Matrix of Regulatory Changes to the FFELP and Direct Loan Programs*

The U.S. Department of Education (ED) engaged in negotiated rulemaking in early 2012 with members of the student loan community to discuss a variety of topics. ED divided the topics into two regulatory packages, with the first package containing changes on income-based repayment (IBR), income-contingent repayment (ICR) and total and permanent disability (TPD).

This matrix summarizes the changes ED published in the Final Rule in the Federal Register dated November 1, 2012 that amend the Federal Family Education Loan Program (FFELP) and William D. Ford Federal Direct Loan (Direct Loan) program regulations.

Prepared by Policy & Regulatory Administration
Great Lakes Higher Education Guaranty Corporation

March 5, 2013

*This matrix provides a summary of the regulatory provisions. The information is subject to change based upon guidance obtained from ED or clarifications that may be received. Readers should refer to the actual final rules to resolve any questions.
Table of Contents

Executive Summary ................................ ................................ .......................................................... 5
Pay As You Earn – Definitions ......................................................................................................... 10
  New Repayment Plan ..................................................................................................................... 10
  Eligible Borrower ........................................................................................................................ 10
  Eligible Loan ................................................................................................................................ 11
  Adjusted Gross Income (AGI) ....................................................................................................... 11
  Family Size .................................................................................................................................. 12
  Poverty Guideline .......................................................................................................................... 12
  Partial Financial Hardship (PFH) ................................................................................................... 12
Pay As You Earn – Terms ................................................................................................................ 13
  Partial Financial Hardship Payment Amount ................................................................................ 13
  Payment Adjustments .................................................................................................................. 14
  Interest Subsidy Benefits ............................................................................................................. 15
  Interest Capitalization Maximum/Cap ............................................................................................ 16
  Length of Repayment Period ........................................................................................................ 16
  Payment Application Rules ........................................................................................................... 16
  Changes in the Payment Amount .................................................................................................. 17
Pay As You Earn – Eligibility Determinations and Borrower Notifications .................................. 18
  Eligibility Determination ............................................................................................................. 18
  Approval Notice ............................................................................................................................ 18
  Renewal/Recertification Notice ..................................................................................................... 19
  Notices When Borrower No Longer Has PFH (on Permanent-Standard) ........................................ 23
Pay As You Earn – Loan Forgiveness .............................................................................................. 24
  Qualifying Payments and 20-Year Period ..................................................................................... 24
  Notice to Borrowers Close to Forgiveness ...................................................................................... 25
  Forgiveness Processing and Forgiveness Notice .............................................................................. 26
Direct Loan Income-Contingent Repayment (ICR) Changes ............................................................ 27
  State of Residence Clarification ..................................................................................................... 27
  Treatment of Adjusted Gross Income (AGI) for Married Borrowers ............................................. 27
  Income Documentation ................................................................................................................. 27
  Monthly Payments When First Entering ICR ............................................................................... 28
  Repayment Period ....................................................................................................................... 28
  Payment Amount When Income Documentation Not Provided (Permanent-Standard) ................ 29
  Annual Notice ............................................................................................................................... 29
  Renewal/Recertification Notice ..................................................................................................... 30
  Notices to Borrowers Paying Permanent-Standard Amount ........................................................ 33
  Loan Forgiveness and Notices ....................................................................................................... 33
# Table of Contents

**Direct Loan Income-Based Repayment (IBR) Changes**

- Definitions .......................................................... 35
- Eligibility Determinations—Income Documentation ......................................................... 35
- Repayment Plan Terms .......................................................... 36
- Payment Application and Prepayment ........................................................................ 36
- Payment Amount Calculation When No PFH ............................................................... 37
- Payment Amount Calculation When Leaving IBR ......................................................... 37
- Eligibility Determination .............................................................................................. 38
- Required Notifications – Approval Notice ..................................................................... 39
- Required Notifications – Renewal/Recertification Notice ............................................ 40
- Required Notifications – Borrower No Longer Has PFH ............................................. 41
- Loan Forgiveness .......................................................................................................... 42
- Notice to Borrowers Close to Forgiveness ................................................................. 43
- Forgiveness Processing and Forgiveness Notice ......................................................... 44

**FFELP Income-Based Repayment (IBR) Changes**

- Repayment Plan Terms ................................................................................................. 48
- Payment Amount Calculation When No PFH ............................................................... 48
- Payment Amount Calculation When Leaving IBR ......................................................... 48
- Eligibility Determination .............................................................................................. 49
- Required Notifications – Approval Notice ..................................................................... 50
- Required Notifications – Renewal/Recertification Notice ............................................ 51
- Required Notifications – Borrower No Longer Has PFH ............................................. 52
- Loan Forgiveness .......................................................................................................... 53
- Notice to Borrowers Close to Forgiveness ................................................................. 54

**Total and Permanent Disability (TPD) - Definitions**

- Borrower Representative .............................................................................................. 56
- Lender – FFELP only ...................................................................................................... 57
- Guaranty Agency – FFELP only ..................................................................................... 57

**Total and Permanent Disability (TPD) – Eligibility Determination Documentation**

- Additional Documentation to Establish Eligibility ..................................................... 57

**Total and Permanent Disability (TPD) – Processing Changes**

- Application Processing for Regular TPD ..................................................................... 59
- Treatment of Disbursements ......................................................................................... 65
- Receipt of New Title IV Loans or TEACH Grants ......................................................... 65
- Conditions for Reinstatement of a Loan .................................................................... 65
- Borrower’s Responsibilities after Discharge ............................................................... 66
- Lender and Guaranty Agency Actions for Regular TPD ............................................. 66
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ED Denial of TPD application</td>
<td>67</td>
</tr>
<tr>
<td>Discharge Application Process for Veterans</td>
<td>68</td>
</tr>
<tr>
<td>Lender and Guarantor Actions for Veterans TPD</td>
<td>71</td>
</tr>
<tr>
<td>§685.208 Repayment plans</td>
<td>73</td>
</tr>
<tr>
<td>§685.209 Income-contingent repayment plans</td>
<td>77</td>
</tr>
<tr>
<td>§685.221 Income-based repayment plan</td>
<td>85</td>
</tr>
<tr>
<td>§685.211 Miscellaneous repayment provisions</td>
<td>90</td>
</tr>
<tr>
<td>§682.215 Income-based repayment plan</td>
<td>91</td>
</tr>
<tr>
<td>§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments</td>
<td>96</td>
</tr>
<tr>
<td>§685.213 Total and permanent disability discharge</td>
<td>105</td>
</tr>
</tbody>
</table>
Executive Summary

Direct Loan Pay As You Earn Repayment Plan. The regulations create a new repayment plan, known as Pay As You Earn, that is based on the President’s initiative announced in October 2011. The new plan supports the administration’s goal of making the statutory improvements made by the Student Aid Responsibility Act (SAFRA) portion of the Health Care and Education Reconciliation Act of 2010 (HCERA, Public Law 111-152) to the Income-Based Repayment (IBR) plan available to certain borrowers earlier than July 1, 2014, when the IBR legislative changes will become effective. In the Notice of Proposed Rulemaking (NPRM), the plan was referred to as ICR-A, but ED changed the name to Pay As You Earm in the Final Rule. The plan was implemented on December 21, 2012, as announced the Federal Register dated December 7, 2012.

Eligible Borrowers and Definitions

- The program is for Direct Loan borrowers only. Most Direct loans can be repaid under the plan, except for Direct loans in default, Direct parent PLUS or Direct Consolidation loans that repaid Direct parent PLUS loans.
  - FFELP borrowers who meet the eligible borrower criteria below can consolidate into a Direct Consolidation Loan to meet the Direct Loan requirement.
- There is a two-pronged eligibility test – 1) borrowers must be new borrowers on or after October 1, 2007, meaning they have no outstanding balance on a Direct or FFELP loan as of October 1, 2007, or have no outstanding balance on a Direct or FFELP loan when they receive a new loan on or after October 1, 2007; and 2) borrowers must also receive a disbursement on a new Direct loan on or after October 1, 2011, or receive a Direct Consolidation loan based on an application received on or after October 1, 2011.
- Borrowers must demonstrate partial financial hardship. Partial financial hardship is when a borrower’s annual payment amount due on all his/her eligible loans exceeds 10% of the difference between the borrower’s adjusted gross income (AGI) and 150% of the annual poverty guideline for the borrower’s family size and state of residence.
  - Annual amount of payments due > 10% [AGI – (1.5 X applicable poverty guideline amount)]
    - For purposes of determining partial financial hardship, eligible loans include FFELP loans.
    - Definitions of adjusted gross income (AGI), family size, and poverty guidelines are the same as under IBR.

Terms and Conditions

- Payment is limited to 10% of the borrower’s monthly discretionary income, and payment adjustment rules are the same as they are for IBR.
- Interest is capitalized when borrower no longer has PFH, but it is limited to 10% of the original principal balance (as with income-contingent repayment) while the borrower remains in the plan. Interest is also capitalized when borrower leaves the plan, at which point the 10% cap does not apply.
- Interest subsidy is available for borrowers with subsidized loans for up to three years when the borrower’s monthly PFH payment does not cover accruing interest. However, any period of interest subsidy the borrower may have received under IBR counts toward the maximum three years of subsidy a borrower is eligible to receive under Pay As You Earn.
- Payments are applied the same as with IBR as follows – accrued interest, late charges, collection costs, loan principal.
Executive Summary

Notification Requirements
- There are specific notices servicers must provide when borrowers are determined eligible for the plan and for each subsequent year they remain in the plan. Borrowers must be notified by the servicer when annual income and family size information is required and the consequences of not providing this information. Borrowers who no longer have a partial financial hardship must be notified of their new monthly payment (permanent-standard amount). The notification must also explain that borrowers can request recalculation at any time.

Loan Forgiveness
- If a borrower has a remaining balance after 20 years of making qualifying payments, it will be forgiven. Qualifying payments include: payments made under an income-driven plan; payments made under a 10-year standard repayment plan or other plan that has a payment at least equal to the 10-year payment plan amount; and periods of economic hardship.
- Borrowers must be notified when they are within six months of receiving loan forgiveness and again when forgiveness has been granted. According to the IRS, the amount forgiven is considered taxable income, which must be communicated to the borrower in the loan forgiveness notifications.

Direct Loan Income-Contingent Repayment (ICR) Plan. The regulations retain the current ICR repayment plan and it continues to be available to all Direct Loan borrowers. The majority of changes made to ICR are to align the program with the requirements for the other income-driven plans (IBR and Pay As You Earn). The following highlight the major changes to ICR.
- The adjusted gross income (AGI) used for married borrowers who file federal tax returns separately from their spouses will be that of the borrower only.
- Borrowers’ payments for the first and second year of ICR are no longer based exclusively on alternative documentation; as with IBR, payments will be based on AGI or alternative documentation.
- As with IBR, borrowers who fail to provide the required annual income documentation and family size will see their payments become what they would be under a standard 10-year term (permanent-standard amount).
- There are specific notices servicers must provide when borrowers are determined eligible for the plan and for each subsequent year they remain in the plan. Borrowers must be notified by the servicer when annual income and family size information is required and the consequences of not providing this information. Borrowers must also be notified when they are within six months of receiving loan forgiveness and again when forgiveness has been granted. According to the IRS, the amount forgiven is considered taxable income, which must be communicated to the borrower in the loan forgiveness notifications.

Direct Loan Income-Based Repayment (IBR) Plan. The regulations are revised to accommodate for the statutory changes from SAFRA/HCERA that become effective July 1, 2014 for new borrowers on or after that date. In addition, there are specific notices servicers must provide borrowers who are determined eligible for the plan and for each subsequent year they remain in the plan and if they reach forgiveness.
Executive Summary

Eligible Borrowers and Definitions

- As is currently the case, most Direct loans can be repaid under the plan, except for Direct loans in default, Direct parent PLUS or Direct Consolidation loans that repaid Direct parent PLUS loans.
- The program parameters for determining eligibility and payment amount will change for new borrowers on or after July 1, 2014. New borrower is defined as having no outstanding balance on a Direct Loan Program or FFEL Program loan on July 1, 2014, or having no outstanding balance on such a loan on the date they obtain a loan after July 1, 2014.
- As is currently the case, borrowers must demonstrate partial financial hardship. However, partial financial hardship (PFH) for new borrowers on or after July 1, 2014 is established when a borrower’s annual payment amount due on all his/her eligible loans exceeds 10% of the difference between the borrower’s adjusted gross income (AGI) and 150% of the annual poverty guideline for the borrower’s family size and state of residence. PFH for borrowers with outstanding loans prior to July 1, 2014 remains at 15% of the difference between the borrower’s adjusted gross income (AGI) and 150% of the annual poverty guideline for the borrower’s family size and state of residence.

Terms and Conditions

- For new borrowers on or after July 1, 2014, payment is limited to 10% of the borrower’s monthly discretionary income. As is currently the case, payments are limited to 15% of the borrower’s discretionary income for borrowers with outstanding loans prior to July 1, 2014.
- Interest subsidy is available for borrowers with subsidized loans for up to three years when the borrower’s monthly payment does not cover accruing interest. However, any period of interest subsidy the borrower may have received under the Pay As You Earn repayment plan counts toward the maximum three years of subsidy a borrower is eligible to receive under IBR.

Notification Requirements

- There are specific notices servicers must provide when borrowers are determined eligible for the plan and for each subsequent year they remain in the plan. Borrowers must be notified by the servicer when annual income and family size information is required and the consequences of not providing this information. Borrowers who no longer have a partial financial hardship must be notified of their new monthly payment (permanent-standard amount). The notification must also explain that recalculation can be requested at any time.

Loan Forgiveness

- If a new borrower on or after July 1, 2014 has a remaining balance after 20 years of making qualifying payments, it will be forgiven. A borrower with an outstanding loan made prior to July 1, 2014 will receive loan forgiveness after 25 years of making qualifying payments if a balance remains.
- Borrowers must be notified when they are within six months of receiving loan forgiveness and again when forgiveness has been granted. The notifications must include general information about the tax implications. According to the IRS, the amount forgiven is considered taxable income, which must be communicated to the borrower in the loan forgiveness notifications.
Executive Summary

FFELP Loan Income-Based Repayment (IBR) Plan. The regulations are revised to accommodate for changes that become effective July 1, 2013. In addition, there are new notification requirements that lenders must provide when borrowers are determined eligible for the plan and for each subsequent year they remain in the plan and if they reach forgiveness.

Terms and Conditions

- If a borrower submits a request for IBR on or after July 1, 2013, and all of the borrower’s loans with that lender are eligible for IBR the lender must require that all eligible loans be repaid under IBR.
- A borrower who no longer wishes to repay under the income-based repayment plan and who is required to repay under the FFEL standard repayment plan may request to change to a different repayment plan after making one monthly payment under the FFEL standard repayment plan. However, if the borrower is unable to make that payment a reduced monthly payment forbearance may be granted.

Notification Requirements

- There are specific notification requirements lender must send when a borrower is determined eligible for the plan and for each subsequent year he/she remains in the plan. Borrowers must be notified by the lender when annual income and family size information is required and the consequences of not providing this information. Borrowers who no longer have a partial financial hardship will receive an annual notification explaining recalculation can be requested at any time.

Loan Forgiveness

- Borrowers must be notified when they are within six months of receiving loan forgiveness.
- After determining that a borrower has satisfied the loan forgiveness requirements, the lender will notify the borrower that his/her loan obligation is satisfied and provide the borrower with the general information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.

Total and Permanent Disability (TPD) Discharge. The Direct Loan and FFELP regulations are revised to streamline the TPD application process. Borrowers will no longer be working with their lenders, servicers or guarantors to have their loans discharged. Instead, they will work directly with ED. In addition, ED revised the regulations to accept certain Social Security Administration (SSA) documentation from borrowers receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits as the basis for determining TPD eligibility.

Eligible Borrowers and Definitions

- The eligibility criteria remains the same, but ED will allow a borrower to provide an SSA notice of award for SSDI or SSI benefits indicating that the borrower’s next scheduled disability review will be within five to seven years rather than a physician’s certification as the basis of eligibility for the discharge.
- The definition of a borrower’s representative or a veteran’s representative has been expanded to include a member of the borrower’s family, the borrower’s attorney, or another individual authorized to act on behalf of the borrower in connection
Executive Summary

with the borrower’s total and permanent disability discharge application, including providing notifications or information to ED and receiving notifications from ED.

- References to “the lender” mean the guaranty agency if the guaranty agency is the holder of the loan at the time the borrower applies for a total and permanent disability discharge, except for claim filing requirements. References to “the applicable guaranty agency” in the regulations mean the guaranty agency that guarantees the loan.

Application Processing

- Borrowers will receive their TPD applications from and submit it to ED directly. Once ED receives the borrower’s application request, it will notify the loan holder to suspend collections by granting forbearance for up to 120 days. Upon receipt of a completed TPD application, ED will notify the loan holder to continue suspending collections until ED has made a final eligibility determination.
  - If approved ED will notify the borrower and the loan holder.
  - If denied ED will notify the borrower and the loan holder. The loan holder will resume collections.
Pay As You Earn – Definitions

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>A new repayment plan is created under the income-contingent umbrella. Under the income-contingent plan described in §685.209(a) – called Pay As You Earn – the required monthly payment for a borrower who has a partial financial hardship is limited to no more than 10% of the amount by which the borrower's AGI exceeds 150% of the poverty guideline applicable to the borrower's family size, divided by 12. The Secretary determines annually whether the borrower continues to qualify for this reduced monthly payment based on the amount of the borrower's eligible loans, AGI, and poverty guideline.</td>
<td>December 21, 2012</td>
<td>Electronic Announcement dated 12/21/12 (announced program and electronic application process) GEN-12-22 (new request form)</td>
<td>The specific program parameters for Pay As You Earn are located in §685.209(a) and explained below.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
<tr>
<td>2</td>
<td>To be eligible to repay Direct Loans through the Pay As You Earn repayment plan, a borrower must:</td>
<td>December 21, 2012</td>
<td>A borrower with a pre-10/1/07 loan will not be eligible to meet the new borrower definition, unless that loan was paid off entirely before the borrower took out a subsequent loan on or after 10/1/07. A borrower does not have to receive the first disbursement of a Direct Loan on or after October 1, 2011, meaning that any disbursement of a loan made on or after October 1, 2011 can be used to meet this requirement, including a DL Consolidation loan. The DL Consolidation loan, however, cannot repay a loan that would otherwise not be eligible under the eligible borrower definition (e.g.,...</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>

[§685.208(k)(1)]

[§685.209(a)(1)(iii)]
### Pay As You Earn – Definitions

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 3 | For purposes of determining if an eligible borrower has a partial financial hardship under the Pay As You Earn plan, the servicer can consider any outstanding loan made to the borrower under the Direct Loan or FFEL Program, except for a:  
   - Defaulted loan;  
   - Direct PLUS Loan or Federal PLUS Loan made to a parent borrower; or  
   - Direct Consolidation Loan or Federal Consolidation Loan that repaid a Direct PLUS Loan or Federal PLUS Loan made to a parent borrower. | December 21, 2012 | [§685.209(a)(1)(ii)] | This is the same definition of eligible loan that is used for IBR. FFELP loans are used only to determine if a borrower has a partial financial hardship to qualify for the Pay As You Earn plan. FFELP loans are not eligible to be repaid through the Pay As You Earn plan. | Great Lakes implemented the new repayment plan in December 2012. |
| 4 | The following loan types can be repaid under the Pay As You Earn plan:  
   - Direct subsidized loans  
   - Direct unsubsidized loans  
   - Direct Grad PLUS loans  
   - Direct Consolidation loans that did not repay a FFELP or Direct parent PLUS loan. | December 21, 2012 | [§685.208(a)(2)(i)(D) & (iii)(D)] | | Great Lakes implemented the new repayment plan in December 2012. |
| 5 | The borrower’s adjusted gross income as reported to the Internal Revenue Service. For a married borrower who files taxes jointly with his spouse, AGI includes both the borrower’s and spouse’s income. For a married borrower who files taxes separately from his spouse, AGI includes only the borrower’s income. | December 21, 2012 | [§685.209(a)(1)(i)] | This is the same definition of AGI that is used for IBR. | Great Lakes implemented the new repayment plan in December 2012. |

---

Great Lakes Higher Education Guaranty Corporation
## Pay As You Earn – Definitions

### Summary of Regulatory Change

<table>
<thead>
<tr>
<th>#</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>This is the same definition of family size that is used for IBR.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
<tr>
<td>7.</td>
<td>December 21, 2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>This is the same definition of poverty guideline that is used for IBR.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
<tr>
<td>8.</td>
<td>December 21, 2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The difference between this definition and what is used for current IBR is the percentage – 10% vs. 15%. Married borrowers who file</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
</tbody>
</table>

### Family Size

6. The number in the borrower’s family that is determined by counting the borrower, the borrower's spouse, and the borrower's children (if the children receive more than half their support from the borrower). Children include unborn children who will be born during the year the borrower certifies his/her family size.

A borrower's family size also includes other individuals if, at the time the borrower certifies his/her family size, the other individuals live with the borrower and receive more than half their support from the borrower and will continue to do so for the year the borrower certifies his/her family size. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs.

If the borrower fails to certify family size, it defaults to a family size of 1.

\[\text{§685.209(a)(1)(iv) and (5)(i)(C)}\]

### Poverty Guideline

7. Poverty guideline refers to the income category for the borrower’s State and family size that is published annually by the U.S. Department of Health and Human Services (HHS).

If a borrower is not a resident of a state identified in the poverty guidelines, the poverty guideline used is the one for the 48 contiguous states for the relevant family size.

\[\text{§685.209(a)(1)(vi)}\]

### Partial Financial Hardship (PFH)

8. For a single borrower or a married borrower who files his/her taxes separately from his/her spouse, a partial financial hardship exists when the annual amount due on the borrower’s eligible loans (as calculated on a 10-year standard plan using the greater of the amount due at the time the

Great Lakes Higher Education Guaranty Corporation
# Pay As You Earn – Definitions

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>A borrower initially enters repayment or at the time he/she requests Pay As You Earn) exceeds 10% of the difference between the borrower’s AGI and 150% of the poverty guideline based on the borrower’s family size. For a married borrower who files his/her taxes jointly with his/her spouse, a partial financial hardship exists when the annual amount due on the borrower’s and spouse’s (if applicable) loans (as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the borrower enters repayment or at the time he/she requests Pay As You Earn) exceeds 10% of the difference between the borrower’s and spouse’s AGI and 150% of the poverty guidelines based on the borrower’s family size. Annual payment &gt; 10% [AGI-(1.5 x poverty guideline)]/12</td>
<td>December 21, 2012</td>
<td></td>
<td>separately but live in community property states could be treated unfairly by having their eligibility based on their AGI since in such states each spouse is deemed to have an AGI that is ½ of the total income between both spouses. ED acknowledges this and clarifies in the preamble to the Final Rule (pg. 66112) that borrowers in this situation should provide and servicers should use alternative documentation to determine eligibility.</td>
<td></td>
</tr>
</tbody>
</table>

## Partial Financial Hardship Payment Amount

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>A borrower may select the Pay As You Earn plan only if a borrower has been determined to have a partial financial hardship and meets the other eligibility criteria for the plan (i.e., is an eligible borrower). The borrower’s monthly payment is limited to no more than 10% of the amount by which the borrower’s AGI exceeds 150% of the poverty guideline applicable to the borrower’s family size, divided by 12. Monthly payment = 10% [AGI-(1.5 x poverty guideline)]/12</td>
<td>December 21, 2012</td>
<td></td>
<td></td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
</tbody>
</table>
## Pay As You Earn - Terms

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Payment Adjustments</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>If a borrower is eligible for the Pay As You Earn plan and has loans other than Direct Loans, the federal servicer must adjust the borrower’s payment amount by multiplying the calculated payment by the percentage of the total outstanding principal amount of the borrower’s eligible loans that are Direct Loans. (<a href="https://www.federalregister.gov/documents/2012/11/01/2012-27034">§685.209(a)(2)(ii)(A)</a>)</td>
<td>December 21, 2012</td>
<td>For borrowers with FFELP loans eligible for IBR and Direct Loans eligible for Pay As You Earn and who request IBR, the servicer shall prorate the IBR payment amount for the FFELP loans and the Pay As You Earn payment amount for the Direct Loans as if the loans were held by different loan holders. For example, a borrower has $30,000 in Direct Loans eligible for Pay As You Earn, and $20,000 in FFELP loans eligible for IBR. The borrower has an AGI of $30,000, a family size of 1, and lives in Maryland. The IBR payment amount is calculated to be $165.56 and the Pay As You Earn payment amount is calculated to be $110.38. Upon proration, the total IBR payment amount would be $66.22 (at 40% proration) and the total Pay As You Earn payment amount would be $66.23 (at 60% proration) for a combined, total monthly payment amount of $132.45.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>For married borrowers who file a joint tax return where both the borrower and his/her spouse have eligible loans, the federal servicer must: 1. Determine each borrower’s percentage of the couple’s total eligible loan debt. 2. Adjust each borrower’s monthly payment</td>
<td>December 21, 2012</td>
<td>For borrowers with FFELP loans eligible for IBR and Direct Loans eligible for Pay As You Earn and who request IBR, the servicer shall prorate the IBR payment amount for the FFELP loans and the Pay As You Earn payment amount for the Direct Loans as if the loans were held by different loan holders. For example, a borrower has $30,000 in Direct Loans eligible for Pay As You Earn, and $20,000 in FFELP loans eligible for IBR. The borrower has an AGI of $30,000, a family size of 1, and lives in Maryland. The IBR payment amount is calculated to be $165.56 and the Pay As You Earn payment amount is calculated to be $110.38. Upon proration, the total IBR payment amount would be $66.22 (at 40% proration) and the total Pay As You Earn payment amount would be $66.23 (at 60% proration) for a combined, total monthly payment amount of $132.45.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
<tr>
<td>#</td>
<td>Summary of Regulatory Change</td>
<td>Date/Trigger</td>
<td>Related DCL/ED Guidance</td>
<td>Additional Guidance/Clarifying Comments</td>
<td>GL Implementation Notes</td>
</tr>
<tr>
<td>---</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------</td>
<td>-------------------------</td>
<td>-----------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>3.</td>
<td>If the borrower’s loans are held by multiple holders, adjust the borrower’s monthly Direct Loan payment by multiplying the adjusted payment amount by the percentage of the total outstanding principal amount of the borrower’s eligible loans that are Direct Loans. [§685.209(a)(2)(ii)(B)]</td>
<td>December 21, 2012</td>
<td>This is the same as in IBR.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>If the borrower’s calculated payment is less than $5.00, the borrower’s payment is adjusted to be $0. If the borrower’s calculated payment is $5.00 to less than $10.00, the borrower’s payment is adjusted to be $10.00. [§685.209(a)(2)(ii)(C) &amp; (D)]</td>
<td>December 21, 2012</td>
<td>The interest subsidy benefit is similar to what exists under IBR. However, it is important to note that any interest subsidy that has already been used by a borrower under IBR carries over the Pay As You Earn plan, as explained in the Final Rule preamble (pg. 66108).</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>

