanding FFEL Program loan portfolio as the number of loans and guaranty agencies continues to decline. This model presents an opportunity for the Department and guaranty agencies to better serve borrowers by aligning financial incentives with helping borrowers avoid or exit student loan default. The model will also leverage operational procedures established during the Fresh Start period that provide borrowers efficient and direct access to more affordable IDR plans, which feature enhanced borrower benefits and will best support their long-term repayment success. Additionally, transferring more defaulted FFEL loans to the Department that are not otherwise resolved will assist borrowers and provide long-term benefits to the Department by improving the opportunities for resolution of the loan.

Senate Democrats Send Letter to Education Secretary Cardona Raising Concerns About Branding in USDS

Today, Senate Democrats, led by Sen. Elizabeth Warren (D-MA) sent a letter to Education Secretary Miguel Cardona expressing concerns about creating a centralized Federal Student Aid (FSA) servicing platform for all federal student loans under the Unified Servicing and Data Solution (USDS). In the letter, Sen. Warren and Sens. Ron Wyden (D-OR) and Chris Van Hollen (D-MD) say that the creation of a single FSA brand will interfere with the ability of federal regulators and individual borrowers to hold companies accountable for servicing failures. "While we applaud the Biden Administration's efforts to modernize and improve student loan servicing, a preliminary review of publicly available information on this transition suggests that this new system lacks transparency," the letter says. "As a result, it will be difficult for borrowers and the federal government to hold servicers and contractors accountable, including the Business Process Operations (BPO) vendors that support account servicers." The lawmakers also say that it could make it difficult for borrowers to report wrongdoing to the Consumer

Financial Protection Bureau, which holds contractors accountable when they make mistakes. The senators request information on the contracts with the federal student loan servicers and BPO vendors under the new USDS system, how borrowers will be able to handle complaints, and the future plans for the transition.

For additional coverage, see this article from The Hill.

U.S. Department of Education News

For today's Federal Register, click here.

The following announcements were posted to Federal Student Aid's Knowledge Center:

- (GENERAL-24-92) Job Opportunity – Institutional Review Specialist (GS-1101-9/11)
- (APP-24-07) 2024–25 Federal School Code List of Participating Schools (August 2024)

Member News

PGPresents, LLC recently announced that it was celebrating 16 years in promoting representing borrowing and responsible payment. Started in August 2008 with a handful of medical schools and recent medical school graduates as clients, PGPresents has steadily grown into the industry leader in providing comprehensive, timely, objective, and accurate repayment information for its clients, all the while garnering an impeccable reputation for fairness and quality of service. PGPresents has helped hundreds of thousands of borrowers through its popular in-person and virtual workshops, Debt Management Listservs, personal consultations, work through health professions associations, and its customized repayment modules.

General News

The Hill reports that House Republicans are turning their focus to a debate over whether to fund the federal government through December or into next year after their hopes of passing 12 full-year funding bills collapsed before the August recess. With no one expecting the annual funding process to be complete by a September 30th deadline, hard-line conservatives are advocating for a stopgap measure, also known as a Continuing Resolution, that would run into March of next year in order to avoid being jammed with a massive spending package under a lame-duck President.

The Hill reports that the Republican Attorneys General of Montana and Kansas filed a formal complaint against Education Secretary Miguel Cardona accusing him of violating the Hatch Act with anti-Republican statements on federal student loans, and requesting the U.S. Office of Special Counsel remove him from his position.

Milwaukee Journal Sentinel reports that Michigan will provide tuition-free community college to its recent high school graduates. Gov. Gretchen Whitmer recently signed an education budget plan that will allow the state to cover tuition costs for associate degrees and skilled certificates beginning in the Fall.

CNBC reports that, in the second quarter of 2024, 2.4 million borrowers carried a federal student loan balance between $100,000 and $200,000, up from 1.8 million people who owed that much during the same period in 2017, according to new data by the U.S. Department of Education.

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