**Interest Subsidy Benefits**

| 5. | If a borrower’s payment is not sufficient to cover accrued interest on the borrower’s Direct Subsidized loan or on the subsidized portion of a Direct Consolidation loan, ED will not charge the borrower for the remaining accrued interest for up to three consecutive years from the established repayment start date of the Pay As You Earn plan. However, any period during which ED has previously not charged the borrower accrued interest on an eligible loan under the Income-Based Repayment (IBR) plan will count toward the maximum three years of subsidy a borrower is eligible to receive under the Pay As You Earn repayment plan. On a Direct Consolidation Loan that repays loans on which ED has not charged the borrower accrued interest, the three-year period includes the period for which the Department did not | December 21, 2012 | | | |
## Pay As You Earn - Terms

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>charge the borrower accrued interest on the underlying loans.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>This three-year period does not include any period during which the borrower receives an</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>economic hardship deferment, but does include other deferment or forbearance periods.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§685.209(a)(2)(iii)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Interest Capitalization Maximum/Cap</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Interest is capitalized in the Pay As You Earn plan when:</td>
<td>December 21,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The borrower no longer has a partial financial hardship; or</td>
<td>2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The borrower chooses to leave the plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>There is a cap on the amount of interest that can be capitalized when the borrower no</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>longer has a PFH. The amount is limited to 10% of the original principal balance at the</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>time the borrower entered repayment under the Pay As You Earn repayment plan. Once the</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>cap is reached, interest continues to accrue but is not capitalized while the borrower</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>remains on the Pay As You Earn repayment plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§685.209(a)(2)(iv)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Length of Repayment Period</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>If a borrower’s monthly PFH payment is not sufficient to pay any of the principal due,</td>
<td>December 21,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>payment of that principal is postponed until the borrower no longer has a PFH or leaves</td>
<td>2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>the plan. Also, the length of the repayment period may be longer than 10 years.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§685.209(a)(2)(v) &amp; (vi)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Payment Application Rules</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>The borrower’s payment made under Pay As You Earn is applied in the following order:</td>
<td>December 21,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Accrued interest</td>
<td>2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Collection costs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>This is the same as under IBR.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Pay As You Earn - Terms

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td>Late charges</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Loan Principal</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>The borrower may prepay all or part of a loan at any time without penalty. If the prepayment amount equals or exceeds a monthly payment amount of $10.00 or more under the repayment schedule established for the loan, it is to be applied consistent with the requirements of §685.211(a)(3), which are the normal prepayment rules. If, however, the prepayment amount exceeds a monthly payment amount of $0.00 under the repayment schedule established for the loan, it is to be applied to first to accrued interest, then to collection costs, late charges, and finally to loan principal as noted above.</td>
<td>December 21, 2012</td>
<td>This is the same as under IBR.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>

### Changes in the Payment Amount

| 10. | If a borrower no longer has a partial financial hardship or chooses to stop making the payment amount based on income, the borrower may remain in the Pay As You Earn plan. However, the servicer will recalculate the borrower's monthly payment. The monthly amount will be the amount the borrower would have paid under the standard repayment plan based on a 10-year period using the amount of the borrower's eligible loans that was outstanding at the time the borrower began repaying under the Pay As You Earn plan (known as the permanent-standard amount). | December 21, 2012 | This is the same as under IBR. | Great Lakes implemented the new repayment plan in December 2012. |

| 11. | A borrower who no longer wishes to repay his loans under the Pay As You Earn plan may change to a different plan as permitted per §685.210(b). | December 21, 2012 | The borrower does not have to go to the expedited-standard plan as with IBR. | Great Lakes implemented the new repayment plan in December 2012. |
## Pay As You Earn – Eligibility Determinations and Borrower Notifications

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The borrower’s servicer determines whether he/she has a partial financial hardship (PFH) and qualifies to repay his/her Direct Loans under the Pay As You Earn repayment plan. To make the initial determination, and for each subsequent year, the servicer requires the borrower to provide his/her adjusted gross income (AGI). If the borrower's AGI is not available, or if the servicer believes that the borrower's reported AGI does not reasonably reflect the borrower's current income, the borrower must provide other documentation so the servicer can verify income. The borrower must also annually certify his/her family size. If the borrower fails to certify family size, the servicer assumes a family size of one for that year.</td>
<td>December 21, 2012</td>
<td>§685.209(a)(5)(i)</td>
<td>Married borrowers who file separately but live in community property states could be treated unfairly by having their eligibility based on their AGI since in such states each spouse is deemed to have an AGI that is ½ of the total income between both spouses. ED acknowledges this and clarified in the preamble to the Final Rule (pg. 66112) that borrowers in this situation should provide and servicers should use alternative documentation to determine eligibility.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
<tr>
<td>2</td>
<td>If a borrower who is currently repaying under another repayment plan selects the Pay As You Earn plan but does not provide the servicer with the required income documentation, or if the servicer determines that the borrower does not have a partial financial hardship, the borrower remains on his or her current repayment plan.</td>
<td>December 21, 2012</td>
<td>§685.209(a)(5)(vi)</td>
<td></td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
</tbody>
</table>
| 3  | After initially determining that a borrower has a PFH to qualify for the Pay As You Earn repayment plan and for each subsequent year that the borrower has a PFH, the servicer must send the borrower a written notification that provides the following:  
  - The scheduled monthly payment amount and the time period during which the payment is required, known as the annual payment period;                                                                                                                                  | December 31, 2012 | ED clarified that ‘in writing’ includes by electronic means.                                                               | Great Lakes implemented the new repayment plan in December 2012.                                               |
Pay As You Earn – Eligibility Determinations and Borrower Notifications

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
|  | • An explanation that AGI and family size information is required annually to continue with the PFH payment and that the borrower will be notified in advance of the servicer’s due date for such information;  
• An explanation of the consequences if the borrower does not provide the required information; and  
• Information about the borrower’s option to request at any time during the annual payment period that the servicer recalculate the borrower’s monthly payment if the borrower’s financial circumstances change and the current payment amount no longer reflects the borrower’s current income. [§685.209(a)(5)(ii)] | | | | |

Renewal/Recertification Notice

4. For each subsequent year that a borrower who currently has a PFH remains on the Pay As You Earn plan, the federal servicer must notify the borrower in writing that updated income and family size information is required. This notification is sent no later than 60 days and no earlier than 90 days prior to the due date established by the servicer for receiving the information. The due date can be no earlier than 35 days before the end of the borrower’s annual payment period. This is known as the annual deadline, but is considered a soft deadline. The servicer must provide the borrower with an additional 10 days to provide the required information (a 10-day grace after the end of the annual deadline), which is considered the hard deadline. The notification must explain the consequences if December 31, 2012 | | ED clarified that ‘in writing’ includes by electronic means. In the Final Rule preamble (pg. 66108), ED states that the clear intent of the regulation is that the renewal notice inform the borrower of the additional 10-day period. | Great Lakes implemented the new repayment plan in December 2012. |
Pay As You Earn – Eligibility Determinations and Borrower Notifications

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>If a borrower who currently has a PFH and is repaying under the Pay As You Earn plan <strong>fails to provide</strong> the servicer with the required income documentation, the borrower’s payment will become the permanent-standard amount (the amount based on a 10-year standard repayment plan based on when the borrower entered the Pay As You Earn plan), unless the servicer is able to determine the borrower’s new monthly payment amount before the end of his/her current annual period.</td>
<td>December 31, 2012</td>
<td>In the Final Rule preamble (pg. 66106), ED clarified that in the case of a borrower whose income information is received more than 10 days after the specified deadline, the borrower’s new monthly payment amount is not converted to the permanent-standard payment amount if the servicer is able to process it before the end of the borrower’s current annual payment period.</td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>If a borrower who currently has a PFH and is repaying under the Pay As You Earn plan does not meet the annual (soft) deadline but provides the servicer with the required income documentation <strong>within</strong> 10 days of the servicer’s established due date (i.e., by the hard deadline), the servicer must promptly determine if the borrower continues to have a partial financial hardship and calculate the borrower’s new monthly payment amount. If the servicer cannot process the request before</td>
<td>December 31, 2012</td>
<td></td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
<td></td>
</tr>
<tr>
<td>#</td>
<td>Summary of Regulatory Change</td>
<td>Date/Trigger</td>
<td>Related DCL/ED Guidance</td>
<td>Additional Guidance/Clarifying Comments</td>
<td>GL Implementation Notes</td>
</tr>
<tr>
<td>---</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------</td>
<td>-------------------------</td>
<td>------------------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td></td>
<td>the end of the borrower’s annual payment period (anniversary date), the federal servicer maintains the borrower at the current payment amount until the new amount is determined.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the borrower continues to have a PFH and his new monthly payment amount is less than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer must make the appropriate adjustment to the borrower’s account. Unless the borrower requests otherwise, the servicer applies the excess payment amount in the following order - interest, collection costs, late charges, and then principal.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the borrowers continues to have a PFH and his new monthly payment amount is equal to or greater than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer does not make any adjustments to the borrower’s account.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Any payments the borrower continued to make at the previously calculated amount at the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of Public Service Loan Forgiveness (PSLF), provide the payments otherwise meet the PSLF requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The borrower’s new annual payment period begins the day after the end of the most recent annual payment period (meaning the borrower’s anniversary date stays the same).</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

§685.209(a)(5)(vii(A) & (B)]
# Pay As You Earn – Eligibility Determinations and Borrower Notifications

## Pay As You Earn – Eligibility Determinations and Borrower Notifications

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 7. | If a borrower who currently has a PFH and is repaying under the Pay As You Earn plan provides the servicer with the required income documentation **more than** 10 days after the servicer’s established due date (i.e., does not meet the hard deadline), the borrower’s payment will become the permanent-standard amount (the amount based on a 10-year standard repayment plan based on when the borrower entered the Pay As You Earn plan). However, the servicer must still determine if the borrower continues to have a PFH and calculate a new monthly payment amount accordingly. If the new monthly payment amount is **$0 or less than** the borrower’s previous monthly payment amount, the servicer will grant forbearance with respect to payments that are overdue or would be due at the time the new monthly payment amount is calculated. Interest that accrues during such forbearance is not capitalized. Any payments the borrower continued to make at the previously calculated amount at the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of Public Service Loan Forgiveness (PSLF), provide the payments otherwise meet the PSLF requirements.  

[§685.209(a)(5)(ix)(A) & (B)] | December 31, 2012 | In the NPRM (pg. 42109), ED explains it is appropriate to allow forbearance under limited circumstances for borrowers whose income information is not received until more than 10 days after the annual deadline and who are delinquent at the time the new monthly PFH payment amount is determined, if the new monthly PFH payment amount is zero or is less than the borrower’s previously scheduled monthly PFH payment amount. This may indicate that the borrower’s financial circumstances have worsened which may have contributed to the borrower’s delinquency and may have caused the borrower’s failure to provide the required information in a timely manner. In addition, interest in these circumstances is limited to the interest that had been previously capitalized at the end of the prior annual payment period. For example, if a forbearance is granted to cover a five month period of delinquency that began three months before the end of the borrower’s prior annual payment period and continued for two months after the end of that annual payment period, | Great Lakes implemented the new repayment plan in December 2012. |

---

Great Lakes Higher Education Guaranty Corporation
### Pay As You Earn – Eligibility Determinations and Borrower Notifications

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>the interest that accrued during the first three months of the forbearance period (i.e., prior to the conversion of the borrower’s payment to the permanent standard amount) would remain capitalized.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Notices When Borrower No Longer Has PFH (on Permanent-Standard)

8. Each time the servicer makes a determination that a borrower no longer has a partial financial hardship for a subsequent year in which the borrower wishes to remain on the Pay As You Earn plan, the servicer must send the borrower a written notification that provides the borrower with:
   - The borrower’s recalculated monthly payment amount (permanent-standard amount);
   - An explanation that unpaid interest will be capitalized; and
   - Information about the borrower’s option to request, at any time, that the servicer re-determine whether the borrower has a PFH, if the borrower’s financial circumstances have changed and the income amount used to determine that the borrower no longer has a PFH does not reflect the borrower’s current income, and an explanation that the borrower will be notified annually of this option.

   If the servicer determines that the borrower again has a partial financial hardship, the servicer recalculates the borrower’s monthly payment and sends the borrower a written notification that includes the information described in #3 above.

   

9. For each subsequent year that a borrower who does not currently have a partial financial

   December 31, 2012

   ED clarified that ‘in writing’ includes by electronic means.

   Great Lakes implemented the new repayment plan in December 2012.
### Pay As You Earn – Eligibility Determinations and Borrower Notifications

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>hardship remains on the Pay As You Earn plan (i.e., paying the permanent-standard amount), the servicer must send the borrower a written notification that includes:</td>
<td></td>
<td></td>
<td></td>
<td>repayment plan in December 2012.</td>
</tr>
<tr>
<td></td>
<td>• Information about the option to request, at any time, that the federal servicer re-determine whether the borrower has a PFH if the borrower’s financial circumstances change.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• An explanation that the borrower will be notified annually of this option.</td>
<td></td>
<td></td>
<td></td>
<td>[§685.209(a)(5)(v)]</td>
</tr>
</tbody>
</table>

### Pay As You Earn – Loan Forgiveness

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Qualifying Payments and 20-Year Period</td>
<td>December 21, 2012</td>
<td></td>
<td></td>
<td>Great Lakes implemented the new repayment plan in December 2012.</td>
</tr>
<tr>
<td></td>
<td>To qualify for loan forgiveness after 20 years, a borrower must have participated in the Pay As You Earn plan and satisfied at least one of the following conditions during that period:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Made reduced monthly payments (including a $0 payment) based on a partial financial hardship.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Made permanent-standard monthly payments after the borrower no longer had a partial financial hardship or decided to stop making PFH payments.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Made monthly payments under any repayment plan that was not less than the amount required under a 10-year standard repayment plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Made monthly payments under the Income-Contingent Repayment (ICR) plan or the DL Income-Based Repayment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The difference between Pay As You Earn and IBR/ICR loan forgiveness is the number years before a borrower is eligible – 20 vs. 25. A borrower must have made at least 240 payments. In the Final Rule (pg. 66104), ED clarified that qualifying payments a borrower made toward FFELP IBR loan forgiveness do not count toward forgiveness under the Direct Loan IBR, ICR, or Pay As You Earn plans. Similarly, qualifying payments that a borrower made toward Direct Loan IBR, ICR or Pay As You</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# Pay As You Earn – Loan Forgiveness

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 1  | (IBR) plan, including a calculated monthly payment amount of $0.00.  
• Received an economic hardship deferment on eligible Direct Loans.  
The beginning date of the 20-year loan forgiveness period (forgiveness clock) is the earliest date after October 1, 2007 that the borrower made a qualifying payment, even if the qualifying payment was made or the economic hardship deferment was received before the borrower entered the Pay As You Earn plan.  
Any payments made on a defaulted loan are not made under a qualifying repayment plan and are not counted toward the 20-year forgiveness period.  
[§685.209(a)(6)(i), (iii) & (iv)] | December 21, 2012 | **[Related DCL/ED Guidance]** | Earn loan forgiveness do not count toward forgiveness under FFELP IBR. | Great Lakes implemented the new repayment plan in December 2012. |
| 2  | The servicer cancels any outstanding balance of principal and accrued interest on Direct loans if the federal servicer determines that:  
• The borrower made monthly payments under one or more of the repayment plans described in #1 above; and  
• The borrower made those monthly payments each year for a 20-year period or, through a combination of monthly payments and economic hardship deferments, the borrower has made the equivalent of 20 years of payments.  
[§685.209(a)(6)(ii)] | December 21, 2012 | | | |

**Notice to Borrowers Close to Forgiveness**

| #  | When the servicer determines that a borrower has satisfied the loan forgiveness requirements, the borrower’s outstanding balance and accrued interest is cancelled.  
No later than six months prior to the anticipated date that the borrower will meet the forgiveness | December 31, 2012 | ED clarified that ‘in writing’ includes by electronic means. | Great Lakes implemented the new repayment plan in December 2012. |
### Pay As You Earn – Loan Forgiveness

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>requirements, the servicer must send the borrower a written notice that:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Explains that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Reminds the borrower to continue making his/her scheduled monthly payments; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Includes general information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§685.209(a)(6)(v)(A)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Forgiveness Processing and Forgiveness Notice

| 4. | The servicer determines when a borrower has met the loan forgiveness requirements and does not require the borrower to submit a request for loan forgiveness. After determining that a borrower has satisfied the loan forgiveness requirements, the servicer will notify the borrower that his/her loan obligation is satisfied and provide the borrower with the general information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information. The servicer returns to the sender any payment received after loan forgiveness has been granted. | December 31, 2012 | ED clarified that ‘in writing’ includes by electronic means. | Great Lakes implemented the new repayment plan in December 2012. |
| | [§685.209(a)(6)(v)(B) & (C)] | | | |
# Summary of Regulatory Change | Date/Trigger | Related DCL/ED Guidance | Additional Guidance/Clarifying Comments | GL Implementation Notes
--- | --- | --- | --- | ---
**State of Residence Clarification**
1. The change clarifies that if a borrower is not a resident of a State identified in the poverty guidelines published by the U.S. Department of Health Human Services, the poverty guideline applicable to the 48 contiguous States is to be used when determining his monthly payment amount under ICR. [§685.209(b)(1)(iii)(B)] | December 31, 2013 | This aligns with the requirements for using the poverty guidelines in IBR. | Great Lakes implemented the change in December 2012.

**Treatment of Adjusted Gross Income (AGI) for Married Borrowers**
2. The change revises how the AGI is viewed for married borrowers. For a married borrower who files a joint federal tax return with his or her spouse, the AGI for both spouses is used to calculate the monthly payment amount under the ICR plan.
   For a married borrower who files a federal tax return separately from his or her spouse, only the borrower’s AGI is used to determine the monthly payment amount under the ICR plan. [§685.209(b)(2)(i)] | December 31, 2013 | This aligns with the treatment of AGI for married borrowers in IBR and Pay As You Earn. | Great Lakes implemented the change in December 2012.

**Income Documentation**
3. The provision that required borrowers to provide alternative documentation in their first and second years of repayment under ICR has been removed. The borrower must provide the servicer with his/her AGI or alternative documentation. [§685.209(b)(1) and (3)(vi)] | December 31, 2013 | Married borrowers who file separately but live in community property states could be treated unfairly by having their eligibility based on their AGI since in such states each spouse is deemed to have an AGI that is ½ of the total income between both spouses. ED acknowledges this and clarifies in the preamble to the Final Rule (pg. 66112) that borrowers in this situation should provide and servicers should use. | Great Lakes implemented the change in December 2012.
## Summary of Regulatory Change

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>The regulation is amended to remove the requirement that a borrower submit written consent to the IRS for disclosure of tax return information. The regulation now states that for the initial year a borrower selects the ICR plan and for each subsequent year that the borrower remains on the plan, the borrower must: • Provide to the servicer acceptable documentation of the borrower’s AGI or alternative documentation of income for purposes of calculating a monthly repayment amount; and • Certify his/her family size. If the borrower fails to certify family size, the federal servicer will assume a family size of one for the year.</td>
<td>December 31, 2012</td>
<td>§685.209(b)(3)(vi)(A)</td>
<td>alternative documentation to determine eligibility.</td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>

### Monthly Payments When First Entering ICR

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>The change stipulates that at the beginning of the ICR repayment period the borrower must make monthly payments equal to the amount of interest that accrues on the borrower’s Direct Loan until the servicer calculates the borrower’s monthly payment amount on the basis of the borrower’s income.</td>
<td>December 31, 2013</td>
<td>§685.209(b)(1)(x)</td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>

### Repayment Period

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>The regulation is amended to consider periods when a borrower makes payments under the Pay As You Earn plan as part of the 25-year maximum payment period.</td>
<td>December 31, 2012</td>
<td>§685.209(b)(3)(ii)(B)(3)</td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>
### Direct Loan Income-Contingent Repayment (ICR) Changes

**Note:** only new and revised regulations are described below. For a complete listing of all ICR rules, refer to 34 CFR 685.209(b)

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.</td>
<td>A new provision is added to clarify that if a borrower repays more than one loan under ICR, a separate repayment period for each loan begins when that loan enters repayment.</td>
<td>December 31, 2012</td>
<td>[§685.209(b)(3)(iii)(C)]</td>
<td>payments made under the Pay As You Earn plan would count toward the ICR forgiveness.</td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>

**Payment Amount When Income Documentation Not Provided (Permanent-Standard)**

| 8. | Similar to borrowers paying under the Income-Based Repayment (IBR) or Pay As You Earn plans, if a borrower does not provide the required income documentation, the borrower's monthly payment amount will become what he or she would have paid under a 10-year standard repayment plan using the amount of the borrower's loans at the time the borrower began repayment under ICR, unless the servicer is able to determine the borrower's new monthly payment amount before the end of the borrower's current annual payment period. | December 31, 2013 | [§685.209(b)(3)(vi)(D)] | In the Final Rule preamble (pg. 66106), ED clarified that in the case of a borrower whose income information is received more than 10 days after the specified deadline, the borrower’s new monthly payment amount is not converted to the permanent-standard payment amount if the servicer is able to process it before the end of the borrower’s current annual payment period. | Great Lakes implemented the change in December 2012. |

**Annual Notice**

| 9. | When a borrower selects or is required by ED to repay his/her loan under ICR, and for each subsequent year that the borrower remains on the plan, the servicer must send a written notification to the borrower that provides the following:  
  * The scheduled monthly payment amount and the time period during which the payment is required, known as the annual payment period;  
  * An explanation that AGI and family size information is required annually and that | December 31, 2012 | | ED clarified that ‘in writing’ includes electronic means. | Great Lakes implemented the change in December 2012. |
## Direct Loan Income-Contingent Repayment (ICR) Changes

*Note: only new and revised regulations are described below. For a complete listing of all ICR rules, refer to 34 CFR 685.209(b)*

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>the borrower will be notified in advance of the servicer's due date for the information;</td>
<td>December 31, 2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• An explanation that if the borrower has special circumstances that warrant an adjustment (e.g., loss of unemployment), he/she can contact the servicer to see if an adjustment is appropriate; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• An explanation of the consequences if the borrower does not provide the required information.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§685.209(b)(3)(v)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Renewal/Recertification Notice

10. For each subsequent year that a borrower remains on ICR, the servicer must notify the borrower in writing that updated income and family size information is required.

This notification is sent no later than 60 days and no earlier than 90 days prior to the due date established by the servicer for receiving the information. The due date can be no earlier than 35 days before the end of the borrower’s annual payment period. This is known as the annual deadline, but is considered a **soft deadline**. The servicer must provide the borrower with an additional 10 days to provide the required information (a 10-day grace after the end of the annual deadline), which is considered the **hard deadline**.

The notification must explain the consequences if the servicer does not receive the information within 10 days following the annual deadline (i.e., by the hard deadline) specified in the notice, including:

- That the borrower’s monthly payment amount would become the permanent-
### Summary of Regulatory Change

- standard payment amount; and
  - The effective date for the new monthly payment amount.

11. If a borrower who is currently repaying under ICR does not meet the annual (soft) deadline but provides the servicer with the required income documentation within 10 days of the servicer’s established due date (i.e., by the hard deadline), the federal servicer must promptly determine the borrower’s new monthly payment amount.

   If the servicer cannot process the request before the end of the borrower’s annual payment period (anniversary date), the servicer maintains the borrower at the current payment amount until the new amount is determined.

   - If the new monthly payment amount is less than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer must make the appropriate adjustment to the borrower’s account. Unless the borrower requests otherwise, the servicer applies the excess payment amount in the following order – late charges, collection costs, interest, then to principal.

   - If the borrower’s new monthly payment amount is equal to or greater than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer does not make any adjustments to the borrower’s account.

   - Any payments the borrower continued to make at the previously calculated amount

   - If the new monthly payment amount is less than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer must make the appropriate adjustment to the borrower’s account. Unless the borrower requests otherwise, the servicer applies the excess payment amount in the following order – late charges, collection costs, interest, then to principal.

   - If the borrower’s new monthly payment amount is equal to or greater than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer does not make any adjustments to the borrower’s account.

   - Any payments the borrower continued to make at the previously calculated amount

   - If the new monthly payment amount is less than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer must make the appropriate adjustment to the borrower’s account. Unless the borrower requests otherwise, the servicer applies the excess payment amount in the following order – late charges, collection costs, interest, then to principal.

   - If the borrower’s new monthly payment amount is equal to or greater than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer does not make any adjustments to the borrower’s account.

   - Any payments the borrower continued to make at the previously calculated amount

   - If the new monthly payment amount is less than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer must make the appropriate adjustment to the borrower’s account. Unless the borrower requests otherwise, the servicer applies the excess payment amount in the following order – late charges, collection costs, interest, then to principal.

   - If the borrower’s new monthly payment amount is equal to or greater than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer does not make any adjustments to the borrower’s account.

   - Any payments the borrower continued to make at the previously calculated amount

### Notes

- December 31, 2012

- Great Lakes implemented the change in December 2012.
### Summary of Regulatory Change

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>If a borrower who is currently repaying under ICR provides the servicer with the required income documentation more than 10 days after the servicer’s established due date (i.e., does not meet the hard deadline), the borrower’s payment will become the permanent-standard amount (the amount based on a 10-year standard repayment plan based on when the borrower entered ICR). However, the servicer will still calculate a new monthly payment amount accordingly. If the new monthly payment amount is $0 or is less than the borrower’s previous monthly payment amount, the federal servicer will grant forbearance with respect to payments that are overdue or would be due at the time the new monthly payment amount is calculated. Interest that accrues during such forbearance is not capitalized. Any payments the borrower continued to make at the previously calculated amount at the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of Public Service Loan Forgiveness.</td>
<td>December 31, 2012</td>
<td></td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>
### Direct Loan Income-Contingent Repayment (ICR) Changes

**Note:** only new and revised regulations are described below. For a complete listing of all ICR rules, refer to 34 CFR 685.209(b).

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(PSLF), provide the payments otherwise meet the PSLF requirements. (<a href="https://www.federalregister.gov/documents/2012/11/01/2012-28229/direct-loan-income-contingent-repayment-icr-changes">§685.209(b)(3)(vi)(F)</a>)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Notices to Borrowers Paying Permanent-Standard Amount</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>As noted in #8 above, if the borrower fails to provide the servicer with the required income and family size documentation, the borrower’s monthly payment amount is recalculated (becomes the permanent-standard amount). When a borrower initially moves to the permanent-standard payment amount, and for subsequent years while the borrower remains in ICR, the borrower must be notified of the permanent-standard and the period of time during which the payment applies (annual payment period). In addition, the notice should include an explanation that if the borrower has special circumstances that warrant an adjustment (e.g., loss of unemployment), he/she can contact the federal servicer to see if an adjustment is appropriate. (<a href="https://www.federalregister.gov/documents/2012/11/01/2012-28229/direct-loan-income-contingent-repayment-icr-changes">§685.209(b)(3)(v)(A) &amp; (C)</a>)</td>
<td>December 31, 2012</td>
<td></td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
<tr>
<td></td>
<td><strong>Loan Forgiveness and Notices</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 14. | A new regulation is added to clarify that if a borrower has not paid a loan in full at the end of the 25-year repayment period under ICR, the outstanding balance and accrued interest on that loan is cancelled. **Required Notices**  
  No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the servicer sends the borrower a written notification that:  
  • Explains that the borrower is approaching the date that he or she is expected to meet the | December 31, 2012     |                         |                                        | Great Lakes implemented the change in December 2012. |
Direct Loan Income-Contingent Repayment (ICR) Changes

Note: only new and revised regulations are described below. For a complete listing of all ICR rules, refer to 34 CFR 685.209(b).

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>requirements to receive loan forgiveness;</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Reminds the borrower to continue to make the scheduled monthly payments; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provides general information on the current treatment of the forgiveness amount for tax purposes, and instructs for the borrower to contact the Internal Revenue Service (IRS) for more information.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The servicer determines when a borrower has met the loan forgiveness requirements and does not require the borrower to submit a request for loan forgiveness.

After determining that a borrower has satisfied the loan forgiveness requirements, the servicer:

- Notifies the borrower that the borrower’s obligation on the loans is satisfied;
- Provides general information on the current treatment of the forgiveness amount for tax purposes, and instructs the borrower to contact the IRS for more information; and
- Returns to the sender any payment received on a loan after loan forgiveness has been granted.

[§685.209(b)(3)(iii)(D) & (E)]
# Direct Loan Income-Based Repayment (IBR) Changes

Direct Loan Income-Based Repayment (IBR) Changes  
Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Definitions</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 1. | A definition for ‘new borrower’ is added to accommodate for program changes that will go into effect on July 1, 2014.  
*New borrower* means an individual who has no outstanding balance on a Direct Loan Program or FFEL Program loan on July 1, 2014, or who has no outstanding balance on such a loan on the date he or she obtains a loan after July 1, 2014.  
[§685.221(a)(4)] | July 1, 2014 | | | Great Lakes will implement the change for new borrowers by July 1, 2014. |
| 2. | Partial financial hardship for new borrowers on or after July 1, 2014 is defined as follows:  
- For a single borrower or married borrower who file taxes separately from his/her spouse, a partial financial hardship exists when the annual amount due on the borrower’s eligible loans (as calculated on a 10-year standard plan using the greater of the amount due at the time the borrower initially enters repayment or at the time he/she requests IBR) exceeds 10% of the difference between the borrower’s AGI and 150% of the poverty guideline based on the borrower’s family size.  
- For a married borrower who files taxes jointly with his/her spouse, a partial financial hardship exists when the annual amount due on the borrower’s and spouse’s (if applicable loans (as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the borrower enters repayment or at the time he/she requests IBR) exceeds 10% of the difference between the borrower’s and spouse’s AGI, and 150% | July 1, 2014 | | The difference between this definition and what is used for FFELP IBR is the percentage – 10% vs. 15%. | Great Lakes will implement the change for new borrowers by July 1, 2014. |
## Direct Loan Income-Based Repayment (IBR) Changes

Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>of the poverty guideline for the borrower’s family size.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Annual payment &gt; 10% [AGI-(1.5 x poverty guideline)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[§685.221(a)(5)]</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Eligibility Determinations—Income Documentation

3. The regulation is amended to remove the requirement that a borrower submit written consent to the IRS for disclosure of tax return information. The regulations now state that the borrower must provide documentation of AGI acceptable to the servicer, which codifies the current procedure followed by the federal servicers. As is currently the case, if the borrower’s AGI is not available or the servicer believes that the borrower’s reported AGI does not reasonably reflect the borrower’s current income, the borrower must provide other documentation to verify income.

   [§685.221(e)(1)(i) & (ii)]

   December 31, 2012

   Married borrowers who file separately but live in community property states could be treated unfairly by having their eligibility based on their AGI since in such states each spouse is deemed to have an AGI that is ½ of the total income between both spouses. ED acknowledges this and clarifies in the preamble to the Final Rule (pg. 66112) that borrowers in this situation should provide and servicers should use alternative documentation to determine eligibility.

   Great Lakes currently follows this regulation, therefore no change is necessary.

### Repayment Plan Terms

4. For new borrowers on or after July 1, 2014, the payment amount calculation is defined as follows:

   The borrower’s aggregate monthly loan payments are limited to no more than 10% of the amount by which the borrower’s AGI exceeds 150% of the poverty guideline applicable to the borrower’s family size, divided by 12.

   Monthly payment = 10% [AGI-(1.5 x poverty guideline)]/12

   [§685.221(b)(1)]

   July 1, 2014

   The difference between this definition and what is used for FFELP IBR is the percentage – 10% vs. 15%.

   Great Lakes implemented the change in December 2012.

5. A technical correction is made to clarify that when a borrower has loans held by multiple holders, it is the total outstanding principal amount of the

   December 31, 2012

   Great Lakes implemented the change in
### Direct Loan Income-Based Repayment (IBR) Changes

Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>borrower’s eligible loans that is used by the servicer to prorate the borrower’s payment amount.</td>
<td>December 31, 2012</td>
<td>§685.221(b)(2)(i) &amp; (ii)(C)</td>
<td>In the Final Rule preamble (pg. 66108), ED states that it was not the intent of the regulations to provide borrowers who change from one plan to another up to six years of eligibility for interest subsidy.</td>
<td>December 2012.</td>
</tr>
<tr>
<td>6.</td>
<td>The regulation is revised to state that any period during which the borrower was not charged accrued interest on eligible loans under the Pay As You Earn repayment plan counts toward the maximum three years of subsidy a borrower is eligible to receive under the IBR plan.</td>
<td>December 31, 2012</td>
<td>§685.221(b)(3)</td>
<td>Great Lakes implemented the change in December 2012.</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>A regulation was added to clarify that a Direct Loan borrower may prepay all or part of a loan at any time without penalty as in FFELP.</td>
<td>December 31, 2012</td>
<td>§685.221(c)(2) and 685.211(a)(2)</td>
<td>Great Lakes implemented the change in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>
| 8. | A regulation was added to align rules on prepayment with those in FFELP. It clarifies that if the prepayment amount equals or exceeds a monthly payment amount of $10.00 or more under the established repayment schedule, the servicer applies the prepaid amount according to the standard payment application rules in the following order:  
- Accrued charges and collection costs  
- Outstanding interest  
- Loan principal  
However, if the prepayment amount exceeds a monthly payment amount of $0.00 under the established repayment schedule, the servicer applies the prepaid amount in the following order:  
- Accrued interest  
- Collection costs  
- Late charges | December 31, 2012 | | Great Lakes implemented the change in December 2012. |
**Direct Loan Income-Based Repayment (IBR) Changes**

Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Loan principal</td>
<td>December 31, 2012</td>
<td>§685.211(a)(3); §685.221(c)(3) and (4)</td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
<tr>
<td></td>
<td>A technical correction clarifies that the maximum monthly payment amount a borrower is required to pay when the borrower no longer has a PFH is the amount the borrower would have paid under the standard repayment plan based on a 10-year repayment period using the amount of the borrower’s eligible loans that was outstanding at the time the borrower began repayment on the loans under IBR.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>A technical correction is made to clarify that for all DL loans (except Direct Consolidation), if a borrower chooses to leave IBR, the expedited-standard payment amount is based on the time remaining on a 10-year repayment period. For Direct Consolidation loans, the expedited-standard payment amount is calculated based on the remainder of the applicable repayment period that was initially determined when the Consolidation loan was made and the balance of the Consolidation loan. The change removes reference to the balances of other loans.</td>
<td>December 31, 2012</td>
<td>§685.221(d)(1)(i) &amp; (j)</td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
<tr>
<td>11</td>
<td>A new regulation is added to clarify that a borrower who no longer wishes to repay under IBR and is required to repay under the remaining years of the Direct Loan standard repayment plan (i.e., pay the expedited-standard amount) may change to a different repayment plan after making one monthly payment under the Direct Loan standard repayment plan. However, if the borrower is unable to make that payment, a</td>
<td>December 31, 2012</td>
<td></td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>In the Final Rule preamble (pg. 66111), ED states it will grant the reduced-payment forbearance on the loans it holds, but cannot mandate that lenders to do so. ED also states that the amount of the reduced-payment forbearance is a matter negotiated</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Direct Loan Income-Based Repayment (IBR) Changes

*Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.*

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>reduced-payment forbearance may be granted.</td>
<td></td>
<td></td>
<td>between the borrower and the loan holder. ED believes it can be any amount greater than $0 and less than the borrower’s scheduled monthly payment under the standard repayment plan (the expedited-standard amount). ED also clarifies that because the forbearance is granted while the borrower is repaying under the standard plan, there is no restriction to capitalizing the interest that accrues during the forbearance period.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§685.221(d)(2)(ii)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Eligibility Determination

12. A new regulation codifies current procedure and states that if a borrower who is currently repaying under another repayment plan selects the IBR plan but does not provide the required documentation or if the servicer determines that the borrower does not have PFH, the borrower remains on his or her current repayment plan.

[§685.221(e)(6)]

<table>
<thead>
<tr>
<th>Date/Trigger</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 31, 2012</td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>

### Required Notifications – Approval Notice

13. After initially determining that a borrower has a PFH to qualify for IBR and for each subsequent year that the borrower has a PFH, the servicer must send the borrower a written notification that provides the following:

- The scheduled monthly payment amount, and the time period during which the payment is required, known as the **annual payment period**;
- An explanation that AGI and family size information is required annually to

<table>
<thead>
<tr>
<th>Date/Trigger</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 31, 2012</td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>

ED clarified that ‘in writing’ includes by electronic means.
### Required Notifications – Renewal/Recertification Notice

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>continue with the PFH payment and that the borrower will be notified in advance of the servicer's due date for such information;</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• An explanation of the consequences if the borrower does not provide the required information; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Information about the borrower’s option to request at any time during the annual payment period that the servicer recalculate the borrower’s monthly payment amount if the borrower’s financial circumstances change and the current payment amount no longer reflects the borrower’s current income.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§685.221(e)(2)(i)-(v)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For each subsequent year that a borrower who currently has a PFH remains on IBR, the servicer must notify the borrower in writing that updated income and family size information is required. This notification is sent no later than 60 days and no earlier than 90 days prior to due date established by the servicer for receiving the information. The due date can be no earlier than 35 days before the end of the borrower’s annual payment period. This is known as the annual deadline, but is considered a **soft deadline**. The servicer must provide the borrower an additional 10 days to provide the required information (a 10-day grace after the end of the annual deadline), which is considered the **hard deadline**.

The notification must explain the consequences if the servicer does not receive the information within 10 days following the annual deadline (i.e., by the hard deadline) specified in the notice, December 31, 2012

ED clarified that 'in writing’ includes by electronic means. In the Final Rule preamble (pg. 66108), ED states that the clear intent of the regulation is that the renewal notice inform the borrower of the additional 10-day period.

Great Lakes implemented the change in December 2012.
## Direct Loan Income-Based Repayment (IBR) Changes

Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>If a borrower who currently has a PFH and is repaying under IBR fails to provide the servicer with the required income documentation, the borrower’s payment will become the permanent-standard amount (the amount based on a 10-year standard repayment plan based on when the borrower entered IBR), unless the servicer is able to determine the borrower’s new monthly payment amount before the end of his/her current annual period.</td>
<td>December 31, 2012</td>
<td>§685.221(e)(3)(i) &amp; (ii)</td>
<td>In the Final Rule preamble (pg. 66106), ED clarified that in the case of a borrower whose income information is received more than 10 days after the specified deadline, the borrower’s new monthly payment amount is not converted to the permanent-standard payment amount if the servicer is able to process it before the end of the borrower’s current annual payment period.</td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
<tr>
<td>16</td>
<td>If a borrower who currently has a PFH and is repaying under IBR does not meet the annual (soft) deadline but provides the servicer with the required income documentation within 10 days of the servicer’s established due date (i.e., by the hard deadline), the servicer must promptly determine if the borrower continues to have a partial financial hardship and calculate the borrower’s new monthly payment amount. If the servicer cannot process the request before the end of the borrower’s annual payment period (anniversary date), the servicer maintains the permanent-standard payment amount.</td>
<td>December 31, 2012</td>
<td>§685.221(e)(7)</td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>
### Direct Loan Income-Based Repayment (IBR) Changes

**Summary of Regulatory Change**

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>borrower at the current payment amount until the new amount is determined.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the borrower continues to have a PFH and his new monthly payment amount is less than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer must make the appropriate adjustment to the borrower’s account. Unless the borrower requests otherwise, the federal servicer applies the excess payment amount in the following order - interest, collection costs, late charges, principal.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• If the borrower continues to have a PFH and his new monthly payment amount is equal to or greater than the previous monthly payment amount and the borrower made payments at the previous amount, the servicer does not make any adjustments to the borrower’s account.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Any payments the borrower continued to make at the previously calculated amount at the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of Public Service Loan Forgiveness (PSLF), provide the payments otherwise meet the PSLF requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The borrower’s new annual payment period begins the day after the end of the most recent annual payment period (meaning the borrower’s anniversary date stays the same).

[§685.221(e)(8)]

---

**Direct Loan Income-Based Repayment (IBR) Changes**

*Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.*

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>If a borrower who currently has a PFH and is repaying under IBR provides the servicer with the required income documentation <strong>more than</strong> 10 days after the servicer's established due date (i.e., does not meet the hard deadline), the borrower's payment will become the permanent-standard amount (the amount based on a 10-year standard repayment plan based on when the borrower entered IBR). However, the servicer must still determine if the borrower continues to have a PFH and calculate a new monthly payment amount accordingly. If the new monthly payment amount is <strong>$0 or less than</strong> the borrower's previous monthly payment amount, the servicer will grant forbearance with respect to payments that are overdue or would be due at the time the new monthly payment amount is calculated. Interest that accrues during such forbearance is not capitalized. Any payments the borrower continued to make at the previously calculated amount at the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of Public Service Loan Forgiveness (PSLF), provide the payments otherwise meet the PSLF requirements.</td>
<td>December 31, 2012</td>
<td>In the NPRM (pg. 42109), ED explains it is appropriate to allow forbearance under limited circumstances for borrowers whose income information is not received until more than 10 days after the annual deadline and who are delinquent at the time the new monthly PFH payment amount is determined, if the new monthly PFH payment amount is zero or is less than the borrower’s previously scheduled monthly PFH payment amount. This may indicate that the borrower’s financial circumstances have worsened which may have contributed to the borrower’s delinquency and may have caused the borrower’s failure to provide the required information in a timely manner. In addition, interest in these circumstances is limited to the interest that had been previously capitalized at the end of the prior annual payment period. For example, if a forbearance is granted to cover a five month period of delinquency that began three months before the end of the borrower’s prior annual payment period and continued for two months after the end of</td>
<td>Great Lakes implemented the change in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>

[$685.221(e)(9)$]
### Direct Loan Income-Based Repayment (IBR) Changes

**Note:** only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>that annual payment period, the interest that accrued during the first three months of the forbearance period (i.e., prior to the conversion of the borrower’s payment to the permanent standard amount) would remain capitalized.</td>
<td></td>
</tr>
</tbody>
</table>

#### Required Notifications – Borrower No Longer Has PFH

18. Each time the servicer determines that a borrower no longer has a PFH for a subsequent year, but the borrower wishes to remain on IBR, the servicer must send the borrower a written notification that provides the borrower with:

- The borrower’s recalculated monthly payment amount (permanent-standard amount);
- An explanation that unpaid interest will be capitalized; and
- Information about the borrower’s option to request, at any time, that the servicer redetermine whether the borrower has a PFH, if the borrower’s financial circumstances have changed and the income amount used to determine that the borrower no longer has a PFH does not reflect the borrower’s current income, and an explanation that the borrower will be notified annually of this option.

If the servicer determines that the borrower again has PFH, the servicer recalculates the borrower’s monthly payment and sends the borrower a written notification that includes the information described in #12 above.

[§685.221(e)(4)]

December 31, 2012

ED clarified that ‘in writing’ includes by electronic means.

Great Lakes implemented the change in December 2012.
### Direct Loan Income-Based Repayment (IBR) Changes

Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>19.</td>
<td>For each subsequent year that a borrower who does not currently have a PFH remains on the IBR plan, the servicer will send the borrower a written notification that includes the information about the borrower’s option to request the servicer redetermine whether the borrower has PFH.</td>
<td>December 31, 2012</td>
<td>§685.221(e)(5)</td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>

### Loan Forgiveness

| 20. | The regulations related to IBR loan forgiveness are revised to accommodate for new borrowers on or after July 1, 2014 who qualify for loan forgiveness after 20 years of making qualifying payments. In addition, technical corrections are made to the list of payments that qualify a borrower for forgiveness (after 20 or 25 years, respectively). The following qualify:  
• PFH payments.  
• Permanent-standard payments.  
• Payments at least equal to standard-standard amount (the amount calculated under a 10-year repayment period for the amount of the borrower’s loans that were outstanding at the time the loans initially entered repayment).  
• Payments made on a 10-year standard plan, regardless of amount (this allows for changes in interest rates).  
• Payments made under DL IBR, ICR and Pay As You Earn, including a calculated monthly payment amount of $0.00.  
• Periods of economic hardship deferment. | July 1, 2014 for new borrowers to be eligible for forgiveness after 20 years  
December 31, 2012 for technical corrections to list of qualifying payments | The 20 year forgiveness is only for new borrowers on or after July 1, 2014. Loan forgiveness for borrowers with an outstanding loan prior to July 1, 2014 will remain at 25 years.  
In the Final Rule (pg. 66104), ED clarified that qualifying payments a borrower made toward FFELP IBR loan forgiveness do not count toward forgiveness under the Direct Loan IBR, ICR, or Pay As You Earn plans. Similarly, qualifying payments that a borrower made toward Direct Loan IBR, ICR or Pay As You Earn loan forgiveness do not count toward forgiveness under FFELP IBR. | Great Lakes implemented the technical correction in December 2012, and will implement the change for new borrowers by July 1, 2014. |
| 21. | A technical correction is made to clarify that the IBR forgiveness start date on Consolidation loans | December 31, 2012 | §685.221(f)(1) – (2) | | Great Lakes implemented the change in December 2012. |
### Direct Loan Income-Based Repayment (IBR) Changes

**Note:** only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 22 | A regulation is added to clarify that any payments made on a defaulted loan are not made under a qualifying repayment plan and are not counted toward the applicable loan forgiveness period.  

\[\text{§685.221(f)(4)}\]                                                                 | December 31, 2012     |                          |                          | Great Lakes implemented the change in December 2012. |
| 23 | When the servicer determines that a borrower has satisfied the loan forgiveness requirements, the borrower’s outstanding balance and accrued interest is cancelled.  

No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the servicer will send the borrower a written notice that:  
- Explains that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;  
- Reminds the borrower to continue making his/her scheduled monthly payments; and  
- Includes general information on the current treatment of the forgiveness amount for tax purposes and instructions for the borrower to contact the Internal Revenue Service for more information.  

\[\text{§685.221(f)(5)(i)}\]                                                                 | December 31, 2012     |                          |                          | Great Lakes implemented the change in December 2012. |
| 24 | The servicer determines when a borrower has met the loan forgiveness requirements and does not require the borrower to submit a request for forgiveness.                                                                 | December 31, 2012     |                          |                          | Great Lakes implemented the change in December 2012. |
Direct Loan Income-Based Repayment (IBR) Changes

Note: only new and revised regulations are described below. For a complete listing of IBR rules for Direct Loans, refer to 34 CFR 685.221.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>loan forgiveness. After determining that a borrower has satisfied the loan forgiveness requirements, the servicer will notify the borrower that his/her loan obligation is satisfied and provide the borrower with general information on the current treatment of the forgiveness amount for tax purposes and instructions to contact the Internal Revenue Service for more information. The servicer must return to the sender any payment received after loan forgiveness has been granted.</td>
<td></td>
<td></td>
<td></td>
<td>December 2012.</td>
</tr>
</tbody>
</table>

[§685.221(f)(5)]
# FFELP Income-Based Repayment (IBR) Changes

Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Summary of Regulatory Change</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Repayment Plan Terms</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>A new regulation requires borrowers who submit IBR requests on or after July 1, 2013 to repay all IBR-eligible loans held by a lender under IBR. Borrowers will no longer have the option to exclude IBR-eligible loans from the plan. [§682.215(b)(3)]</td>
<td>July 1, 2013</td>
<td></td>
<td>In the Final Rule preamble (pg. 66113), ED clarified that a borrower who has already established an IBR plan based on the exclusion of IBR-eligible loans may continue to exclude those loans as long as the borrower remains under IBR.</td>
<td>Great Lakes will implement the change by July 1, 2013.</td>
</tr>
<tr>
<td></td>
<td><strong>Payment Amount Calculation When No PFH</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>A technical correction clarifies that the maximum monthly payment amount a borrower is required to pay when the borrower no longer has a PFH is the amount the borrower would have paid under the standard repayment plan based on a 10-year repayment period using the amount of the borrower’s eligible loans that was outstanding at the time the borrower began repayment on the loans under IBR. [§682.215(d)(2)]</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td></td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
<tr>
<td></td>
<td><strong>Payment Amount Calculation When Leaving IBR</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>A technical correction is made to clarify that for all FFELP loans (except Federal Consolidation) if a borrower chooses to leave IBR, the expedited-standard payment amount is based on the time remaining on a 10-year repayment period. For Consolidation loans, the expedited-standard payment amount is calculated based on the remainder of the applicable repayment period that was initially determined when the Consolidation loan was made and the balance of the Consolidation loan. The change removes reference to the balances of other loans. [§682.215(d)(1)]</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td></td>
<td></td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>
## FFELP Income-Based Repayment (IBR) Changes

*Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.*

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>A new regulation is added to clarify that a borrower who no longer wishes to repay under IBR and is required to repay under the remaining years of the FFELP standard repayment plan (i.e., pay the expedited-standard amount) may change to a different repayment plan after making one monthly payment under the FFELP standard repayment plan. However, if the borrower is unable to make that payment a reduced monthly payment forbearance may be granted. [§682.215(d)(3)]</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td>In the Final Rule preamble (pg. 66111), ED states it will grant the reduced-payment forbearance on the loans it holds, but cannot mandate that lenders to do so. ED also states that the amount of the reduced-payment forbearance is a matter negotiated between the borrower and the loan holder. ED believes it can be any amount greater than $0 and less than the borrower’s scheduled monthly payment under the standard repayment plan (the expedited-standard amount). ED also clarifies that because the forbearance is granted while the borrower is repaying under the standard plan, there is no restriction to capitalizing the interest that accrues during the forbearance period.</td>
<td>Great Lakes implemented the change in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>

### Eligibility Determination

5. The regulation is revised to remove the requirement that a borrower submit written consent to the IRS for disclosure of tax return information. The regulation now states that the borrower provide documentation of AGI acceptable to the lender, which codifies the current procedure followed by FFELP lenders. As is currently the case, if a borrower’s AGI is not available or the lender believes that the borrower’s reported AGI does not reasonably reflect the borrower’s current income, the borrower may provide other documentation to support their eligibility determination. Married borrowers who file separately but live in community property states could be treated unfairly by having their eligibility based on their AGI since in such states each spouse is deemed to have an AGI that is ½ of the total income between both spouses. ED acknowledges this and clarifies in the preamble to the Final Rule that Great Lakes currently follows this regulation, therefore no change is necessary. | July 1, 2013, unless implemented earlier by the lender | Married borrowers who file separately but live in community property states could be treated unfairly by having their eligibility based on their AGI since in such states each spouse is deemed to have an AGI that is ½ of the total income between both spouses. ED acknowledges this and clarifies in the preamble to the Final Rule that Great Lakes currently follows this regulation, therefore no change is necessary. | Great Lakes currently follows this regulation, therefore no change is necessary. |
## FFELP Income-Based Repayment (IBR) Changes

Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.</td>
<td>A new regulation is added that requires a married borrower who files a joint tax return with his/her spouse and the spouse has eligible loans not held by the borrower’s lender that will be considered in determining IBR eligibility, to ensure that the spouse provides consent to the borrower’s lender to access the spouse’s loan information on NSLDS, or the spouse can provide other acceptable documentation of the eligible loan(s).</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td>(pg. 66112) that borrowers in this situation should provide and servicers should use alternative documentation to determine eligibility.</td>
<td>Great Lakes already has the required access to NSLDS to obtain spousal loan information.</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>A new regulation codifies current procedure and states that if a borrower who is currently repaying under another repayment plan selects the IBR plan but does not provide the required documentation or if the servicer determines that the borrower does not have PFH, the borrower remains on his or her current repayment plan.</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td>In the Final Rule preamble (pg. 66113), ED clarifies that this consent is only applicable to FFELP lenders/servicers and not for Direct Loans since ED has access to all borrower data in NSLDS.</td>
<td>Great Lakes implemented the change in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>

### Required Notifications – Approval Notice

8. After initially determining that a borrower has a PFH and qualifies for IBR and for each subsequent year that the borrower has a PFH, the lender must send the borrower a written notification that provides the following:
   - The scheduled monthly payment amount, and the time period during which the payment amount is required, known as the **annual payment period**;
   - An explanation that AGI and family size information is required annually to continue with the PFH payment and that

ED clarified that ‘in writing’ includes by electronic means. Great Lakes implemented the change in December 2012.
## FFELP Income-Based Repayment (IBR) Changes

Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>the borrower will be notified in advance of the lender’s due date for such information;</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• An explanation of the consequences if the borrower does not provide the required information; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Information about the borrower’s option to request at any time during the borrower’s annual payment period that the lender recalculates the borrower’s monthly payment amount if the borrower’s financial circumstances change and the current monthly payment no longer reflects the borrower’s current income. (<a href="https://www.federalregister.gov/documents/2013/07/01/2013-16741/summary-of-regulatory-change">§682.215(e)(2)(i)-(v)</a>)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Required Notifications – Renewal/Recertification Notice

9. For each subsequent year that a borrower who currently has a PFH remains on IBR, the lender must notify the borrower in writing that updated income and family size information is required. This notification is sent no later than 60 days and no earlier than 90 days prior to the due date established by the lender for receiving the information. The due date cannot be no earlier than 35 days before the end of the borrower’s annual payment period. This is known as the annual deadline, but it is considered a **soft deadline**. The lender must provide the borrower an additional 10 days to provide the required information (a 10-day grace after the end of the annual deadline), which is considered the **hard deadline**.

The notification must explain the consequences if the lender does not receive the information within 10 days following the annual deadline (i.e., by the hard deadline) specified in the notice, including:

- That the borrower’s monthly payment

July 1, 2013, unless implemented earlier by the lender

ED clarified that ‘in writing’ includes by electronic means.

Great Lakes implemented the change in December 2012.
# FFELP Income-Based Repayment (IBR) Changes

**Note:** only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>amount would become the permanent-standard payment amount.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The effective date for the new monthly payment amount; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The fact that unpaid accrued interest will be capitalized at the end of the borrower’s current annual payment period.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>If a borrower who currently has a PFH and is repaying under IBR fails to provide the lender with the required income documentation, the borrower’s payment will become the permanent-standard amount (the amount based on a 10-year standard repayment plan based on when the borrower entered IBR), unless the lender is able to determine the borrower’s new monthly payment amount before the end of the current annual period.</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td>[§682.215(e)(3)(i) &amp; (ii)]</td>
<td>In the Final Rule preamble (pg. 66106), ED clarified that in the case of a borrower whose income information is received more than 10 days after the specified deadline, the borrower’s new monthly payment amount is not converted to the permanent-standard payment amount if the servicer is able to process it before the end of the borrower’s current annual payment period.</td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
<tr>
<td>11</td>
<td>If a borrower who currently has a PFH and is repaying under IBR does not meet the annual (soft) deadline but provides the lender with the required income documentation within 10 days of the servicer’s established due date (i.e., by the hard deadline), the lender must promptly determine if the borrower continues to have a partial financial hardship and calculate the borrower’s new monthly payment amount. If the lender cannot process the request before the end of the borrower’s annual payment period (anniversary date), the lender maintains the borrower at the current payment amount until the new amount is determined.</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td>[§682.215(e)(7)]</td>
<td>In the NPRM (pg. 42109), ED explains it is appropriate to allow forbearance under limited circumstances for borrowers whose income information is not received until more than 10 days after the annual deadline and who are delinquent at the time the new monthly PFH payment amount is determined, if the new monthly PFH payment amount is zero or is less than the borrower’s previously scheduled monthly PFH amount.</td>
<td>Great Lakes implemented the change in December 2012.</td>
</tr>
</tbody>
</table>
## FFELP Income-Based Repayment (IBR) Changes

Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

| #  | Summary of Regulatory Change                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Date/Trigger | Related DCL/ED Guidance | Additional Guidance/Clarifying Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | GL Implementation Notes |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1  | • If the borrower continues to have a PFH and his new monthly payment amount is less than the previous monthly payment amount and the borrower made payments at the previous amount, the lender must make the appropriate adjustment to the borrower’s account. Unless the borrower requests otherwise, the lender applies the excess payment amount in the following order - interest, collection costs, late charges, then principal.  
  • If the borrowers continues to have a PFH and his new monthly payment amount is equal to or greater than the previous monthly payment amount and the borrower made payments at the previous amount, the lender does not make any adjustments to the borrower’s account.  
  The borrower’s new annual payment period begins the day after the end of the most recent annual payment period (meaning the borrower’s anniversary date stays the same).  
  [§682.215(e)(8)(i) – (iii)]                                                                                                                                                                                                                                                                         |              |                        | payment amount. This may indicate that the borrower’s financial circumstances have worsened which may have contributed to the borrower’s delinquency and may have caused the borrower’s failure to provide the required information in a timely manner. In addition, interest in these circumstances is limited to the interest that had been previously capitalized at the end of the prior annual payment period. For example, if a forbearance is granted to cover a five month period of delinquency that began three months before the end of the borrower’s prior annual payment period and continued for two months after the end of that annual payment period, the interest that accrued during the first three months of the forbearance period (i.e., prior to the conversion of the borrower’s payment to the permanent standard amount) would remain capitalized.                                                                                                                                                                                                                                                                                                                                                       |              |
| 12 | If a borrower who currently has a PFH and is repaying under IBR provides the lender with the required income documentation more than 10 days after the lender’s established due date (i.e., does not meet the hard deadline), the borrower’s payment will become the permanent-standard amount (the amount based on a 10-year standard payment amount. This may indicate that the borrower’s financial circumstances have worsened which may have contributed to the borrower’s delinquency and may have caused the borrower’s failure to provide the required information in a timely manner. In addition, interest in these circumstances is limited to the interest that had been previously capitalized at the end of the prior annual payment period. For example, if a forbearance is granted to cover a five month period of delinquency that began three months before the end of the borrower’s prior annual payment period and continued for two months after the end of that annual payment period, the interest that accrued during the first three months of the forbearance period (i.e., prior to the conversion of the borrower’s payment to the permanent standard amount) would remain capitalized.  
  July 1, 2013, unless implemented earlier by the lender                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | July 1, 2013, unless implemented earlier by the lender | Great Lakes implemented the change in December 2012. |
# FFELP Income-Based Repayment (IBR) Changes

Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 13. | Each time the lender determines that a borrower no longer has a PFH for a subsequent year, but the borrower wishes to remain on the plan, the lender must send the borrower a written notification that provides the borrower with:  
- The borrower’s recalculated monthly payment amount;  
- An explanation that unpaid interest will be capitalized;  
- Information about the borrower’s option to request, at any time, that the lender redetermine whether the borrower has PFH, if the borrower’s financial circumstances have changed and the income amount used to determine that the borrower no longer has a PFH does not reflect the borrower’s current income, and an explanation that the borrower will be notified annually of this option.  
If the lender determines that the borrower again has PFH, the lender recalculates the borrower’s monthly payment and sends the borrower a | July 1, 2013, unless implemented earlier by the lender | ED clarified that ‘in writing’ included by electronic means. | Great Lakes implemented the change in December 2012. |

[§682.215(e)(9)]
## FFELP Income-Based Repayment (IBR) Changes

Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>For each subsequent year that a borrower who does not currently have a PFH remains on the IBR plan, the lender will send the borrower a written notification that includes the information about the borrower's option to request the lender redetermine whether the borrower has PFH.</td>
<td>July 1, 2013, unless implemented earlier by the lender</td>
<td>34 CFR §682.215(e)(4)</td>
<td>Great Lakes implemented the change in December 2012.</td>
<td></td>
</tr>
</tbody>
</table>

### Loan Forgiveness

15. **Written notification that includes the information described in #8 above.**

   ![§682.215(e)(4)](image)

   **July 1, 2013**

   In the Final Rule (pg. 66104), ED clarified that qualifying payments a borrower made toward FFELP IBR loan forgiveness do not count toward forgiveness under the Direct Loan IBR, ICR, or Pay As You Earn plans. Similarly, qualifying payments that a borrower made toward Direct Loan IBR, ICR or Pay As You Earn loan forgiveness do not count toward forgiveness under FFELP IBR.

   Great Lakes implemented the change in December 2012.

### Notice to Borrowers Close to Forgiveness

16. When the lender determines that a borrower has satisfied the loan forgiveness requirements, the borrower’s outstanding balance and accrued interest is cancelled.

   No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the lender will send the borrower a written notification that includes the information about the borrower's option to request the lender redetermine whether the borrower has PFH.

   **July 1, 2013**

   Great Lakes implemented the change in December 2012.
## Total and Permanent Disability (TPD) - Definitions

### FFELP Income-Based Repayment (IBR) Changes

Note: only new and revised requirements are included. For a complete listing of IBR rules for FFELP, refer to 34 CFR 682.215.

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>written notice that:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Explains that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Reminds the borrower to continue making scheduled monthly payments; and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Included general information on the current treatment of the forgiveness amount for tax purposes and instructions for the borrower to contact the Internal Revenue Service for more information.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§682.215(q)(1)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Under current regulations, the lender must notify the borrower of the guarantor’s determination of the borrower’s eligibility for forgiveness within 30 days of being notified by the guarantor of its determination. If the borrower is eligible, the notice must tell the borrower that his/her repayment obligation has been satisfied. The regulation is amended to also require that notice include general information on the current treatment of the forgiveness amount for tax purposes and instructions for the borrower to contact the IRS for more information.</td>
<td>July 1, 2013</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>[§682.215(q)(5)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Total and Permanent Disability (TPD) - Definitions

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Borrower Representative</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>A new regulation is added that defines a borrower’s or veteran’s representative as a member of the borrower’s family, the borrower’s attorney, or another individual authorized to act on</td>
<td>July 1, 2013</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

# Total and Permanent Disability (TPD) - Definitions

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>behalf of the borrower in connection with the borrower's total and permanent disability discharge application. Also, references to “borrower” or “veteran” in this section of the regulations include, if applicable, the borrower’s representative or the veteran’s representative for purposes of applying for a total and permanent disability discharge, providing notifications or information to ED, and receiving notifications from ED.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>§682.402(c)(1)(iv)(A) and §685.213(a)(4)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Lender – FFELP only

2. References to “the lender” in this section of the regulations means the guaranty agency if the guaranty agency is the holder of the loan at the time the borrower applies for a total and permanent disability discharge, except for purposes of total and permanent disability discharge claim filing requirements.  

§682.402(c)(1)(iv)(B)  

<table>
<thead>
<tr>
<th>Date/Trigger</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2013</td>
<td>Great Lakes will implement the change by July 1, 2013.</td>
</tr>
</tbody>
</table>

## Guaranty Agency – FFELP only

3. References to “the applicable guaranty agency” in this section of the regulations mean the guaranty agency that guaranteed the loan.  

§682.402(c)(1)(iv)(C)  

<table>
<thead>
<tr>
<th>Date/Trigger</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2013</td>
<td>Great Lakes will implement the change by July 1, 2013.</td>
</tr>
</tbody>
</table>

## Total and Permanent Disability (TPD) – Eligibility Determination Documentation

### Additional Documentation to Establish Eligibility

1. The regulation is amended to allow a borrower to provide a Social Security Administration (SSA) notice of award for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits indicating that the borrower’s next scheduled disability review will be  

<table>
<thead>
<tr>
<th>Date/Trigger</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2013</td>
<td>Great Lakes will implement the change by July 1, 2013.</td>
</tr>
</tbody>
</table>

In the Final Rule preamble (pgs. 66091 & 66092), ED explains the decision to accept SSA documentation. Specifically, ED states that if an individual’s disability is
Total and Permanent Disability (TPD) – Eligibility Determination Documentation

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>within five to seven years as acceptable documentation to establish eligibility for the discharge.</td>
<td></td>
<td></td>
<td>considered to have a “permanent impairment,” the SSA reviews an individual’s eligibility for benefits no less frequently than every seven years, but no more than every 5 years. The term “permanent impairment” is used to refer to a case in which any medical improvement in an individual’s impairment is not expected. The SSA uses the term “permanent impairment” to mean an extremely severe condition determined on the basis of the SSA’s experience in administering the disability programs to be at least static, but more likely to be progressively disabling either by itself or by reason of impairment complications and unlikely to improve so as to permit the individual to engage in substantial gainful activity. In addition, ED explains that a discharge based on SSA documentation would be effective on the date ED receives the notice of award of SSI or SSDI. Also, borrowers must still provide proof of income during three-year monitoring period, and a discharged loan will be reinstated if their status changes to more frequent</td>
</tr>
</tbody>
</table>

[682.402(c)(2)(iv)(B) and §685.213(b)(2)]
## Total and Permanent Disability (TPD) – Processing Changes

### Summary of Regulatory Change

<table>
<thead>
<tr>
<th>#</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(2)(i) and §685.213(b)</td>
<td>In the NPRM preamble, ED clarified that the suspension of collection activity does not include stopping any AWG action or TOP offsets.</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
<tr>
<td>2.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(2)(ii) and §685.213(b)(1)</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
<tr>
<td>#</td>
<td>Summary of Regulatory Change</td>
<td>Date/Trigger</td>
<td>Related DCL/ED Guidance</td>
<td>Additional Guidance/Clarifying Comments</td>
</tr>
<tr>
<td>----</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 3. | If the borrower fails to submit a TPD application to ED within 120 days, collection resumes on the borrower’s title IV loans. The lender/servicer is deemed to have exercised forbearance of principal and interest from the date it suspended collection activity and may capitalize any interest accrued and not paid during that period, except that if the lender is a guaranty agency it may not capitalize accrued interest.  
[§682.402(c)(2)(iii)]                                                                                     | July 1, 2013 |                                                                                       | Although not explicitly listed in the Direct Loan regulations, the assumption is that the same process is followed for veterans with loans held by one of the federal servicers. | Great Lakes is awaiting specific guidance from ED.                           |
| 4. | The borrower must submit to ED an application for a total and permanent disability discharge on a form approved by ED. The application must contain:  
• A certification by a physician, who is a doctor of medicine or osteopathy legally authorized to practice in a State, that the borrower is totally and permanently disabled, or  
• An SSA notice of award for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits indicating that the borrower’s next scheduled disability review will be within five to seven years.  
[§682.402(c)(2)(iv)(A)&(B) and §685.213(b)(2)]                                                                                                            | July 1, 2013 |                                                                                  | If the borrower submits an SSA notice or Supplemental Security Income (SSI) benefits indicating that the borrower’s next scheduled disability review will be within five to seven years, the physician’s certification on the TPD application is not required. | Great Lakes is awaiting specific guidance from ED.                           |
| 5. | The borrower must submit the application to ED within 90 days of the date the physician certifies the application, if applicable.  
[§682.402(c)(2)(v) and §685.213(b)(3)]                                                                                                                                                    | July 1, 2013 |                                                                                       |                                                                                                                                   | Great Lakes is awaiting specific guidance from ED.                           |
| 6. | After ED receives the borrower’s application, ED will notify the holders of the borrower’s title IV loans that it has received a total and permanent disability discharge application from the borrower. The loan holders must notify the applicable guaranty agencies that the total and permanent disability discharge application has been received.  
[§682.402(c)(2)(v) and §685.213(b)(3)(i)]                                                                                                                   | July 1, 2013 |                                                                                       |                                                                                                                                   | Great Lakes is awaiting specific guidance from ED.                           |
## Total and Permanent Disability (TPD) – Processing Changes

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 7. | If the application is incomplete, ED will notify the borrower of the missing information and request it from the borrower or the physician who provided the certification, as appropriate. ED does not make a determination of eligibility until the application is complete.  

\[§682.402(c)(2)(vii)\] and \[§685.213(b)(3)(ii)\]  

July 1, 2013                                                                                                                  |              |                         |                                          | Great Lakes is awaiting specific guidance from ED.                                        |
| 8. | ED’s notification to the loan holders directs them to suspend collection activity or maintain the suspension of collection activity on the borrower’s title IV loans.  

\[§682.402(c)(2)(viii)\]                                                                                                       |              |                         |                                          | Great Lakes is awaiting specific guidance from ED.                                        |
| 9. | After ED receives the disability discharge application, ED will send a notice to the borrower that:  

- States that the application will be reviewed by ED;  
- Informs the borrower that the borrower’s lenders will suspend collection activity or maintain the suspension of collection activity on the borrower’s title IV loans while ED reviews the borrower’s application for a discharge; and  
- Explains the process for the ED’s review of total and permanent disability discharge applications.  

\[§682.402(c)(2)(ix)(A)-(C)\]                                                                                                  |              |                         |                                          | Great Lakes is awaiting specific guidance from ED.                                        |

In the Final Rule preamble (pp. 66094-66095), ED clarified that while the TPD application does not need to be “complete” to be considered received for purposes of triggering the indefinite suspension of collection, it does need to contain at least enough information for ED to begin review of the application including the borrower’s identifying information, physician’s contact info and signature and certification date. Borrowers not providing at least that information will receive a notice that the missing data must be received within the original 120-day suspension of the account, or collection will resume. No maximum timeframe was given for a borrower to resolve.
<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 10. | If, after reviewing the borrower's completed application, ED determines that the physician's certification provided by the borrower or the SSA notice of award for SSDI or SSI benefits supports the conclusion that the borrower is totally and permanently disabled, the borrower is considered totally and permanently disabled as of the date:  
  - The physician certified the borrower's application, or  
  - ED received the SSA notice of award for SSDI or SSI benefits.  
  [§682.402(c)(3)(i)(A)&(B) and §685.213(b)(4)(i)(A)&(B)] | July 1, 2013 | | an incomplete application that has at least the information listed above, but for which ED needs more information to determine eligibility. | Great Lakes is awaiting specific guidance from ED. |
| 11. | ED may require the borrower to submit additional medical evidence if ED determines that the borrower's application does not conclusively prove that the borrower is totally and permanently disabled.  
  As part of ED's review of the borrower's discharge application, ED may require and arrange for an additional review of the borrower's condition by an independent physician at no expense to the borrower.  
  [§682.402(c)(3)(i)&(ii) and §685.213(b)(4)(i)&(ii)] | July 1, 2013 | | | Great Lakes is awaiting specific guidance from ED. |
| 12. | After determining that the borrower is totally and permanently disabled, ED will notify the borrower and the borrower's lenders that the application for a disability discharge has been approved.  
  With this notification, ED will provide the date the physician certified the borrower’s loan discharge application or the date ED received the SSA notice of award for SSDI or SSI benefits and | July 1, 2013 | | | Great Lakes is awaiting specific guidance from ED. |
<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
| 1  | directs each lender to submit a disability claim to the guaranty agency so the loan can be assigned to ED. ED will return any payment it receives after the date the physician certified the borrower’s loan discharge application or received the SSA notice of award for SSDI or SSI benefits to the person who made the payment.  
   
   [§682.402(c)(3)(iii) and §685.213(b)(4)(iii)] |              |              |                           |                                          |                         |
| 13 | When notified the discharge has been approved, lender must file claim with guarantor. The guarantor must assign a claim-paid loan to ED within 45 days of the guarantor’s receipt of reinsurance payment or 45 days of notification from ED for guarantor-held loans.  
   
   [§682.402(c)(8)(i)(C) & (E)] | July 1, 2013 |              |                           |                                          | Great Lakes is awaiting specific guidance from ED. |
| 14 | After the loan is assigned, ED discharges the borrower’s obligation to make further payments on the loan and notifies the borrower and the lender/servicer that the loan has been discharged. Any payments received by ED after the date the physician certified the borrower’s loan discharge application are returned to the person who made the payments on the loan. The notification to the borrower explains the terms and conditions under which the borrower’s obligation to repay the loan will be reinstated.  
   
   [§682.402(c)(3)(iii) & (iv) and §685.213(b)(4)(iii)] | July 1, 2013 |              |                           |                                          | Great Lakes is awaiting specific guidance from ED. |
<p>| 15 | If ED determines that the physician’s certification or SSA notice of award for SSDI or SSI benefits provided by the borrower does not support the conclusion that the borrower is totally and permanently disable, ED will notify the borrower and the lender/servicer that the application for a disability discharge has been denied. The notification will include: | July 1, 2013 |              |                           |                                          | Great Lakes is awaiting specific guidance from ED. |</p>
<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>If a borrower requests re-evaluation or submits a new total and permanent disability discharge application, the request must include new information regarding the borrower's disabling condition that was not provided to ED in connection with the prior application at the time</td>
<td>July 1, 2013</td>
<td>§682.402(c)(3)(v)(A)-(E) and §685.213(b)(4)(iv)</td>
<td>There is no provision for suspending collection activities during the re-evaluation process.</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
</tbody>
</table>
### Total and Permanent Disability (TPD) – Processing Changes

#### Summary of Regulatory Change

<table>
<thead>
<tr>
<th>#</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>July 1, 2013</td>
<td>§682.402(c)(4) and §685.213(b)(5)</td>
<td>Not applicable – ED function.</td>
<td></td>
</tr>
</tbody>
</table>

#### Treatment of Disbursements

17. **The regulation was amended to incorporate references to SSA notices of awards as the basis for the discharge; no substantive changes were made.**

   
   
   [
   §682.402(c)(4) and §685.213(b)(5)
   ]

18. **A new regulation is added to clarify that if a borrower receives a disbursement of a new title IV loan or receives a new TEACH Grant made on or after the date the physician certified the borrower’s discharge application or the date ED received the SSA notice of award for SSDI or SSI benefits and before the date ED grants a discharge under this section, ED will deny the borrower’s discharge request and collection resumes on the borrower’s loans.**

   
   
   [
   §682.402(c)(5) and §685.213(b)(6)
   ]

19. **The regulation is amended to include a condition of reinstatement based on a notice from the SSA indicating that the borrower is no longer disabled or that the borrower’s continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits.**

   
   
   [
   §682.402(c)(6)(i)(D) and §685.213(b)(7)(i)(D)
   ]

20. **If a the borrower’s obligation to repay a loan is reinstated, ED will:**

   - Notify the borrower that the borrower’s obligation to repay the loan has been reinstated; and

   
   
   [
   §682.402(c)(7)(ii)(D) and §685.213(b)(7)(ii)(D)
   ]

   
   
   Not applicable – ED function.
<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total and Permanent Disability (TPD) – Processing Changes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Borrower’s Responsibilities after Discharge</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21.</td>
<td>Return the loan to the status that would have existed if the total and permanent disability discharge application had not been received. [§682.402(c)(6)(ii)(A)&amp;(B) and §685.213(b)(7)(ii)]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22.</td>
<td>The regulation is amended to state that the borrower must provide ED with the borrower's annual earnings from employment, on a form approved by ED. [§682.402(c)(7)(iii) and §685.213(b)(8)(iii)]</td>
<td>July 1, 2013</td>
<td></td>
<td>A borrower who does not provide the required documentation (particularly income documentation) will have his or her loans reinstated and will be required to resume payment on the loan.</td>
<td>Not applicable – ED function.</td>
</tr>
<tr>
<td>23.</td>
<td>A new regulation is added to require that the borrower promptly notify ED if he or she receives a notice from the SSA indicating that the borrower is no longer disabled or that the borrower’s continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits. [§682.402(c)(7)(iv) and §685.213(b)(8)(iv)]</td>
<td>July 1, 2013</td>
<td></td>
<td></td>
<td>Not applicable – ED function.</td>
</tr>
<tr>
<td></td>
<td><strong>Lender and Guaranty Agency Actions for Regular TPD</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24.</td>
<td>If ED approves the borrower’s total and permanent disability discharge application, the lender must submit a disability claim to the guaranty agency. [§682.402(c)(8)(ii)(A)]</td>
<td>July 1, 2013</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
<tr>
<td>25.</td>
<td>In the case of a disability claim, a copy of the notification in which ED notifies the lender that the borrower is totally and permanently disabled must be included. [§682.402(g)(1)(iv)]</td>
<td>July 1, 2013</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
<tr>
<td>26.</td>
<td>The lender must file a disability claim within 60 days of the date the lender received notification from ED that the borrower is totally and permanently disabled. [§682.402(g)(2)(ii)]</td>
<td>July 1, 2013</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
</tbody>
</table>
# Summary of Regulatory Change | Date/Trigger | Related DCL/ED Guidance | Additional Guidance/Clarifying Comments | GL Implementation Notes
--- | --- | --- | --- | ---
26. If the claim satisfies the existing requirements the guaranty agency must pay the claim submitted by the lender not later than 45 days after the claim was filed. | July 1, 2013 | §682.402(c)(8)(i)(B) and §682.402(h)(1)(i)(A) | Shortens timeframe for a guarantor to pay a disability claim from 90 days to 45 days after the claim was filed by the lender. | Great Lakes is awaiting specific guidance from ED. |
27. After receiving a claim payment from the guaranty agency, the lender must return to the sender any payments received by the lender after the date the physician certified the borrower’s loan discharge application or after the date ED received the SSA notice of award for SSDI or SSI benefits as well as any payments received after claim payment from or on behalf of the borrower. | July 1, 2013 | §682.402(c)(8)(i)(C) | Great Lakes is awaiting specific guidance from ED. |
28. ED will reimburse the guaranty agency for a disability claim paid to the lender after the agency pays the claim to the lender. | July 1, 2013 | §682.402(c)(8)(i)(D) | Great Lakes is awaiting specific guidance from ED. |
29. The guaranty agency must assign the loan to ED within 45 days of the date the guaranty agency pays the disability claim and receives the reimbursement payment, or within 45 days of the date the guaranty agency receives notice from ED that the borrower has been approved for total and permanent disability discharge. | July 1, 2013 | §682.402(c)(8)(i)(E) | Great Lakes is awaiting specific guidance from ED. |

---

ED Denial of TPD application

30. If ED does not approve the borrower’s total and permanent disability discharge request, the lender must resume collection of the loan and is deemed to have exercised forbearance of payment of both principal and interest from the date collection activity was suspended. The lender may capitalize any interest accrued and not paid during that period, except if the lender is a guaranty agency it may not capitalize accrued interest. | July 1, 2013 | §682.402(c)(8)(ii) | Great Lakes is awaiting specific guidance from ED. |
## Total and Permanent Disability (TPD) – Processing Changes

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>31</td>
<td>If a veteran notifies his/her lender that the veteran claims to be totally and permanently disabled, the lender must direct the veteran to notify ED of the veteran’s intent to submit an application for a total and permanent disability discharge and provide the veteran with the information needed for the veteran to apply for a total and permanent disability discharge to ED.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(i)</td>
<td>Although not explicitly listed in the Direct Loan regulations, the assumption is that the same process is followed for veterans who notify their federal servicer and claim to be totally and permanently disabled.</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
</tbody>
</table>
| 32 | If the veteran notifies ED of the veteran’s intent to apply for a total and permanent disability discharge, ED will:  
    • Provide the veteran with information needed for the veteran to apply for a total and permanent disability discharge,  
    • Identify all title IV loans owed by the veteran and notify the lenders of the veteran’s intent to apply for a total and permanent disability discharge,  
    • Direct the lenders to suspend efforts to collect from the veteran for a period not to exceed 120 days, and  
    • Inform the veteran that the suspension of collection activity will end after 120 days and the lender will resume collection on the loans if the veteran does not submit a total and permanent disability discharge application to ED within that time. | July 1, 2013 | §682.402(c)(9)(i)      | Although not explicitly listed in the Direct Loan regulations, the assumption is that the same process is followed for veterans who notify ED of their intent to apply for TPD. | Great Lakes is awaiting specific guidance from ED. |
<p>| 33 | If the veteran fails to submit an application for a total and permanent disability discharge to ED within 120 days, collection resumes on the veteran’s title IV loans and the lender is deemed to have exercised forbearance of principal and interest from the date it suspended collection | July 1, 2013 | §682.402(c)(9)(i)      | Although not explicitly listed in the Direct Loan regulations, the assumption is that the same process is followed for veterans with loans held by one of the federal servicers. | Great Lakes is awaiting specific guidance from ED. |</p>
<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>activity. The lender may capitalize any interest accrued and not paid during that period, except that if the lender is a guaranty agency it may not capitalize accrued interest.</td>
<td></td>
<td>§682.402(c)(9)(iii)</td>
<td>This requirement already existed in the Direct Loan regulations.</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
<tr>
<td>34</td>
<td>A FFELP regulation is added to clarify that the veteran must submit to ED an application for a total and permanent disability discharge on a form approved by ED.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(iv)</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
<tr>
<td>35</td>
<td>After ED receives the application and supporting documentation, ED will notify the holders of the veteran’s title IV loans that ED has received a total and permanent disability discharge application from the veteran. The notification will direct the lender to suspend collection activity or maintain the suspension of collection activity on the veteran’s title IV loans. For FFELP loans, the holders of the loans must notify the applicable guaranty agencies that the total and permanent disability discharge application has been received.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(vi) &amp; (viii) and §685.213(c)(1)(i)</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
<tr>
<td>36</td>
<td>If the application is incomplete, ED will notify the veteran of the missing information and request it from the veteran or the veteran’s representative. ED does not make a determination of eligibility until the application is complete.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(vii) and §685.213(c)(1)(ii)</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
<tr>
<td>37</td>
<td>After ED receives the disability discharge application, ED will: For FFELP loans, send a notice to the veteran that: • States that the application will be reviewed by ED; • Informs the veteran that the lenders will</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(vii) and §685.213(c)(1)(ii)</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
</tr>
</tbody>
</table>
## Total and Permanent Disability (TPD) – Processing Changes

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>38.</td>
<td>suspend collection activity on the veteran's title IV loans while ED reviews the veteran's application for discharge; and • Explains the process for ED’s review of total and permanent disability discharge applications. For Direct Loans: • Notifies the veteran that no payments are due on the loans while ED reviews the veteran's application for discharge; and • Explains the process for ED’s review of total and permanent disability discharge applications.</td>
<td>July 1, 2013</td>
<td>The Direct Loan regulation in §685.213(c)(2) already outline a similar process for Direct Loans.</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
<tr>
<td>39.</td>
<td>After making a determination that the veteran is totally and permanently disabled, ED will notify the veteran and the veteran’s lenders that the application for a disability discharge has been approved. With this notification, ED will provide the effective date of the determination and directs each lender to submit a disability claim to the guaranty agency.</td>
<td>July 1, 2013</td>
<td></td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
</tbody>
</table>
## Total and Permanent Disability (TPD) – Processing Changes

<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
</table>
|  | the veteran applied for a total and permanent disability discharge,  
• An explanation that the lender will notify the veteran of the date the veteran must resume making payments on the loan,  
• An explanation that the veteran is not required to submit a new total and permanent disability discharge application if the veteran requests that ED re-evaluate the application for discharge by providing, within 12 months of the date of the notification, additional documentation from the Department of Veterans Affairs that supports the veteran's eligibility for discharge, and  
• Information on how the veteran may reapply for a total and permanent disability discharge, if the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled, but indicates that the veteran may be totally and permanently disabled.  
[$§682.402(c)(9)(xi)$ and $§685.213(c)(2)(ii)$] | | | |

### Lender and Guarantor Actions for Veterans TPD

<table>
<thead>
<tr>
<th>#</th>
<th>Action</th>
<th>Date/Trigger</th>
<th>Notes</th>
</tr>
</thead>
</table>
| 40. | If ED approves the veteran’s total and permanent disability discharge application based on documentation from the Department of Veterans Affairs, the lender must submit a disability claim to the guaranty agency.  
[$§682.402(c)(9)(xi)(A)$] | July 1, 2013 | Great Lakes is awaiting specific guidance from ED. |
| 41. | If the claim satisfies the existing requirements the guaranty agency must pay the claim submitted by the lender not later than 45 days after the claim was filed by the lender.  
[$§682.402(c)(9)(xii)(B)$ and $§682.402(h)(1)(v)$] | July 1, 2013 | Great Lakes is awaiting specific guidance from ED. |
<table>
<thead>
<tr>
<th>#</th>
<th>Summary of Regulatory Change</th>
<th>Date/Trigger</th>
<th>Related DCL/ED Guidance</th>
<th>Additional Guidance/Clarifying Comments</th>
<th>GL Implementation Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>42</td>
<td>ED reimburses the guaranty agency for a disability claim after the agency pays the claim to the lender.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(xii)(C)</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
<tr>
<td>43</td>
<td>Upon receipt of the claim payment from the guaranty agency, the lender returns any payments received by the lender on or after the effective date of the determination by the Department of Veterans Affairs to the person who made the payments.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(xii)(D)</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
<tr>
<td>44</td>
<td>If ED does not approve the veteran’s total and permanent disability discharge application based on documentation from the Department of Veterans Affairs, the lender must resume collection and is deemed to have exercised forbearance of payment of both principal and interest from the date collection activity was suspended. The lender may capitalize any interest accrued and not paid during that period, except that if the lender is a guaranty agency it may not capitalize accrued interest.</td>
<td>July 1, 2013</td>
<td>§682.402(c)(9)(xii)(E)</td>
<td>Great Lakes is awaiting specific guidance from ED.</td>
<td></td>
</tr>
</tbody>
</table>
§685.208 Repayment plans.

(a) General. (1) Borrowers who entered repayment before July 1, 2006. (i) A borrower may repay a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct Subsidized Consolidation Loan, or a Direct Unsubsidized Consolidation Loan may be repaid under—

(A) the standard repayment plan, in accordance with paragraph (b) of this section;

(B) the extended repayment plan, in accordance with paragraph (d) of this section;

(C) the graduated repayment plan, in accordance with paragraph (f) of this section;

(D) the income-contingent repayment plan, in accordance with paragraph (k)(2) of this section; or

(E) the income-based repayment plan, in accordance with paragraphs (b), (d), (f), (k), and (m) of this section, respectively.

(ii) A borrower may repay a Direct PLUS Loan or a Direct PLUS Consolidation Loan may be repaid under—

(A) the standard repayment plan, in accordance with paragraph (b) of this section;

(B) the extended repayment plan, in accordance with paragraph (d) of this section; or

(C) the graduated repayment plan, in accordance with paragraphs (b), (d), and (f) of this section, respectively.

(2) Borrowers entering repayment on or after July 1, 2006. (i) A borrower may repay a Direct Subsidized Loan, or a Direct Unsubsidized Loan, or a Direct PLUS Loan that was made to a graduate or professional student borrower may be repaid under—

(A) the standard repayment plan, in accordance with paragraph (b) of this section;

(B) the extended repayment plan, in accordance with paragraph (e) of this section;

(C) the graduated repayment plan, in accordance with paragraph (g) of this section;

(D) the income-contingent repayment plan, in accordance with paragraph (k) of this section; or

(E) the income-based repayment plan, in accordance with paragraphs (b), (e), (g), (k), and (m) of this section, respectively.

(ii)(A) A Direct PLUS Loan that was made to a graduate or professional student borrower may be repaid under the standard repayment plan, the extended repayment plan, the graduated repayment plan, the income-contingent repayment plan, or the income-based repayment plan in accordance with paragraphs (b), (e), (g), (k), and (m) of this section, respectively.

(B) A Direct PLUS Loan that was made to a parent borrower may be repaid under—

(A) the standard repayment plan, in accordance with paragraph (b) of this section;

(B) the extended repayment plan, in accordance with paragraph (e) of this section; or

(C) the graduated repayment plan, in accordance with paragraphs (b), (e), and (g) of this section, respectively.

(iii) A borrower may repay a Direct Consolidation Loan that did not repay a parent Direct PLUS Loan or a parent Federal PLUS Loan may be repaid under—

(A) the standard repayment plan, in accordance with paragraph (c) of this section;

(B) the extended repayment plan, in accordance with paragraph (e) of this section;

(C) the graduated repayment plan, in accordance with paragraph (h) of this section;

(D) the income-contingent repayment plan, in accordance with paragraph (k) of this section; or

(E) unless the Direct Consolidation Loan repaid a parent Direct PLUS Loan or a parent Federal PLUS Loan, the income-based repayment plan, in accordance with paragraphs (e), (g), (h), (k), and (m) of this section, respectively.

(iv) A Direct Consolidation Loan that repaid a parent Direct PLUS Loan or a parent Federal PLUS Loan may not be repaid under the income-based repayment plan—

(A) The standard repayment plan in accordance with paragraph (c) of this section;

(B) The extended repayment plan in accordance with paragraph (e) of this section;

(C) The graduated repayment plan in accordance with paragraph (h) of this section; or

(D) The income-contingent repayment plan in accordance with paragraph (k)(2) of this section.
§685.208 Repayment plans.

(iv) No scheduled payment may be less than the amount of interest accrued on the loan between monthly payments, except under the income-contingent repayment plan, the income-based repayment plan, or an alternative repayment plan.

(3) The Secretary may provide an alternative repayment plan in accordance with paragraph (I) of this section.

(4) All Direct Loans obtained by one borrower must be repaid together under the same repayment plan, except that—

(i) A borrower of a Direct PLUS Loan or a Direct Consolidation Loan that is not eligible for repayment under the income-contingent repayment plan or the income-based repayment plan may repay the Direct PLUS Loan or Direct Consolidation Loan separately from other Direct Loans obtained by the borrower; and

(ii) A borrower of a Direct PLUS Consolidation Loan that entered repayment before July 1, 2006, may repay the Direct PLUS Consolidation Loan separately from other Direct Loans obtained by that borrower.

(5) Except as provided in §685.209 and §685.221 for the income contingent or income-based repayment plan, the repayment period for any of the repayment plans described in this section does not include periods of authorized deferment or forbearance.

(b) Standard repayment plan for all Direct Subsidized Loan, Direct Unsubsidized Loan, and Direct PLUS Loan borrowers, regardless of when they entered repayment, and for Direct Consolidation Loan borrowers who entered repayment before July 1, 2006. (1) Under this repayment plan, a borrower must repay a loan in full within ten years from the date the loan entered repayment by making fixed monthly payments.

(2) A borrower’s payments under this repayment plan are at least $50 per month, except that a borrower’s final payment may be less than $50.

(3) The number of payments or the fixed monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in §685.202(a).

(c) Standard repayment plan for Direct Consolidation Loan borrowers entering repayment on or after July 1, 2006. (1) Under this repayment plan, a borrower must repay a loan in full by making fixed monthly payments over a repayment period that varies with the total amount of the borrower’s student loans, as described in paragraph (j) of this section.

(2) A borrower’s payments under this repayment plan are at least $50 per month, except that a borrower’s final payment may be less than $50.

(d) Extended repayment plan for all Direct Loan borrowers who entered repayment before July 1, 2006. (1) Under this repayment plan, a borrower must repay a loan in full by making fixed monthly payments within an extended period of time that varies with the total amount of the borrower’s loans, as described in paragraph (i) of this section.

(2) A borrower makes fixed monthly payments of at least $50, except that a borrower’s final payment may be less than $50.

(3) The number of payments or the fixed monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in §685.202(a).

(e) Extended repayment plan for all Direct Loan borrowers entering repayment on or after July 1, 2006. (1) Under this repayment plan, a new borrower with more than $30,000 in outstanding Direct Loans accumulated on or after October 7, 1998 must repay either a fixed annual or graduated repayment amount over a period not to exceed 25 years from the date the loan entered repayment. For this repayment plan, a new borrower is defined as an individual who has no outstanding principal or interest balance on a Direct Loan as of October 7, 1998, or on the date the borrower obtains a Direct Loan on or after October 7, 1998.

(2) A borrower’s payments under this plan are at least $50 per month, and will be more if necessary to repay the loan within the required time period.

(3) The number of payments or the monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in §685.202(a).

(f) Graduated repayment plan for all Direct Loan borrowers who entered repayment before July 1, 2006. (1) Under this repayment plan, a borrower must repay a loan in full by making payments at two or more levels over a period of time that varies with the total amount of the borrower’s loans, as described in paragraph (i) of this section.

(2) The number of payments or the monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in §685.202(a).

(3) No scheduled payment under this repayment plan may be less than the amount of interest accrued on the loan between monthly payments, less than 50 percent of the payment amount that would be required under the standard repayment plan described in paragraph (b) of this section, or more than 150 percent of the payment amount that would be required under the standard repayment plan described in paragraph (b) of this section.

(g) Graduated repayment plan for Direct Subsidized Loan, Direct Unsubsidized Loan, and Direct PLUS Loan borrowers entering repayment on or after July 1, 2006. (1) Under this repayment plan, a borrower must repay a loan in full by making payments at two or more levels over a period of time not to exceed ten years from the date the loan entered repayment.

(2) The number of payments or the monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in §685.202(a).

(3) A borrower’s payments under this repayment plan may be less than $50 per month. No single payment under this plan will be more than three times greater than any other payment.

(h) Graduated repayment plan for Direct Consolidation Loan borrowers entering repayment on or after July 1, 2006. (1) Under this repayment plan, a borrower must repay a loan in full by making monthly payments that gradually increase in stages over the course of a repayment period that varies with the total amount of the borrower’s student loans, as described in paragraph (j) of this section.
$685.208 Repayment plans.

(2) A borrower’s payments under this repayment plan may be less than $50 per month. No single payment under this plan will be more than three times greater than any other payment.

(i) Repayment period for the extended and graduated plans described in paragraphs (d) and (f) of this section, respectively. Under these repayment plans, if the total amount of the borrower’s Direct Loans is—

(1) Less than $10,000, the borrower must repay the loans within 12 years of entering repayment;

(2) Greater than or equal to $10,000 but less than $20,000, the borrower must repay the loans within 15 years of entering repayment;

(3) Greater than or equal to $20,000 but less than $40,000, the borrower must repay the Consolidation Loan within 20 years of entering repayment;

(4) Greater than or equal to $40,000 but less than $60,000, the borrower must repay the Consolidation Loan within 25 years of entering repayment; and

(5) Greater than or equal to $60,000, the borrower must repay the loans within 30 years of entering repayment.

(j) Repayment period for the standard and graduated repayment plans described in paragraphs (c) and (h) of this section, respectively. Under these repayment plans, if the total amount of the Direct Consolidation Loan and the borrower’s other student loans, as defined in §685.220(i), is—

(1) Less than $7,500, the borrower must repay the Consolidation Loan within 10 years of entering repayment;

(2) Equal to or greater than $7,500 but less than $10,000, the borrower must repay the Consolidation Loan within 12 years of entering repayment;

(3) Equal to or greater than $10,000 but less than $20,000, the borrower must repay the Consolidation Loan within 15 years of entering repayment;

(4) Equal to or greater than $20,000 but less than $40,000, the borrower must repay the Consolidation Loan within 20 years of entering repayment;

(5) Equal to or greater than $40,000 but less than $60,000, the borrower must repay the Consolidation Loan within 25 years of entering repayment; and

(6) Equal to or greater than $60,000, the borrower must repay the Consolidation Loan within 30 years of entering repayment.

(k) Income-contingent repayment plans. (1) Under the income-contingent repayment plan described in §685.209(a), the required monthly payment for a borrower who has a partial financial hardship is limited to no more than 10 percent of the amount by which the borrower’s AGI exceeds 150 percent of the poverty guideline applicable to the borrower’s family size, divided by 12. The Secretary determines annually whether the borrower continues to qualify for this reduced monthly payment based on the amount of the borrower’s eligible loans, AGI, and poverty guideline.

(2) Under the income-contingent repayment plan described in §685.209(b), a borrower’s monthly repayment amount is generally based on the total amount of the borrower’s Direct Loans, family size, and Adjusted Gross Income (AGI) reported by the borrower for the most recent year for which the Secretary has obtained income information. The borrower’s AGI includes the income of the borrower’s spouse. A borrower must make payments on a loan until the loan is repaid in full or until the loan has been in repayment through the end of the income-contingent repayment period.

(3) For the income-contingent repayment plan described in §685.209(b), the regulations in effect at the time a borrower enters repayment and selects the income-contingent repayment plan or changes into the income-contingent repayment plan from another plan govern the method for determining the borrower’s monthly repayment amount for all of the borrower’s Direct Loans, unless—

(i) The Secretary amends the regulations relating to a borrower’s monthly repayment amount under the income-contingent repayment plan; and

(ii) The borrower submits a written request that the amended regulations apply to the repayment of the borrower’s Direct Loans.

(4) Provisions governing the income-contingent repayment plans are in §685.209.

(i) Alternative repayment. (1) The Secretary may provide an alternative repayment plan for a borrower who demonstrates to the Secretary’s satisfaction that the terms and conditions of the repayment plans specified in paragraphs (b) through (h) of this section are not adequate to accommodate the borrower’s exceptional circumstances.

(2) The Secretary may require a borrower to provide evidence of the borrower’s exceptional circumstances before permitting the borrower to repay a loan under an alternative repayment plan.

(3) If the Secretary agrees to permit a borrower to repay a loan under an alternative repayment plan, the Secretary notifies the borrower in writing of the terms of the plan. After the borrower receives notification of the terms of the plan, the borrower may accept the plan or choose another repayment plan.

(4) A borrower must repay a loan under an alternative repayment plan within 30 years of the date the loan entered repayment, not including periods of deferment and forbearance.

(5) If the amount of a borrower’s monthly payment under an alternative repayment plan is less than the accrued interest on the loan, the unpaid interest is capitalized until the outstanding principal amount is 10 percent greater than the original principal amount. After the outstanding principal amount is 10 percent greater than the original principal amount, interest continues to accrue but is not capitalized. For purposes of this paragraph, the original principal amount is the amount owed by the borrower when the borrower enters repayment.
§685.208 Repayment plans.

(m) Income-based repayment plan. (1) Under this repayment plan, the required monthly payment for a borrower who has a partial financial hardship is limited to no more than 15 percent of the amount by which the borrower’s AGI exceeds 150 percent of the poverty guideline applicable to the borrower’s family size, divided by 12. The Secretary determines annually whether the borrower continues to qualify for this reduced monthly payment based on the amount of the borrower’s eligible loans, AGI, and poverty guideline.

(2) The specific provisions governing the income-based repayment plan are in §685.221.
§685.209 Income-contingent repayment plans.

(a) Pay As You Earn repayment plan: The Pay As You Earn repayment plan is an income-contingent repayment plan for eligible new borrowers.

(i) Definitions. As used in this section—

(1) Adjusted gross income (AGI) means the borrower's adjusted gross income as reported to the Internal Revenue Service. For a married borrower filing jointly, AGI includes both the borrower's and spouse's income.

(2) Eligible loan means any outstanding loan made to a borrower under the Direct Loan Program or the FFEL Program, except for a defaulted loan, a Direct PLUS Loan or Federal PLUS Loan made to a parent borrower, a Federal Consolidation Loan that repaid a Direct PLUS Loan or Federal PLUS Loan made to a parent borrower,

(iii) Eligible new borrower means an individual who—

(A) Has no outstanding balance on a Direct Loan Program Loan or a FFEL Program loan as of October 1, 2007, or who has no outstanding balance on such a loan on the date he or she receives a new loan after October 1, 2007; and

(B)(1) Receives a disbursement of a Direct Subsidized Loan, Direct Unsubsidized Loan, or student Direct PLUS Loan on or after October 1, 2011; or

(2) Receives a Direct Consolidation Loan based on an application received on or after October 1, 2011, except that a borrower is not considered an eligible new borrower if the Direct Consolidation Loan repays a loan that would otherwise make the borrower ineligible under paragraph (a)(1)(iii)(A) of this section;

(iv) Family size means the number that is determined by counting the borrower, the borrower's spouse, and the borrower's children, including unborn children who will be born during the year the borrower certifies family size, if the children receive more than half their support from the borrower. A borrower's family size includes other individuals if, at the time the borrower certifies family size, the other individuals—

(A) Live with the borrower; and

(B) Receive more than half their support from the borrower and will continue to receive this support from the borrower for the year the borrower certifies family size. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs;

(v) Partial financial hardship means a circumstance in which—

(A) For an unmarried borrower or a married borrower who files an individual Federal tax return, the annual amount due on all of the borrower's eligible loans, as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the borrower initially entered repayment or at the time the borrower elects the Pay As You Earn repayment plan, exceeds 10 percent of the difference between the borrower's AGI and 150 percent of the poverty guideline for the borrower's family size; or

(B) For a married borrower who files a joint Federal tax return with his or her spouse, the annual amount due on all of the borrower's eligible loans and, if applicable, the spouse's eligible loans, as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the loans initially entered repayment or at the time the borrower or spouse elects the Pay As You Earn repayment plan, exceeds 10 percent of the difference between the borrower's and spouse's AGI, and 150 percent of the poverty guideline for the borrower's family size; and

(vi) Poverty guideline refers to the income categorized by State and family size in the poverty guidelines published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). If a borrower is not a resident of a State identified in the poverty guidelines, the poverty guideline to be used for the borrower is the poverty guideline (for the relevant family size) used for the 48 contiguous States;

(2) Terms of the Pay As You Earn repayment plan. (i) A borrower may select the Pay As You Earn repayment plan only if the borrower has a partial financial hardship. The borrower's aggregate monthly loan payments are limited to no more than 10 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline applicable to the borrower's family size, divided by 12.

(ii) The Secretary adjusts the calculated monthly payment if—

(A) Except for borrowers provided for in paragraph (a)(2)(ii)(B) of this section, the total amount of the borrower's eligible loans are not Direct Loans, in which case the Secretary determines the borrower's adjusted monthly payment by multiplying the calculated payment by the percentage of the total outstanding principal amount of the borrower's eligible loans that are Direct Loans;

(B) Both the borrower and borrower's spouse have eligible loans and filed a joint Federal tax return, in which case the Secretary determines—

(1) Each borrower's percentage of the couple's total eligible loan debt;

(2) The adjusted monthly payment for each borrower by multiplying the calculated payment by the percentage determined in paragraph (a)(2)(ii)(B)(1) of this section; and
§685.209 Income-contingent repayment plans.

(3) If the borrower's loans are held by multiple holders, the borrower's adjusted monthly Direct Loan payment by multiplying the payment determined in paragraph (a)(2)(ii)(B)(2) of this section by the percentage of the total outstanding principal amount of the borrower's eligible loans that are Direct Loans;

(C) The calculated amount under paragraph (a)(2)(i), (a)(2)(ii)(A), or (a)(2)(ii)(B) of this section is less than $5.00, in which case the borrower's monthly payment is $0.00; or

(D) The calculated amount under paragraph (a)(2)(i), (a)(2)(ii)(A), or (a)(2)(ii)(B) of this section is equal to or greater than $5.00 but less than $10.00, in which case the borrower's monthly payment is $10.00.

(iii) If the borrower's monthly payment amount is not sufficient to pay the accrued interest on the borrower's Direct Subsidized loan or the subsidized portion of a Direct Consolidation Loan, the Secretary does not charge the borrower the remaining accrued interest for a period not to exceed three consecutive years from the established repayment period start date on that loan under the Pay As You Earn repayment plan. Any period during which the Secretary has previously not charged the borrower accrued interest on an eligible loan under the income-based repayment plan counts toward the maximum three years of subsidy a borrower is eligible to receive under the Pay As You Earn repayment plan. On a Direct Consolidation Loan that repays loans on which the Secretary has not charged the borrower accrued interest, the three-year period includes the period for which the Secretary did not charge the borrower accrued interest on the underlying loans. This three-year period does not include any period during which the borrower receives an economic hardship deferment.

(iv)(A) Except as provided in paragraph (a)(2)(iii) of this section, accrued interest is capitalized—

(1) When a borrower is determined to no longer have a partial financial hardship; or

(2) At the time a borrower chooses to leave the Pay As You Earn repayment plan.

(B) The amount of accrued interest capitalized under paragraph (a)(2)(iv)(A)(1) of this section is limited to 10 percent of the original principal balance at the time the borrower entered repayment under the Pay As You Earn repayment plan.

(2) After the amount of accrued interest reaches the limit described in paragraph (a)(2)(iv)(B)(1) of this section, interest continues to accrue, but is not capitalized while the borrower remains on the Pay As You Earn repayment plan.

(v) If the borrower's monthly payment amount is not sufficient to pay any of the principal due, the payment of that principal is postponed until the borrower chooses to leave the Pay As You Earn repayment plan or no longer has a partial financial hardship.

(vi) The repayment period for a borrower under the Pay As You Earn repayment plan may be greater than 10 years.

(3) Payment application and prepayment. (i) The Secretary applies any payment made under the Pay As You Earn repayment plan in the following order:

(A) Accrued interest.

(B) Collection costs.

(C) Late charges.

(D) Loan principal.

(ii) The borrower may prepay all or part of a loan at any time without penalty, as provided under §685.211(a)(2).

(iii) If the prepayment amount equals or exceeds a monthly payment amount of $10.00 or more under the repayment schedule established for the loan, the Secretary applies the prepayment consistent with the requirements of §685.211(a)(3).

(iv) If the prepayment amount exceeds a monthly payment amount of $0.00 under the repayment schedule established for the loan, the Secretary applies the prepayment consistent with the requirements of paragraph (a)(3)(i) of this section.

(4) Changes in the payment amount. (i) If a borrower no longer has a partial financial hardship, the borrower may continue to make payments under the Pay As You Earn repayment plan, but the Secretary recalculates the borrower's monthly payment. The Secretary also recalculates the monthly payment for a borrower who chooses to stop making income contingent payments. In either case, as a result of the recalculation—

(A) The maximum monthly amount that the Secretary requires the borrower to repay is the amount the borrower would have paid under the standard repayment plan based on a 10-year repayment period using the amount of the borrower's eligible loans that was outstanding at the time the borrower began repayment on the loans under the Pay As You Earn repayment plan; and

(B) The borrower's repayment period based on the recalculated payment amount may exceed 10 years.

(ii) A borrower who no longer wishes to repay under the Pay As You Earn repayment plan may change to a different repayment plan in accordance with §685.210(b).
§685.209 Income-contingent repayment plans.

(5) Eligibility documentation, verification, and notifications. (A) The Secretary determines whether a borrower has a partial financial hardship to qualify for the Pay As You Earn repayment plan for the year the borrower selects the plan and for each subsequent year that the borrower remains on the plan. To make this determination, the Secretary requires the borrower to provide documentation, acceptable to the Secretary, of the borrower's AGI.

(B) If the borrower's AGI is not available, or if the Secretary believes that the borrower's reported AGI does not reasonably reflect the borrower's current income, the borrower must provide other documentation to verify income.

(C) The borrower must annually certify the borrower's family size. If the borrower fails to certify family size, the Secretary assumes a family size of one for that year.

(ii) After making a determination that a borrower has a partial financial hardship to qualify for the Pay As You Earn repayment plan for the year the borrower initially elects the plan and for each subsequent year that the borrower has a partial financial hardship, the Secretary sends the borrower a written notification that provides the borrower with—

(A) The borrower’s scheduled monthly payment amount, as calculated under paragraph (a)(2) of this section, and the time period during which this scheduled monthly payment amount will apply (annual payment period);

(B) Information about the requirement for the borrower to annually provide the information described in paragraph (a)(5)(i) of this section, if the borrower chooses to remain on the Pay As You Earn repayment plan after the initial year on the plan, and an explanation that the borrower will be notified in advance of the date by which the Secretary must receive this information;

(C) An explanation of the consequences, as described in paragraphs (a)(5)(i)(C) and (a)(5)(ii)(B) of this section, if the borrower does not provide the required information; and

(D) Information about the borrower’s option to request, at any time during the borrower’s current annual payment period, that the Secretary recalculate the borrower’s monthly payment amount if the borrower’s financial circumstances have changed and the income amount that was used to calculate the borrower’s current monthly payment no longer reflects the borrower’s current income. If the Secretary recalculates the borrower’s monthly payment amount based on the borrower’s request, the Secretary sends the borrower a written notification that includes the information described in paragraphs (a)(5)(iii)(A) through (a)(5)(iii)(D) of this section.

(iii) For each subsequent year that a borrower who currently has a partial financial hardship remains on the Pay As You Earn repayment plan, the Secretary notifies the borrower in writing of the requirements in paragraph (a)(5)(i) of this section no later than 60 days and no earlier than 90 days prior to the date specified in paragraph (a)(5)(iii)(A) of this section. The notification provides the borrower with—

(A) The date, no earlier than 35 days before the end of the borrower’s annual payment period, by which the Secretary must receive all of the documentation described in paragraph (a)(5)(i) of this section (annual deadline); and

(B) The consequences if the Secretary does not receive the information within 10 days following the annual deadline specified in the notice, including the borrower's new monthly payment amount as determined under paragraph (a)(4)(i) of this section, the effective date for the recalculated monthly payment amount, and the fact that unpaid accrued interest will be capitalized at the end of the borrower’s current annual payment period in accordance with paragraph (a)(2)(iv) of this section.

(iv) Each time the Secretary makes a determination that a borrower no longer has a partial financial hardship for a subsequent year that the borrower wishes to remain on the plan, the Secretary sends the borrower a written notification that provides the borrower with—

(A) The borrower’s recalculated monthly payment amount, as determined in accordance with paragraph (a)(4)(i) of this section;

(B) An explanation that unpaid interest will be capitalized in accordance with paragraph (a)(2)(iv) of this section; and

(C) Information about the borrower’s option to request, at any time, that the Secretary redetermine whether the borrower has a partial financial hardship, if the borrower’s financial circumstances have changed and the income amount used to determine that the borrower no longer has a partial financial hardship does not reflect the borrower's current income, and an explanation that the borrower will be notified annually of this option. If the Secretary determines that the borrower again has a partial financial hardship, the Secretary recalculates the borrower’s monthly payment in accordance with paragraph (a)(2)(ii)(A) of this section and sends the borrower a written notification that includes the information described in paragraphs (a)(5)(ii)(A) through (a)(5)(ii)(D) of this section.

(v) For each subsequent year that a borrower who does not currently have a partial financial hardship remains on the Pay As You Earn repayment plan, the Secretary sends the borrower a written notification that includes the information described in paragraph (a)(5)(iv)(C) of this section.

(vi) If a borrower who is currently repaying under another repayment plan selects the Pay As You Earn repayment plan but does not provide the documentation described in paragraphs (a)(5)(i)(A) or (a)(5)(i)(B) of this section, or if the Secretary determines that the borrower does not have a partial financial hardship, the borrower remains on his or her current repayment plan.

(vii) The Secretary designates the repayment option described in paragraph (a)(4)(i) of this section if a borrower who is currently repaying under the Pay As You Earn repayment plan remains on the plan for a subsequent year but the Secretary does not receive the documentation described in paragraphs (a)(5)(i)(A) and (a)(5)(i)(B) of this section within 10 days of the specified annual deadline, unless the Secretary is able to determine the borrower’s new monthly payment amount before the end of the borrower’s current annual payment period.

(viii) If the Secretary receives the documentation described in paragraphs (a)(5)(i)(A) and (a)(5)(i)(B) of this section within 10 days of the specified annual deadline—
§685.209 Income-contingent repayment plans.

(A) The Secretary promptly determines the borrower’s new scheduled monthly payment amount and maintains the borrower’s current scheduled monthly payment amount until the new scheduled monthly payment amount is determined.

(1) If the new monthly payment amount is less than the borrower’s previously calculated Pay As You Earn repayment plan monthly payment amount, and the borrower made payments at the previously calculated amount after the end of the most recent annual payment period, the Secretary makes the appropriate adjustment to the borrower’s account. Notwithstanding the requirements of §685.211(a)(3), unless the borrower requests otherwise, the Secretary applies the excess payment amounts made after the end of the most recent annual payment period in accordance with the requirements of §685.209(a)(3)(i).

(2) If the new monthly payment amount is equal to or greater than the borrower’s previously calculated Pay As You Earn repayment plan monthly payment amount, and the borrower made payments at the previously calculated payment amount after the end of the most recent annual payment period, the Secretary does not make any adjustment to the borrower’s account.

(3) Any payments that the borrower continued to make at the previously calculated payment amount after the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of §685.219, provided that the payments otherwise meet the requirements described in §685.219(c)(1).

(B) The new annual payment period begins on the day after the end of the most recent annual payment period.

(ix)(A) If the Secretary receives the documentation described in paragraphs (a)(5)(i)(A) and (a)(5)(i)(B) of this section more than 10 days after the specified annual deadline and the borrower’s monthly payment amount is recalculated in accordance with paragraph (a)(4)(i) of this section, the Secretary grants forbearance with respect to payments that are overdue or would be due at the time the new calculated Pay As You Earn repayment monthly payment amount is determined, if the new monthly payment amount is $0.00 or is less than the borrower’s previously calculated income-based monthly payment amount. Interest that accrues during the portion of this forbearance period that covers payments that are overdue after the end of the prior annual payment period is not capitalized.

(B) Any payments that the borrower continued to make at the previously calculated payment amount after the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of §685.219, provided that the payments otherwise meet the requirements described in §685.219(c)(1).

(6) Loan forgiveness. (i) To qualify for loan forgiveness after 20 years, a borrower must have participated in the Pay As You Earn repayment plan and satisfied at least one of the following conditions during that period:

(A) Made reduced monthly payments under a partial financial hardship as provided in paragraph (a)(2)(i) or (a)(2)(ii) of this section, including a monthly payment amount of $0.00, as provided under paragraph (a)(2)(iii)(C) of this section.

(B) Made reduced monthly payments after the borrower no longer had a partial financial hardship or stopped making income-contingent payments as provided in paragraph (a)(4)(i) of this section.

(C) Made monthly payments under any repayment plan, that were not less than the amount required under the Direct Loan standard repayment plan described in §685.208(b) with a 10-year repayment period.

(D) Made monthly payments under the Direct Loan standard repayment plan described in §685.208(b) for the amount of the borrower’s loans that were outstanding at the time the borrower first selected the Pay As You Earn repayment plan.

(E) Made monthly payments under the income-contingent repayment plan described in paragraph (b) of this section or the income-based repayment plan described in §685.221, including a calculated monthly payment amount of $0.00.

(F) Received an economic hardship deferment on eligible Direct Loans.

(ii) As provided under paragraph (a)(6)(v) of this section, the Secretary cancels any outstanding balance of principal and accrued interest on Direct loans for which the borrower qualifies for forgiveness if the Secretary determines that—

(A) The borrower made monthly payments under one or more of the repayment plans described in paragraph (a)(6)(i) of this section, including a monthly payment amount of $0.00, as provided under paragraph (a)(2)(iii)(C) of this section; and

(B) the borrower made those monthly payments each year for a 20-year period; or

(2) Through a combination of monthly payments and economic hardship deferments, the borrower has made the equivalent of 20 years of payments.

(iii) For a borrower who qualifies for the Pay As You Earn repayment plan, the beginning date for the 20-year period is—

(A) If the borrower made payments under the income-contingent repayment plan described in paragraph (b) of this section or the income-based repayment plan described in §685.221, the earliest date the borrower made a payment on the loan under one of those plans at any time after October 1, 2007; or

(B) If the borrower did not make payments under the income-contingent repayment plan described in paragraph (b) of this section or the income-based repayment plan described in §685.221.
§685.209 Income-contingent repayment plans.

(1) For a borrower who has an eligible Direct Consolidation Loan, the date the borrower made a payment or received an economic hardship deferment on that loan, before the date the borrower qualified for the Pay As You Earn repayment plan. The beginning date is the date the borrower made the payment or received the deferment after October 1, 2007;

(2) For a borrower who has one or more other eligible Direct Loans, the date the borrower made a payment or received an economic hardship deferment on that loan. The beginning date is the date the borrower made that payment or received the deferment on that loan after October 1, 2007;

(3) For a borrower who did not make a payment or receive an economic hardship deferment on the loan under paragraph (a)(6)(iii)(B)(1) or (a)(6)(iii)(B)(2) of this section, the date the borrower made a payment on the loan under the Pay As You Earn repayment plan;

(4) If the borrower consolidates his or her eligible loans, the date the borrower made a payment on the Direct Consolidation Loan that met the requirements of paragraph (a)(6)(i) of this section; or

(5) If the borrower did not make a payment or receive an economic hardship deferment on the loan under paragraph (a)(6)(iii)(A) or (a)(6)(iii)(B) of this section, the date the borrower made a payment on the loan under the Pay As You Earn repayment plan.

(iv) Any payments made on a defaulted loan are not made under a qualifying repayment plan and are not counted toward the 20-year forgiveness period.

(v)(A) When the Secretary determines that a borrower has satisfied the loan forgiveness requirements under paragraph (a)(6) of this section on an eligible loan, the Secretary cancels the outstanding balance and accrued interest on that loan. No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the Secretary sends the borrower a written notice that includes—

(1) An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;

(2) A reminder that the borrower must continue to make the borrower’s scheduled monthly payments; and

(3) General information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.

(B) The Secretary determines when a borrower has met the loan forgiveness requirements in paragraph (a)(6) of this section and does not require the borrower to submit a request for loan forgiveness.

(C) After determining that a borrower has satisfied the loan forgiveness requirements, the Secretary—

(1) Notifies the borrower that the borrower’s obligation on the loans is satisfied;

(2) Provides the borrower with the information described in paragraph (a)(6)(v)(A)(3) of this section; and

(3) Returns to the sender any payment received on a loan after loan forgiveness has been granted.

(b) Income-contingent repayment plan: The income-contingent repayment (ICR) plan is an income-contingent repayment plan under which a borrower’s monthly payment amount is generally based on the total amount of the borrower’s Direct Loans, family size, and AGI.

(a1) Repayment amount calculation. (i) The amount the borrower would repay is based upon the borrower’s Direct Loan debt when the borrower’s first loan enters repayment, and this basis for calculation does not change unless the borrower obtains another Direct Loan or the borrower and the borrower’s spouse obtain approval to repay their loans jointly under paragraph (b)(2)(iii) of this section. If the borrower obtains another Direct Loan, the amount the borrower would repay is based on the combined amounts of the loans when the last loan enters repayment. If the borrower and the borrower’s spouse repay the loans jointly, the amount the borrowers would repay is based on both borrowers’ Direct Loan debts at the time they enter joint repayment.

(ii) The annual amount payable by a borrower under the income-contingent repayment ICR plan by a borrower is the lesser of—

(A) The amount the borrower would repay annually over 12 years using standard amortization multiplied by an income percentage factor that corresponds to the borrower’s adjusted gross income (AGI) as shown in the income percentage factor table in a notice published annually by the Secretary in the Federal Register; or

(B) 20 percent of discretionary income.

(bii) For purposes of paragraph (b) of this section, discretionary income is defined as a borrower’s AGI minus the amount of the poverty guideline as defined in paragraph (b)(1)(ii)(B) of this section “HHS Poverty Guidelines for all States (except Alaska and Hawaii) and the District of Columbia” as published by the United States Department of Health and Human Services on an annual basis. For residents of Alaska and Hawaii, discretionary income is defined as a borrower’s AGI minus the amounts in the “HHS Poverty Guidelines for Alaska” and “HHS Poverty Guidelines for Hawaii” respectively. If a borrower provides documentation acceptable to the Secretary that the borrower has more than one person in the borrower’s family, the Secretary applies the HHS Poverty Guidelines for the borrower’s family size as defined in §685.209(a)(1)(iv).

*The HHS Poverty Guidelines are available from the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (HHS), Room 438F, Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.*
§685.209 Income-contingent repayment plans.

(B) For purposes of paragraph (b) of this section, the term "poverty guideline" refers to the income categorized by State and family size in the poverty guidelines published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). If a borrower is not a resident of a State identified in the poverty guidelines, the poverty line to be used for the borrower is the poverty guideline (for the relevant family size) used for the 48 contiguous States.

(iv) For exact incomes not shown in the income percentage factor table in the annual notice published by the Secretary, an income percentage factor is calculated, based upon the intervals between the incomes and income percentage factors shown on the table.

(v) Each year, the Secretary recalculates the borrower's annual payment amount based on changes in the borrower’s AGI, the variable interest rate, the income percentage factors in the table in the annual notice published by the Secretary, and updated HHS Poverty Guidelines (if applicable).

(vi) If a borrower's monthly payment is calculated to be greater than $0 but less than or equal to $5.00, the amount payable by the borrower shall be is $5.00.

(vii) For purposes of the annual recalculation described in paragraph (a)(5), periods in which a borrower makes payments that are less than interest accrued on the loan, the payment amount is recalculated based upon unpaid accrued interest and the highest outstanding principal loan amount (including amount capitalized) calculated for that borrower while paying under the income contingent repayment ICR plan.

(viii) For each calendar year after calendar year 1996, the Secretary publishes in the Federal Register a revised income percentage factor table reflecting changes based on inflation. This revised table is developed by changing each of the dollar amounts contained in the table by a percentage equal to the estimated percentage changes in the Consumer Price Index (as determined by the Secretary) between December 1995 and the December next preceding the beginning of such Secretary year.

(ix) Examples of the calculation of monthly repayment amounts and tables that show monthly repayment amounts for borrowers at various income and debt levels are included in the annual notice published by the Secretary.

(x) At the beginning of the repayment period under the ICR plan, the borrower must make monthly payments of the amount of interest that accrues on the borrower’s Direct Loan until the Secretary calculates the borrower’s monthly payment amount on the basis of the borrower’s income.

(b) Treatment of married borrowers. (1)(A) For a married borrower who files a joint Federal tax return with his or her spouse, the AGI for both spouses is used to calculate the monthly payment amount under the ICR plan.

(A) A married borrower who wishes to repay under the income contingent repayment plan and who has filed an income tax return separately from his or her spouse, only the borrower’s AGI is used to determine the monthly payment amount under the ICR plan. must provide his or her spouse’s written consent to the disclosure of certain tax return information under paragraph (c)(5) of this section (unless the borrower is separated from his or her spouse). The AGI for both spouses is used to calculate the monthly repayment amount.

(ii) Marital status of the borrower must be considered when determining the monthly payment amount. The outstanding balances on the loans of each borrower are added together to determine the borrowers’ payback rate under (a)(1) paragraph (b)(1) of this section.

(iii) The amount of the payment applied to each borrower’s debt is the proportion of the payments that equals the same proportion as that borrower’s debt to the total outstanding balance, except that the payment is credited toward outstanding interest on any loan before any payment is credited toward principal.

(c) Other features of the income contingent repayment ICR plan. (1) Alternative documentation of income. If a borrower’s AGI is not available or if, in the Secretary’s opinion, the borrower’s reported AGI does not reasonably reflect the borrower’s current income, the Secretary may use other documentation of income provided by the borrower to calculate the borrower’s monthly repayment amount.

(2) First and second year borrowers. The Secretary requires alternative documentation of income from borrowers in their first and second years of repayment, when in the Secretary’s opinion, the borrower’s reported AGI does not reasonably reflect the borrower’s current income.

(ii) Adjustments to repayment obligations. The Secretary may determine that special circumstances, such as a loss of employment by the borrower or the borrower’s spouse, warrant an adjustment to the borrower’s repayment obligations.

(iii) Repayment period. (A) The maximum repayment period under the income contingent repayment ICR plan is 25 years.

(iv) The repayment period includes—

(A) Periods in which the borrower makes payments under the income contingent repayment ICR plan on loans that are not in default;

(B) Periods in which the borrower makes reduced monthly payments under the income-based repayment plan or a recalculated reduced monthly payment after the borrower no longer has a partial financial hardship or stops making income-based payments, as provided in §685.221(d)(1)(i);

(C) Periods in which the borrower made payments under the Pay As You Earn repayment plan;

(D) Periods in which the borrower makes payments under the standard repayment plan after leaving the income-based repayment plan as provided in §685.221(d)(2);
§685.209 Income-contingent repayment plans.

(E6) For borrowers who entered repayment before October 1, 2007, and if the repayment period is not more than 12 years, periods in which the borrower makes monthly payments under the extended repayment plans described in §685.208(d) and (e), or the standard repayment plan described in §685.208(c); periods after October 1, 2007, in which the borrower makes monthly payments under any other repayment plan that are not less than the amount required under the standard repayment plan described in §685.208(b); or periods of economic hardship deferral after October 1, 2007.

(C) If a borrower repays more than one loan under the ICR plan, a separate repayment period for each loan begins when that loan enters repayment.

(D) If a borrower has not repaid a loan in full at the end of the 25-year repayment period under the ICR plan, the Secretary cancels the outstanding balance and accrued interest on that loan. No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the Secretary sends the borrower a written notification that includes—

1. An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;

2. A reminder that the borrower must continue to make the borrower’s scheduled monthly payments; and

3. General information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.

(E) The Secretary determines when a borrower has met the loan forgiveness requirements under paragraph (b)(3)(iii)(D) of this section and does not require the borrower to submit a request for loan forgiveness. After determining that a borrower has satisfied the loan forgiveness requirements, the Secretary—

1. Notifies the borrower that the borrower's obligation on the loans is satisfied;

2. Provides the information described in paragraph (b)(3)(iii)(D)(3) of this section; and

3. Returns to the sender any payment received on a loan after loan forgiveness has been granted.

(Siv) Limitation on capitalization of interest. If the amount of a borrower’s monthly payment is less than the accrued interest, the unpaid interest is capitalized until the outstanding principal amount is 10 percent greater than the original principal amount. After the outstanding principal amount is 10 percent greater than the original amount, interest continues to accrue but is not capitalized. For purposes of this paragraph, the original amount is the amount owed by the borrower when the borrower enters repayment.

(Sv) Notification of terms and conditions. When a borrower elects or is required by the Secretary to repay a loan under the income-contingent repayment ICR plan, and for each subsequent year that the borrower remains on the plan, the Secretary notifies the borrower of a written notification that provides the terms and conditions of the plan, including—

(A) The borrower’s scheduled monthly payment amount as calculated under paragraph (b)(1) or (b)(3)(vi)(D) of this section, as applicable, and the time period during which this scheduled monthly payment will apply (annual payment period);

(B) Information about the requirement for the borrower to annually provide the information described in paragraph (b)(3)(vi)(A) of this section, if the borrower chooses to remain on the ICR plan after the initial year on the plan, and an explanation that the borrower will be notified in advance of the date by which the Secretary must receive the information;

(i) That the Internal Revenue Service will disclose certain tax return information to the Secretary or the Secretary’s agents; and

(iiC) That if the borrower believes that special circumstances warrant an adjustment to the borrower’s repayment obligations, as described in §685.209(c)(3) paragraph (b)(3)(ii) of this section, the borrower may contact the Secretary at any time during the borrower’s current annual payment period and obtain the Secretary’s determination as to whether an adjustment is appropriate.

(D) An explanation of the consequences, as described in paragraph (b)(3)(vi)(D) of this section, if the borrower does not provide the required information.

(7) Consent to disclosure of tax return information. (I) A borrower shall provide written consent to the disclosure of certain tax return information by the Internal Revenue Service (IRS) to agents of the Secretary for purposes of calculating a monthly repayment amount and servicing and collecting a loan under the income-contingent repayment plan. The borrower shall provide consent by signing a consent form, developed consistent with 26 CFR 301.6103(c)-1 and provided to the borrower by the Secretary, and shall return the signed form to the Secretary.

(ii) The borrower shall provide consent to disclosure of the borrower’s taxpayer identity information as defined in 26 U.S.C. 6103(b)(6), tax filing status, and AGI.

(iii) The borrower shall provide consent for a period of five years from the date the borrower signs the consent form. The Secretary will provide the borrower a new consent form before that period expires. The IRS does not disclose tax return information after the IRS has processed a borrower’s withdrawal of consent.

(vi) Documentation of income and certification of family size. (A) For the initial year that a borrower selects the ICR plan and for each subsequent year that the borrower remains on the plan, the borrower must—

1. Provide to the Secretary for purposes of calculating a monthly repayment amount and servicing and collecting the borrower’s, acceptable documentation, as determined by the Secretary, of the borrower’s AGI or alternative documentation of income in accordance with paragraph (b)(3)(ii) of this section; and
§685.209 Income-contingent repayment plans.

(2) Certify the borrower’s family size. If the borrower fails to certify family size, the Secretary assumes a family size of one for the year.

(B) For each subsequent year that a borrower remains on the ICR plan, the Secretary notifies the borrower in writing of the requirements described in paragraph (b)(3)(vi)(A) of this section no later than 60 days and no earlier than 90 days prior to the date specified in paragraph (b)(3)(vi)(B)(1) of this section. The notification provides the borrower with —

(1) The date, no earlier than 35 days before the end of the borrower’s annual payment period, by which the Secretary must receive the documentation described in paragraph (b)(3)(vi)(A) of this section (annual deadline); and

(2) The consequences if the Secretary does not receive the information within 10 days following the annual deadline specified in the notice, including the borrower’s new monthly payment amount as determined under paragraph (b)(3)(vi)(D) of this section, and the effective date for the recalculated monthly payment amount.

(C) The Secretary designates the standard repayment plan for a borrower who initially selects the income contingent repayment ICR plan but does not comply with the requirement in paragraph (b)(3)(vi)(A)(1) of this section.

(D) If, during a subsequent year that a borrower remains on the ICR plan, the Secretary does not receive the documentation described in paragraph (b)(3)(vi)(A)(1) of this section within 10 days of the specified annual deadline, the Secretary recalculates the borrower’s required monthly payment amount, unless the Secretary is able to determine the borrower’s new monthly payment amount before the end of the borrower’s current annual payment period. The maximum recalculated monthly amount the Secretary requires the borrower to repay is the amount the borrower would have paid under the standard repayment plan based on a 10-year repayment period using the amount of the borrower’s loans that was outstanding at the time the borrower began repayment under the ICR plan. The repayment period based on the recalculated payment may exceed 10 years.

(E) If the Secretary receives the documentation described in paragraph (b)(3)(vi)(A)(1) of this section within 10 days of the specified annual deadline—

(1) The Secretary promptly determines the borrower’s new scheduled monthly payment amount and maintains the borrower’s current scheduled monthly payment amount until the new scheduled monthly payment amount is determined.

(ii) If the new calculated monthly payment amount is less than the borrower’s previously calculated monthly payment amount, and the borrower made payments at the previously calculated amount after the end of the most recent annual payment period, the Secretary applies the excess payment amounts made after the end of the most recent annual payment period in accordance with the requirements of §685.211(a)(1), unless the borrower requests otherwise.

(ii) If the new monthly payment amount is equal to or greater than the borrower’s previously calculated monthly payment amount, and the borrower made payments at the previously calculated payment amount after the end of the most recent annual payment period, the Secretary does not make any adjustment to the borrower’s account.

(iii) Any payments the borrower continued to make at the previously calculated payment amount after the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of §685.219, provided that the payments otherwise meet the requirements described in §685.219(c)(1).

(2) The new annual payment period begins on the day after the end of the most recent annual payment period.

(F)(1) If the Secretary receives the documentation described in paragraph (b)(3)(vi)(A)(1) of this section more than 10 days after the specified annual deadline and the borrower’s monthly payment amount is recalculated in accordance with paragraph (b)(3)(vi)(D) of this section, the Secretary grants forbearance with respect to payments that are overdue or would be due at the time the new calculated monthly payment amount is determined, if the new monthly payment amount is $0.00 or is less than the borrower’s previously calculated monthly payment amount. Interest that accrues during the portion of this forbearance period that covers payments that are overdue after the end of the prior annual payment period is not capitalized.

(2) Any payments that the borrower continued to make at the previously calculated payment amount after the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of §685.219, provided that the payments otherwise meet the requirements described in §685.219(c)(1).

(A) Fails to provide the required written consent;

(B) Fails to renew written consent upon the expiration of the five-year period for consent; or

(C) Withdraws consent and does not select another repayment plan.

(G) If a borrower defaults and the Secretary designates the income contingent repayment ICR plan for the borrower but the borrower fails to provide the required written consent to comply with the requirements in paragraph (b)(3)(vi)(A) of this section, the Secretary mails a notice to the borrower establishing a repayment schedule for the borrower.
§685.221 Income-based repayment plan.

(a) Definitions. As used in this section—

(1) Adjusted gross income (AGI) means the borrower’s adjusted gross income as reported to the Internal Revenue Service. For a married borrower filing jointly, AGI includes both the borrower’s and spouse’s income. For a married borrower filing separately, AGI includes only the borrower’s income.

(2) Eligible loan means any outstanding loan made to a borrower under the FFEL or Direct Loan programs except for a defaulted loan, a FFEL or Direct PLUS Loan made to a parent borrower, or a FFEL or Direct Consolidation Loan that repaid a FFEL or Direct PLUS Loan made to a parent borrower.

(3) Family size means the number that is determined by counting the borrower, the borrower’s spouse, and the borrower’s children, including unborn children who will be born during the year the borrower certifies family size, if the children receive more than half their support from the borrower. A borrower’s family size includes other individuals if, at the time the borrower certifies family size, the other individuals—

(i) Live with the borrower; and

(ii) Receive more than half their support from the borrower and will continue to receive this support from the borrower for the year the borrower certifies family size. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs.

(4) New borrower means an individual who has no outstanding balance on a Direct Loan Program or FFEL Program loan on July 1, 2014, or who has no outstanding balance on such a loan on the date he or she obtains a loan after July 1, 2014.

(45) Partial financial hardship means a circumstance in which—

(i) For an unmarried borrower or a married borrower who files an individual Federal tax return, the annual amount due on all of the borrower’s eligible loans, as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the borrower initially entered repayment or at the time the borrower elects the income-based repayment plan, exceeds 15 percent or, for a new borrower, 10 percent of the difference between the borrower’s AGI and 150 percent of the poverty guideline for the borrower’s family size; or

(ii) For a married borrower who files a joint Federal tax return with his or her spouse, the annual amount due on all of the borrower’s eligible loans and, if applicable, the spouse’s eligible loans, as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the loans initially entered repayment or at the time the borrower or spouse elects the income-based repayment plan, exceeds 15 percent or, for a new borrower, 10 percent of the difference between the borrower’s and spouse’s AGI, and 150 percent of the poverty guideline for the borrower’s family size.

(56) Poverty guideline refers to the income categorized by State and family size in the poverty guidelines published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). If a borrower is not a resident of a State identified in the poverty guidelines, the poverty guideline to be used for the borrower is the poverty guideline (for the relevant family size) used for the 48 contiguous States.

(b) Terms of the repayment plan. (1) A borrower may select the income-based repayment plan only if the borrower has a partial financial hardship. The borrower’s aggregate monthly loan payments are limited to no more than 15 percent or, for a new borrower, 10 percent of the amount by which the borrower’s AGI exceeds 150 percent of the poverty guideline applicable to the borrower’s family size, divided by 12.

(2) The Secretary adjusts the calculated monthly payment if—

(i) Except for borrowers provided for in paragraph (b)(2)(ii) of this section, the total amount of the borrower’s eligible loans are not Direct Loans, in which case the Secretary determines the borrower’s adjusted monthly payment by multiplying the calculated payment by the percentage of the total outstanding principal amount of the borrower’s eligible loans that are Direct Loans;

(ii) Both the borrower and borrower’s spouse have eligible loans and filed a joint Federal tax return, in which case the Secretary determines—

(A) Each borrower’s percentage of the couple’s total eligible loan debt;

(B) The adjusted monthly payment for each borrower by multiplying the calculated payment by the percentage determined in paragraph (b)(2)(ii)(A) of this section; and

(C) If the borrower’s loans are held by multiple holders, the borrower’s adjusted monthly Direct Loan payment by multiplying the payment determined in paragraph (b)(2)(ii)(B) of this section by the percentage of the total outstanding principal amount of the borrower’s eligible loans that are Direct Loans;

(iii) The calculated amount under paragraph (b)(1), (b)(2)(i), or (b)(2)(ii) of this section is less than $5.00, in which case the borrower’s monthly payment is $0.00; or

(iv) The calculated amount under paragraph (b)(1), (b)(2)(i), or (b)(2)(ii) of this section is equal to or greater than $5.00 but less than $10.00, in which case the borrower’s monthly payment is $10.00.
§685.221 Income-based repayment plan.

(3) If the borrower’s monthly payment amount is not sufficient to pay the accrued interest on the borrower’s Direct Subsidized loan or the subsidized portion of a Direct Consolidation Loan, the Secretary does not charge the borrower the remaining accrued interest for a period not to exceed three consecutive years from the established repayment period start date on that loan under the income-based repayment plan. Any period during which the Secretary has previously not charged the borrower accrued interest on an eligible loan under the Pay As You Earn repayment plan counts toward the maximum three years of subsidy a borrower is eligible to receive under the income-based repayment plan. On a Direct Consolidation Loan that repays loans on which the Secretary has not charged the borrower accrued interest, the three-year period includes the period for which the Secretary did not charge the borrower accrued interest on the underlying loans. This three-year period does not include any period during which the borrower receives an economic hardship deferment.

(4) Except as provided in paragraph (b)(3) of this section, accrued interest is capitalized at the time a borrower chooses to leave the income-based repayment plan or no longer has a partial financial hardship.

(5) If the borrower’s monthly payment amount is not sufficient to pay any of the principal due, the payment of that principal is postponed until the borrower chooses to leave the income-based repayment plan or no longer has a partial financial hardship.

(6) The repayment period for a borrower under the income-based repayment plan may be greater than 10 years.

(c) Payment application and prepayment. (1) The Secretary applies any payment made under the income-based repayment plan in the following order:

(1i) Accrued interest.

(1ii) Collection costs.

(1iii) Late charges.

(1iv) Loan principal.

(2) The borrower may prepay all or part of a loan at any time without penalty, as provided under §685.211(a)(2).

(3) If the prepayment amount equals or exceeds a monthly payment amount of $10.00 or more under the repayment schedule established for the loan, the Secretary applies the prepayment consistent with the requirements of §685.211(a)(3).

(4) If the prepayment amount exceeds a monthly payment amount of $0.00 under the repayment schedule established for the loan, the Secretary applies the prepayment consistent with the requirements of paragraph (c)(1) of this section.

(d) Changes in the payment amount. (1) If a borrower no longer has a partial financial hardship, the borrower may continue to make payments under the income-based repayment plan, but the Secretary recalculates the borrower’s monthly payment. The Secretary also recalculates the monthly payment for a borrower who chooses to stop making income-based payments. In either case, as result of the recalculation—

(i) The maximum monthly amount that the Secretary requires the borrower to repay is the amount the borrower would have paid under the standard repayment plan based on a 10-year repayment period using the amount of the borrower’s eligible loans that were outstanding at the time the borrower began repayment on the loans under the income-based repayment plan; and

(ii) The borrower’s repayment period based on the recalculated payment amount may exceed 10 years.

(2)(i) If a borrower no longer wishes to pay under the income-based repayment plan, the borrower must pay under the standard repayment plan and the Secretary recalculates the borrower’s monthly payment based on—

(I) The For a Direct Subsidized Loan, a Direct Unsubsidized Loan, or a Direct PLUS Loan, the time remaining under the maximum ten-year repayment period for the amount of the borrower’s loans that were outstanding at the time the borrower discontinued paying under the income-based repayment plan; or

(ii) For a Direct Consolidation Loan, the time remaining under the applicable repayment period specified in as initially determined under §685.208(j) for the and the amount of that loan and the balance of other student loans that was outstanding at the time the borrower discontinued paying under the income-based repayment plan.

(ii) A borrower who no longer wishes to repay under the income-based repayment plan and who is required to repay under the Direct Loan standard repayment plan in accordance with paragraph (d)(2)(i) of this section may request a change to a different repayment plan after making one monthly payment under the Direct Loan standard repayment plan. For this purpose, a monthly payment may include one payment made under a forbearance that provides for accepting smaller payments than previously scheduled, in accordance with §685.205(a).

(e) Eligibility documentation and verification and notifications. (1) The Secretary determines whether a borrower has a partial financial hardship to qualify for the income-based repayment plan for the year the borrower selects the plan and for each subsequent year that the borrower remains on the plan. To make this determination, the Secretary requires the borrower to—

(i) Provide written consent to the disclosure of AGI and other tax return information by the Internal Revenue Service to the Secretary. The borrower provides consent by signing a consent form and returning it documentation, acceptable to the Secretary, of the borrower’s AGI.
§685.221 Income-based repayment plan.

(Biii) If the borrower’s AGI is not available, or the Secretary believes that the borrower’s reported AGI does not reasonably reflect the borrower’s current income, the Secretary may use other documentation provided by the borrower to verify income; and

(ii) Annually certify the borrower’s family size. If the borrower fails to certify family size, the Secretary assumes a family size of one for that year.

(2) After making a determination that a borrower has a partial financial hardship to qualify for the income-based repayment plan for the year the borrower initially elects the plan and for any subsequent year that the borrower has a partial financial hardship, the Secretary sends the borrower a written notification that provides the borrower with—

(i) The borrower’s scheduled monthly payment amount, as calculated under paragraph (b)(1) of this section, and the time period during which this scheduled monthly payment amount will apply (annual payment period);

(ii) Information about the requirement for the borrower to annually provide the information described in paragraph (e)(1) of this section, if the borrower chooses to remain on the income-based repayment plan after the initial year on the plan, and an explanation that the borrower will be notified in advance of the date by which the Secretary must receive this information;

(iii) An explanation of the consequences, as described in paragraphs (e)(1)(ii) and (e)(7) of this section, if the borrower does not provide the required information;

(iv) An explanation of the consequences if the borrower no longer wishes to repay under the income-based repayment plan; and

(v) Information about the borrower’s option to request, at any time during the borrower’s current annual payment period, that the Secretary recalculate the borrower’s monthly payment amount if the borrower’s financial circumstances have changed and the income amount that was used to calculate the borrower’s current monthly payment no longer reflects the borrower’s current income. If the Secretary recalculates the borrower’s monthly payment amount based on the borrower’s request, the Secretary sends the borrower a written notification that includes the information described in paragraphs (e)(2)(i) through (e)(2)(v) of this section.

(3) For each subsequent year that a borrower who currently has a partial financial hardship remains on the income-based repayment plan, the Secretary notifies the borrower in writing of the requirements in paragraph (e)(1) of this section no later than 60 days and no earlier than 90 days prior to the date specified in paragraph (e)(3)(i) of this section. The notification provides the borrower with—

(i) The date, no earlier than 35 days before the end of the borrower’s annual payment period, by which the Secretary must receive all of the information described in paragraph (e)(1) of this section (annual deadline); and

(ii) The consequences if the Secretary does not receive the information within 10 days following the annual deadline specified in the notice, including the borrower’s new monthly payment amount as determined under paragraph (d)(1) of this section, the effective date for the recalculated monthly payment amount, and the fact that unpaid accrued interest will be capitalized at the end of the borrower’s current annual payment period in accordance with paragraph (b)(4) of this section.

(4) Each time the Secretary makes a determination that a borrower no longer has a partial financial hardship for a subsequent year that the borrower wishes to remain on the plan, the Secretary sends the borrower a written notification that provides the borrower with—

(i) The borrower’s recalculated monthly payment amount, as determined in accordance with paragraph (d)(1) of this section;

(ii) An explanation that unpaid interest will be capitalized in accordance with paragraph (b)(4) of this section; and

(iii) Information about the borrower’s option to request, at any time, that the Secretary redetermine whether the borrower has a partial financial hardship, if the borrower’s financial circumstances have changed and the income amount used to determine that the borrower no longer has a partial financial hardship does not reflect the borrower’s current income, and an explanation that the borrower will be notified annually of this option. If the Secretary determines that the borrower again has a partial financial hardship, the Secretary recalculates the borrower’s monthly payment in accordance with paragraph (b)(1) of this section and sends the borrower a written notification that includes the information described in paragraphs (e)(2)(i) through (e)(2)(v) of this section.

(5) For each subsequent year that a borrower who does not currently have a partial financial hardship remains on the income-based repayment plan, the Secretary sends the borrower a written notification that includes the information described in paragraph (e)(4)(iii) of this section.

(6) If a borrower who is currently repaying under another repayment plan selects the income-based repayment plan but does not provide the information described in paragraphs (e)(1)(i) and (e)(1)(ii) of this section, or if the Secretary determines that the borrower does not have a partial financial hardship, the borrower remains on his or her current repayment plan.

(7) The Secretary designates the repayment option described in paragraph (d)(1) of this section for any borrower who selects the income-based repayment plan but is currently repaying under the income-based repayment plan remains on the plan for a subsequent year but the Secretary does not receive the information described in paragraphs (e)(1)(i) through (e)(1)(ii) of this section within 10 days of the specified annual deadline, unless the Secretary is able to determine the borrower’s new monthly payment amount before the end of the borrower’s current annual payment period.

(1) Fails to renew the required written consent for income verification; or

(2) Withdraws consent and does not select another repayment plan.
§685.221 Income-based repayment plan.

(B) If the Secretary receives the information described in paragraphs (e)(1)(i) and (e)(1)(ii) of this section within 10 days of the specified annual deadline—
(i) The Secretary promptly determines the borrower’s new scheduled monthly payment amount and maintains the borrower’s current scheduled monthly payment amount until the new scheduled monthly payment amount is determined.

(A) If the new monthly payment amount is less than the borrower’s previously calculated income-based monthly payment amount, and the borrower made payments at the previously calculated amount after the end of the most recent annual payment period, the Secretary makes the appropriate adjustment to the borrower’s account. Notwithstanding the requirements of §685.211(b)(3), unless the borrower requests otherwise, the Secretary applies the excess payment amounts made after the end of the most recent annual payment period in accordance with the requirements of paragraph (c)(1) of this section.

(B) If the new monthly payment amount is equal to or greater than the borrower’s previously calculated monthly payment amount, and the borrower made payments at the previously calculated payment amount after the end of the most recent annual payment period, the Secretary does not make any adjustment to the borrower’s account.

(C) Any payments that the borrower continued to make at the previously calculated payment amount after the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of §685.219, provided that the payments otherwise meet the requirements described in §685.219(c)(1).

(ii) The new annual payment period begins on the day after the end of the most recent annual payment period.

(ii)(I) If the Secretary receives the documentation described in paragraphs (e)(1)(i) and (e)(1)(ii) of this section more than 10 days after the specified annual deadline and the borrower’s monthly payment amount is recalculated in accordance with paragraph (d)(1) of this section, the Secretary grants forbearance with respect to payments that are overdue or would be due at the time the new calculated income-based monthly payment amount is determined, if the new monthly payment amount is $0.00 or is less than the borrower’s previously calculated income-based monthly payment amount. Interest that accrues during the portion of this forbearance period that covers payments that are overdue after the end of the prior annual payment period is not capitalized.

(ii)(II) Any payments that the borrower continued to make at the previously calculated payment amount after the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of §685.219, provided that the payments otherwise meet the requirements described in §685.219(c)(1).

(i) Loan forgiveness. (1) To qualify for loan forgiveness after 25 years or, for a new borrower, after 20 years, a borrower must have participated in the income-based repayment plan and satisfied at least one of the following conditions during that the applicable loan forgiveness period:

(A) The borrower made monthly payments under any repayment plan, that were not less than the amount required under the Direct Loan standard repayment plan described in §685.208(b) with a 10-year repayment period for the amount of the borrower’s loans that were outstanding at the time the loans initially entered repayment.

(B) The borrower made reduced monthly payments under a partial financial hardship as provided in paragraph (b)(1) or (b)(2) of this section, including a monthly payment amount of $0.00, as provided under paragraph (b)(2)(ii) of this section.

(C) The borrower made those monthly payments each year for a 25-year the applicable loan forgiveness period, or

(D) Through a combination of monthly payments and economic hardship deferments, the borrower has made the equivalent of 25 years of payments or, for a new borrower the equivalent of 20 years of payments.

(2) As provided under paragraph (f)(4) of this section, the Secretary cancels any outstanding balance of principal and accrued interest on Direct loans for which the borrower qualifies for forgiveness if the Secretary determines that—

(i) The borrower made monthly payments under one or more of the repayment plans described in paragraph (f)(1) of this section, including a monthly payment amount of $0.00, as provided under paragraph (b)(2)(ii) of this section; and

(ii) (A) The borrower made those monthly payments each year for a 25-year the applicable loan forgiveness period, or

(B) Through a combination of monthly payments and economic hardship deferments, the borrower has made the equivalent of 25 years of payments or, for a new borrower the equivalent of 20 years of payments.

(3) For a borrower who qualifies for the income-based repayment plan, the beginning date for the 25-year applicable loan forgiveness period is—

(i) If the borrower made payments under the income contingent repayment plan, the date the borrower made a payment on the loan under that plan at any time after July 1, 1994; or

(ii) If the borrower did not make payments under the income contingent repayment plan—
§685.221 Income-based repayment plan.

(A) For a borrower who has an eligible Direct Consolidation Loan, the date the borrower made a payment or received an economic hardship deferment on that loan, before the date the borrower qualified for income-based repayment. The beginning date is the date the borrower made the payment or received the deferment, but no earlier than July 1, 2009;

(B) For a borrower who has one or more other eligible Direct Loans, the date the borrower made a payment or received an economic hardship deferment on that loan. The beginning date is the date the borrower made that payment or received the deferment on that loan, but no earlier than July 1, 2009;

(C) For a borrower who did not make a payment or receive an economic hardship deferment on the loan under paragraph (f)(3)(ii)(A) or (f)(3)(ii)(B) of this section, the date the borrower made a payment under the income-based repayment plan on the loan;

(D) If the borrower consolidates his or her eligible loans, the date the borrower made a payment on the Direct Consolidation Loan after qualifying for the income-based repayment plan that met the requirements in paragraph (f)(1) of this section; or

(E) If the borrower did not make a payment or receive an economic hardship deferment on the loan under paragraph (f)(3)(i) or (f)(3)(ii) of this section, determining the date the borrower made a payment under the income-based repayment plan on the loan.

(4) Any payments made on a defaulted loan are not made under a qualifying repayment plan and are not counted toward the applicable loan forgiveness period.

(45)(i) If When the Secretary determines that a borrower satisfies the loan forgiveness requirements under paragraph (f) of this section on an eligible loan, the Secretary cancels the outstanding balance and accrued interest on that loan, the Direct Consolidation Loan described in paragraph (f)(3)(i), (iii) or (iv) of this section or other eligible Direct Loans described in paragraph (f)(3)(ii) or (iv) of this section. No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the Secretary sends the borrower a written notice that includes—

(A) An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;

(B) A reminder that the borrower must continue to make the borrower's scheduled monthly payments; and

(C) General information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.

(ii) The Secretary determines when a borrower has met the loan forgiveness requirements under paragraph (f) of this section and does not require the borrower to submit a request for loan forgiveness.

(iii) After determining that a borrower has satisfied the loan forgiveness requirements, the Secretary—

(A) Notifies the borrower that the borrower's obligation on the loans is satisfied;

(B) Provides the borrower with the information described in paragraph (f)(5)(i)(C) of this section; and

(C) Returns to the sender any payment received on a loan after loan forgiveness has been granted in accordance with paragraph (f)(5)(i) of this section.
§685.211 Miscellaneous repayment provisions.

(a) Payment application and prepayment. (1) Except as provided for the income-contingent repayment plan under §685.209(a)(3) or the income-based repayment plan under §685.221(c)(1), the Secretary applies any payment first to any accrued charges and collection costs, then to any outstanding interest, and then to outstanding principal.

(2) A borrower may prepay all or part of a loan at any time without penalty. If a borrower pays any amount in excess of the amount due, the excess amount is a prepayment.

(3) If a prepayment equals or exceeds the monthly repayment amount under the borrower's repayment plan, the Secretary—
   (i) Applies the prepaid amount according to paragraph (a)(1) of this section;
   (ii) Advances the due date of the next payment unless the borrower requests otherwise; and
   (iii) Notifies the borrower of any revised due date for the next payment.

(4) If a prepayment is less than the monthly repayment amount, the Secretary applies the prepayment according to paragraph (a)(1) of this section.

(b) Repayment incentives. To encourage on-time repayment, the Secretary may reduce the interest rate for a borrower who repays a loan under a system or on a schedule that meets requirements specified by the Secretary.

(c) Refunds and returns of title IV, HEA program funds from schools. The Secretary applies any refund or return of title IV, HEA program funds that the Secretary receives from a school under §668.22 against the borrower’s outstanding principal and notifies the borrower of the refund or return.

(d) Default—(1) Acceleration. If a borrower defaults on a Direct Loan, the entire unpaid balance and accrued interest are immediately due and payable.

(2) Collection charges. If a borrower defaults on a Direct Loan, the Secretary assesses collection charges in accordance with §685.202(e).

(3) Collection of a defaulted loan. (i) The Secretary may take any action authorized by law to collect a defaulted Direct Loan including, but not limited to, filing a lawsuit against the borrower, reporting the default to national credit bureaus, requesting the Internal Revenue Service to offset the borrower’s Federal income tax refund, and garnishing the borrower’s wages.

   (ii) If a borrower defaults on a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct Consolidation Loan, or a student Direct PLUS Loan, the Secretary may designate the income contingent repayment plan or the income-based repayment plan for the borrower.

(e) Ineligible borrowers. (1) The Secretary determines that a borrower is ineligible if, at the time the loan was made and without the school’s or the Secretary’s knowledge, the borrower (or the student on whose behalf a parent borrowed) provided false or erroneous information, has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program funds, or took actions that caused the borrower or student—
   (i) To receive a loan for which the borrower is wholly or partially ineligible;
   (ii) To receive interest benefits for which the borrower was ineligible; or
   (iii) To receive loan proceeds for a period of enrollment for which the borrower was not eligible.

   (2) If the Secretary makes the determination described in paragraph (e)(1) of this section, the Secretary sends an ineligible borrower a demand letter that requires the borrower to repay some or all of a loan, as appropriate. The demand letter requires that within 30 days from the date the letter is mailed, the borrower repay any principal amount for which the borrower is ineligible and any accrued interest, including interest subsidized by the Secretary, through the previous quarter.

   (3) If a borrower fails to comply with the demand letter described in paragraph (e)(2) of this section, the borrower is in default on the entire loan.

(4) A borrower may not consolidate a loan under §685.220 for which the borrower is wholly or partially ineligible.

(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 nine voluntary, reasonable, and affordable monthly payments within 20 days of the due date during ten consecutive months. The amount of such a payment is determined on the basis of the borrower’s total financial circumstances. If a defaulted loan is rehabilitated, the Secretary instructs any consumer reporting agency to which the default was reported to remove the default from the borrower’s credit history.

   (2) A defaulted Direct Loan on which a judgment has been obtained may not be rehabilitated.

   (3) A Direct Loan obtained by fraud for which the borrower has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance may not be rehabilitated.

   (4) Effective for any defaulted Direct 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.
§682.215 Income-based repayment plan.

(a) Definitions. As used in this section—

(1) Adjusted gross income (AGI) means the borrower’s adjusted gross income as reported to the Internal Revenue Service. For a married borrower filing jointly, AGI includes both the borrower’s and spouse’s income. For a married borrower filing separately, AGI includes only the borrower’s income.

(2) Eligible loan means any outstanding loan made to a borrower under the FFEL and Direct Loan programs except for a defaulted loan, a FFEL or Direct PLUS Loan made to a parent borrower, or a FFEL or Direct Consolidation Loan that repaid a FFEL or Direct PLUS Loan made to a parent borrower.

(3) Family size means the number that is determined by counting the borrower, the borrower’s spouse, and the borrower’s children, including unborn children who will be born during the year the borrower certifies family size, if the children receive more than half their support from the borrower. A borrower’s family size includes other individuals if, at the time the borrower certifies family size, the other individuals—

(i) Live with the borrower; and

(ii) Receive more than half their support from the borrower and will continue to receive this support from the borrower for the year the borrower certifies family size. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs.

(4) Partial financial hardship means a circumstance in which—

(i) For an unmarried borrower or a married borrower who files an individual Federal tax return, the annual amount due on all of the borrower’s eligible loans, as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the borrower initially entered repayment or at the time the borrower elects the income-based repayment plan, exceeds 15 percent of the difference between the borrower’s AGI and 150 percent of the poverty guideline for the borrower’s family size; or

(ii) For a married borrower who files a joint Federal tax return with his or her spouse, the annual amount due on all of the borrower’s eligible loans and, if applicable, the spouse’s eligible loans, as calculated under a standard repayment plan based on a 10-year repayment period, using the greater of the amount due at the time the loans initially entered repayment or at the time the borrower or spouse elects the income-based repayment plan, exceeds 15 percent of the difference between the borrower’s and spouse’s AGI, and 150 percent of the poverty guideline for the borrower’s family size.

(5) Poverty guideline refers to the income categorized by State and family size in the poverty guidelines published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). If a borrower is not a resident of a State identified in the poverty guidelines, the poverty guideline to be used for the borrower is the poverty guideline (for the relevant family size) used for the 48 contiguous States.

(b) Repayment plan. (1) A borrower may elect the income-based repayment plan only if the borrower has a partial financial hardship. The borrower’s aggregate monthly loan payments are limited 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. The loan holder adjusts the calculated monthly payment if—

(i) Except for borrowers provided for in paragraph (b)(1)(ii) of this section, the total amount of the borrower’s eligible loans includes loans not held by the loan holder, in which case the loan holder determines the borrower’s adjusted monthly payment by multiplying the calculated payment by the percentage of the total outstanding principal amount of the borrower’s eligible loans that are held by the loan holder;

(ii) Both the borrower and the borrower’s spouse have eligible loans and filed a joint Federal tax return, in which case the loan holder determines –

(A) Each borrower’s percentage of the couple’s total eligible loan debt;

(B) The adjusted monthly payment for each borrower by multiplying the calculated payment by the percentage determined in paragraph (b)(1)(ii)(A) of this section; and

(C) If the borrower’s loans are held by multiple holders, the borrower’s adjusted monthly payment by multiplying the payment determined in paragraph (b)(1)(ii)(B) of this section by the percentage of the total outstanding principal amount of the borrower’s eligible loans that are held by the loan holder;

(iii) The calculated amount under paragraph (b)(1), (b)(1)(i), or (b)(1)(ii) of this section is less than $5.00, in which case the borrower’s monthly payment is $0.00; or

(iv) The calculated amount under paragraph (b)(1), (b)(1)(i), or (b)(1)(ii) of this section is equal to or greater than $5.00 but less than $10.00, in which case the borrower’s monthly payment is $10.00.
§682.215 Income-based repayment plan.

(2) A borrower with eligible loans held by two or more loan holders must request income-based repayment from each loan holder if the borrower wants to repay all of his or her eligible loans under the income-based repayment plan. Each loan holder must apply the payment calculation rules in paragraphs (b)(1)(iii) and (iv) of this section to loans they hold.

(3) If a borrower elects the income-based repayment plan on or after July 1, 2013, the loan holder must, unless the borrower requests otherwise, has some loans that are eligible for repayment under the income-based repayment plan and other loans that are not eligible for repayment under that plan, require that all eligible loans owed by the borrower to that holder be repaid under the income-based repayment plan.

(4) If the borrower’s monthly payment amount is not sufficient to pay the accrued interest on the borrower’s subsidized Stafford Loans or the subsidized portion of the borrower’s Federal Consolidation loan, the Secretary pays to the holder the remaining accrued interest for a period not to exceed three consecutive years from the established repayment period start date on each loan repaid under the income-based repayment plan. On a Consolidation Loan that repays loans on which the Secretary has paid accrued interest under this section, the three-year period includes the period for which the Secretary paid accrued interest on the underlying loans. The three-year period does not include any period during which the borrower receives an economic hardship deferment.

(5) Except as provided in paragraph (b)(4) of this section, accrued interest is capitalized at the time the borrower chooses to leave the income-based repayment plan or no longer has a partial financial hardship.

(6) If the borrower’s monthly payment amount is not sufficient to pay any principal due, the payment of that principal is postponed until the borrower chooses to leave the income-based repayment plan or no longer has a partial financial hardship.

(7) The special allowance payment to a lender during the period in which the borrower has a partial financial hardship under the income-based repayment plan is calculated on the principal balance of the loan and any accrued interest unpaid by the borrower.

(8) The repayment period for a borrower under the income-based repayment plan may be greater than 10 years.

(c) Payment application and prepayment. (1) The loan holder shall apply any payment made under the income-based repayment plan in the following order:

   (i) Accrued interest.
   (ii) Collection costs.
   (iii) Late charges.
   (iv) Loan principal.

(2) The borrower may prepay the whole or any part of a loan at any time without penalty.

(3) If the prepayment amount equals or exceeds a monthly payment amount of $10.00 or more under the repayment schedule established for the loan, the loan holder shall apply the prepayment consistent with the requirements of §682.209(b)(2)(ii).

(4) If the prepayment amount exceeds the monthly payment amount of $0.00 under the repayment schedule established for the loan, the loan holder shall apply the prepayment consistent with the requirements of paragraph (c)(1) of this section.

(d) Changes in the payment amount. (1) If a borrower no longer has a partial financial hardship, the borrower may continue to make payments under the income-based repayment plan but the loan holder must recalculate the borrower’s monthly payment. The loan holder also recalculates the monthly payment for a borrower who chooses to stop making income-based payments. In either case, as a result of the recalculation—

   (i) The maximum monthly amount that the loan holder may require the borrower to repay is the amount the borrower would have paid under the FFEL standard repayment plan based on a 10-year repayment period on the borrower’s eligible loans that were outstanding at the time the borrower began repayment on the loans with that holder under the income-based repayment plan; and
   (ii) The borrower’s repayment period based on the recalculated payment amount may exceed 10 years.

(2) If a borrower no longer wishes to pay under the income-based repayment plan, the borrower must pay under the FFEL standard repayment plan and the loan holder recalculates the borrower’s monthly payment based on—

   (i) Except as provided in paragraph (d)(2)(ii) of this section, the time remaining under the maximum 10-year repayment period for the amount of the borrower’s loans that were outstanding at the time the borrower discontinued paying under the income-based repayment plan; or
   (ii) For a Consolidation Loan, the time remaining under the applicable repayment period specified in as initially determined under §682.209(h)(2) for the total amount of that loan and the balance of other student loans that was outstanding at the time the borrower discontinued paying under the income-based repayment plan.
§682.211 Income-based repayment plan.

(3) A borrower who no longer wishes to repay under the income-based repayment plan and who is required to repay under the FFEL standard repayment plan in accordance with paragraph (d)(2) of this section may request a change to a different repayment plan after making one monthly payment under the FFEL standard repayment plan. For this purpose, a monthly payment may include one payment made under a forbearance that provides for temporarily accepting smaller payments than previously scheduled, in accordance with §682.211(a)(1).

(e) Eligibility documentation, and verification, and notifications. (1) The loan holder determines whether a borrower has a partial financial hardship to qualify for the income-based repayment plan for the year the borrower elects the plan and for each subsequent year that the borrower remains on the plan. To make this determination, the loan holder requires the borrower to—

(i) Provide written consent to the disclosure of AGI and other tax return information by the Internal Revenue Service to the loan holder. The borrower provides consent by signing a consent form and returning it to the loan holder, documentation, acceptable to the loan holder, of the borrower’s AGI;

(ii) If the borrower’s AGI is not available, or the loan holder believes that the borrower’s reported AGI does not reasonably reflect the borrower’s current income, the loan holder may use other documentation provided by the borrower to verify income; and

(iii) If the spouse of a married borrower who files a joint Federal tax return has eligible loans and the loan holder does not hold at least one of the spouse’s eligible loans—

(A) Ensure that the borrower’s spouse has provided consent for the loan holder to obtain information about the spouse’s eligible loans from the National Student Loan Data System; or

(B) Provide other documentation, acceptable to the loan holder, of the spouse’s eligible loan information; and

(iv) Annually certify the borrower’s family size. If the borrower fails to certify family size, the loan holder must assume a family size of one for that year.

(2) The loan holder designates the repayment option described in paragraph (d)(1) of this section for any borrower who selects the income-based repayment plan but—

(i) Fails to renew the required written consent for income verification; or

(ii) Withdraws consent and does not select another repayment plan.

(3) After making a determination that a borrower has a partial financial hardship to qualify for the income-based repayment plan for the year the borrower initially elects the plan and for any subsequent year that the borrower has a partial financial hardship, the loan holder must send the borrower a written notification that provides the borrower with—

(i) The borrower’s scheduled monthly payment amount, as calculated under paragraph (b)(1) of this section, and the time period during which this scheduled monthly payment amount will apply (annual payment period);

(ii) Information about the requirement for the borrower to annually provide the information described in paragraph (e)(1) of this section, if the borrower chooses to remain on the income-based repayment plan after the initial year on the plan, and an explanation that the borrower will be notified in advance of the date by which the loan holder must receive this information;

(iii) An explanation of the consequences, as described in paragraphs (e)(1)(iv) and (e)(7) of this section, if the borrower does not provide the required information;

(iv) An explanation of the consequences if the borrower no longer wishes to repay under the income-based repayment plan; and

(v) Information about the borrower’s option to request, at any time during the borrower’s current annual payment period, that the loan holder recalculate the borrower’s monthly payment amount if the borrower’s financial circumstances have changed and the income amount that was used to calculate the borrower’s current monthly payment no longer reflects the borrower’s current income. If the loan holder recalculates the borrower’s monthly payment amount based on the borrower’s request, the loan holder must send the borrower a written notification that includes the information described in paragraphs (e)(2)(i) through (e)(2)(v) of this section,

(3) For each subsequent year that a borrower who currently has a partial financial hardship remains on the income-based repayment plan, the loan holder must notify the borrower in writing of the requirements in paragraph (e)(1) of this section no later than 60 days and no earlier than 90 days prior to the date specified in paragraph (e)(3)(i) of this section. The notification must provide the borrower with—

(i) The date, no earlier than 35 days before the end of the borrower’s annual payment period, by which the loan holder must receive all of the information described in paragraph (e)(1) of this section (annual deadline); and

(ii) The consequences if the loan holder does not receive the information within 10 days following the annual deadline specified in the notice, including the borrower’s new monthly payment amount as determined under paragraph (d)(1) of this section, the effective date for the recalculated monthly payment amount, and the fact that unpaid accrued interest will be capitalized at the end of the borrower’s current annual payment period in accordance with paragraph (b)(5) of this section.

(4) Each time a loan holder makes a determination that a borrower no longer has a partial financial hardship for a subsequent year that the borrower wishes to remain on the plan, the loan holder must send the borrower a written notification that provides the borrower with—

(i) The borrower’s recalculated monthly payment amount, as determined in accordance with paragraph (d)(1) of this section;

(ii) An explanation that unpaid accrued interest will be capitalized in accordance with paragraph (b)(5) of this section; and
§682.215 Income-based repayment plan.

(iii) Information about the borrower’s option to request, at any time, that the loan holder redetermine whether the borrower has a partial financial hardship, if the borrower’s financial circumstances have changed and the income amount used to determine that the borrower no longer has a partial financial hardship does not reflect the borrower’s current income, and an explanation that the borrower will be notified annually of this option. If the loan holder determines that the borrower again has a partial financial hardship, the loan holder must recalculate the borrower’s monthly payment in accordance with paragraph (b)(1) of this section and send the borrower a written notification that includes the information described in paragraphs (e)(1)(i) through (e)(1)(v) of this section.

(5) For each subsequent year that a borrower who does not currently have a partial financial hardship remains on the income-based repayment plan, the loan holder must send the borrower a written notification that includes the information described in paragraph (e)(4)(iii) of this section.

(6) If a borrower who is currently repaying under another repayment plan selects the income-based repayment plan but does not provide the documentation described in paragraphs (e)(1)(i) through (e)(1)(iii) of this section, or if the loan holder determines that the borrower does not have a partial financial hardship, the borrower remains on his or her current repayment plan.

(7) The loan holder designates the repayment option described in paragraph (d)(1) of this section if a borrower who is currently repaying under the income-based repayment plan remains on the plan for a subsequent year but the loan holder does not receive the information described in paragraphs (e)(1)(i) through (e)(1)(iii) of this section within 10 days of the specified annual deadline, unless the loan holder is able to determine the borrower’s new monthly payment amount before the end of the borrower’s current annual payment period.

(8) If the loan holder receives the information described in paragraphs (e)(1)(i) through (e)(1)(iii) of this section within 10 days of the specified annual deadline—

(i) The loan holder must promptly determine the borrower’s new monthly payment amount.

(ii) If the loan holder does not determine the new monthly payment amount by the end of the borrower’s current annual payment period, the loan holder must prevent the borrower’s monthly payment amount from being recalculated in accordance with paragraph (d)(1) of this section and maintain the borrower’s current scheduled monthly payment amount until the loan holder determines the new monthly payment amount.

(A) If the new monthly payment amount is less than the borrower’s previously calculated income-based monthly payment amount, the loan holder must make the appropriate adjustment to the borrower’s account to reflect any payments at the previously calculated amount that the borrower made after the end of the most recent annual payment period. Notwithstanding the requirements of §682.209(b)(2)(ii), unless the borrower requests otherwise the loan holder applies the excess payment amounts made after the end of the most recent annual payment period in accordance with the requirements of paragraph (c)(1) of this section.

(B) If the new monthly payment amount is equal to or greater than the borrower’s previously calculated income-based monthly payment amount, the loan holder does not make any adjustments to the borrower’s account.

(iii) The new annual payment period begins on the day after the end of the most recent annual payment period.

(9) If the loan holder receives the documentation described in paragraphs (e)(1)(i) through (e)(1)(iii) of this section more than 10 days after the specified annual deadline and the borrower’s monthly payment amount is recalculated in accordance with paragraph (d)(1) of this section, the loan holder may grant forbearance with respect to payments that are overdue or would be due at the time the new calculated income-based monthly payment amount is determined. If the new monthly payment amount is $0.00 or is less than the borrower’s previously calculated income-based monthly payment amount. Interest that accrues during the portion of this forbearance period that covers payments that are overdue after the end of the prior annual payment period is not capitalized.

(i) Loan forgiveness. (1) To qualify for loan forgiveness after 25 years, the borrower must have participated in the income-based repayment plan and satisfied at least one of the following conditions during that period—

(ii) Made reduced monthly payments under a partial financial hardship as provided in paragraph (b)(1)(ii) of this section; and

(ii) Made reduced monthly payments after the borrower no longer had a partial financial hardship or stopped making income-based payments as provided in paragraph (d)(1) of this section;

(iii) Made monthly payments under any repayment plan, that were not less than the amount required under the FFEL standard repayment plan described in §682.209(a)(6)(vi) with a 10-year repayment period for the amount of the borrower’s loans that were outstanding at the time the loans initially entered repayment;

(iv) Made monthly payments under the FFEL standard repayment plan described in §682.209(a)(6)(vi) based on a 10-year repayment period for the amount of the borrower’s loans that were outstanding at the time the borrower first selected the income-based repayment plan; or

(v) Received an economic hardship deferment on eligible FFEL loans.

(2) As provided under paragraph (f)(4) of this section, the Secretary repays any outstanding balance of principal and accrued interest on FFEL loans for which the borrower qualifies for forgiveness if the guaranty agency determines that—

(i) The borrower made monthly payments under one or more of the repayment plans described in paragraph (f)(1) of this section, including a monthly amount of $0.00 as provided in paragraph (b)(1)(ii) of this section; and
§682.215 Income-based repayment plan.

(ii)(A) The borrower made those monthly payments each year for a 25-year period; or

(B) Through a combination of monthly payments and economic hardship deferments, the borrower made the equivalent of 25 years of payments.

(3) For a borrower who qualifies for the income-based repayment plan, the beginning date for the 25-year period is—

(i) For a borrower who has an eligible FFEL Consolidation Loan, the date the borrower made a payment or received an economic hardship deferment on that loan, before the date the borrower qualified for income-based repayment. The beginning date is the date the borrower made the payment or received the deferment, but no earlier than July 1, 2009;

(ii) For a borrower who has one or more other eligible FFEL loans, the date the borrower made a payment or received an economic hardship deferment on that loan. The beginning date is the date the borrower made that payment or received the deferment on that loan, but no earlier than July 1, 2009;

(iii) For a borrower who did not make a payment or receive an economic hardship deferment on the loan under paragraph (f)(3)(i) or (ii) of this section, the date the borrower made a payment under the income-based repayment plan on the loan; or

(iv) If the borrower consolidates his or her eligible loans, the date the borrower made a payment on the FFEL Consolidation Loan that met the conditions in paragraph (f)(1) after qualifying for the income-based repayment plan of this section.

(4) If a borrower satisfies the loan forgiveness requirements, the Secretary repays the outstanding balance and accrued interest on the FFEL Consolidation Loan described in paragraph (f)(3)(i), (iii), or (iv) of this section or other eligible FFEL loans described in paragraph (f)(3)(ii) or (iv) of this section.

(5) A borrower repaying a defaulted loan is not considered to be repaying under a qualifying repayment plan for the purpose of loan forgiveness, and any payments made on a defaulted loan are not made under a qualifying repayment plan and are not counted toward the 25-year forgiveness period.

(g) Loan forgiveness processing and payment.

(1) The loan holder determines when a borrower has met the loan forgiveness requirements under paragraph (f) of this section and does not require the borrower to submit a request for loan forgiveness. No later than six months prior to the anticipated date that the borrower will meet the loan forgiveness requirements, the loan holder must send the borrower a written notice that includes—

(i) An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;

(ii) A reminder that the borrower must continue to make the borrower’s scheduled monthly payments; and

(iii) General information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.

(2) No later than 60 days after the loan holder determines that a borrower qualifies for loan forgiveness under paragraph (f)(1) of this section, the loan holder must request payment from the guaranty agency.

(3) If the loan holder requests payment from the guaranty agency later than the period specified in paragraph (g)(1) of this section, interest that accrues on the discharged amount after the expiration of the 60-day filing period is ineligible for reimbursement by the Secretary, and the holder must repay all interest and special allowance received on the discharged amount for periods after the expiration of the 60-day filing period. The holder cannot collect from the borrower any interest that is not paid by the Secretary under this paragraph.

(4) If a borrower satisfies the loan forgiveness requirements, the guaranty agency must determine if the borrower meets the eligibility requirements for loan forgiveness under this section and must notify the holder of its determination.

(ii) If the guaranty agency approves the loan forgiveness, it must, within the same 45-day period required under paragraph (g)(34)(i) of this section, pay the holder the amount of the forgiveness.

(5) After being notified by the guaranty agency of its determination of the eligibility of the borrower for loan forgiveness, the holder must, within 30 days—

(i) Inform the borrower of the determination and, if appropriate, that the borrower’s repayment obligation on the loans for which income-based forgiveness was requested is satisfied; and

(ii) The lender must also provide the borrower with the information on the required handling of the forgiveness amount described in paragraph (g)(1)(iii) of this section.

(6) The holder must apply the proceeds of the income-based repayment loan forgiveness amount payment from the guaranty agency under paragraph (g)(4)(ii) of this section to satisfy the outstanding balance on those loans for which subject to income-based forgiveness was requested; or

(ii) If the forgiveness amount exceeds the outstanding balance on the eligible loans subject to forgiveness, the loan holder must refund the excess amount to the guaranty agency.

(7) If the guaranty agency does not pay the forgiveness claim, the lender will continue the borrower in repayment on the loan. The lender is deemed to have exercised forbearance of both principal and interest from the date the borrower’s repayment obligation was suspended until a new payment due date is established. Unless the denial of the forgiveness claim was due to an error by the lender, the lender may capitalize any interest accrued and not paid during this period, in accordance with §682.202(b).

(8) The loan holder must promptly return to the sender any payment received on a loan after the guaranty agency pays the loan holder the amount of loan forgiveness.
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(c)(1) **Total and permanent disability.** (i) A borrower's loan is discharged if the borrower becomes totally and permanently disabled, as defined in §682.200(b), and satisfies the eligibility requirements in this section.

(ii) For a borrower who becomes totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b), the borrower's loan discharge application is processed in accordance with paragraphs (c)(2) through (c)(28) of this section.

(iii) For a veteran who is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the veteran's loan discharge application is processed in accordance with paragraph (c)(29) of this section.

(iv) For purposes of this paragraph (c)—

(A) A borrower's representative or a veteran's representative is a member of the borrower's family, the borrower's attorney, or another individual authorized to act on behalf of the borrower in connection with the borrower's total and permanent disability discharge application. References to a "borrower" or a "veteran" include, if applicable, the borrower's representative or the veteran's representative for purposes of applying for a total and permanent disability discharge, providing notifications or information to the Secretary; and receiving notifications from the Secretary;

(B) References to "the lender" mean the guaranty agency if the guaranty agency is the holder of the loan at the time the borrower applies for a total and permanent disability discharge, except that the total and permanent disability discharge claim filing requirements applicable to a lender do not apply to the guaranty agency; and

(C) References to "the applicable guaranty agency" mean the guaranty agency that guarantees the loan.

(2) Discharge application process for a borrower who is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b). After being notified by the borrower or the borrower's representative that the borrower claims to be totally and permanently disabled, the lender promptly requests that(i) if the borrower or the borrower's representative submit a discharge application to the lender on a form approved by the Secretary. The application must contain a certification by a physician, who is a doctor of medicine or osteopathy legally authorized to practice in a State, that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b). The borrower must submit the application to the lender within 90 days of the date the physician certifies the application. If the lender and guaranty agency approve the discharge claim under the procedures in paragraph (c)(7) of this section, the guaranty agency must assign the loan to the Secretary notifies the lender that the borrower claims to be totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b), the lender must direct the borrower to notify the Secretary of the borrower's intent to submit an application for total and permanent disability discharge and provide the borrower with the information needed for the borrower to notify the Secretary.

(ii) If the borrower notifies the Secretary of the borrower's intent to apply for a total and permanent disability discharge, the Secretary—

(A) Provides the borrower with information needed for the borrower to apply for a total and permanent disability discharge;

(B) Identifies all title IV loans owed by the borrower and notifies the lenders of the borrower's intent to apply for a total and permanent disability discharge;

(C) Informs the borrowers of the lender's efforts to collect from the borrower for a period not to exceed 120 days; and

(D) Informs the borrower that the suspension of collection activity described in paragraph (c)(2)(ii)(C) of this section will end after 120 days and collection will resume on the loans if the borrower does not submit a total and permanent disability discharge application to the Secretary within that time;

(iii) If the borrower fails to submit an application for a total and permanent disability discharge to the Secretary within 120 days, collection resumes on the borrower's title IV loans, and the lender is deemed to have exercised forbearance of principal and interest from the date it suspended collection activity. The lender may capitalize, in accordance with §682.202(b), any interest accrued and not paid during that period, except that if the lender is a guaranty agency it may not capitalize accrued interest.

(iv) The borrower must submit to the Secretary an application for a total and permanent disability discharge on a form approved by the Secretary. The application must contain—

(A) A certification by a physician, who is a doctor of medicine or osteopathy legally authorized to practice in a State, that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b); or

(B) An SSA notice of award for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits indicating that the borrower's next scheduled disability review will be within five to seven years.

(v) The borrower must submit the application described in paragraph (c)(2)(iv) of this section to the Secretary within 90 days of the date the physician certifies the application, if applicable.

(vi) After the Secretary receives the application described in paragraph (c)(2)(iv) of this section, the Secretary notifies the holders of the borrower's title IV loans, that the Secretary has received a total and permanent disability discharge application from the borrower. The holders of the loans must notify the applicable guaranty agencies that the total and permanent disability discharge application has been received.

(vii) If the application is incomplete, the Secretary notifies the borrower of the missing information and requests the missing information from the borrower or the physician who provided the certification, as appropriate. The Secretary does not make a determination of eligibility until the application is complete.
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(viii) The lender notification described in paragraph (c)(2)(vi) of this section directs the borrower’s loan holders to suspend collection activity or maintain the suspension of collection activity on the borrower’s title IV loans.

(ix) After the Secretary receives the disability discharge application, the Secretary sends a notice to the borrower that—

(A) States that the application will be reviewed by the Secretary;

(B) Informs the borrower that the borrower’s lenders will suspend collection activity or maintain the suspension of collection activity on the borrower’s title IV loans while the Secretary reviews the borrower’s application for a discharge; and

(C) Explains the process for the Secretary’s review of total and permanent disability discharge applications.

(3) Secretary’s eligibility determination review of total and permanent disability discharge application. (i) If, after reviewing the borrower’s completed application, the Secretary determines that the physician’s certification provided by the borrower or the SSA notice of award for SSDI or SSI benefits supports the conclusion that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in §682.200(b), the borrower is considered totally and permanently disabled—

(A) As of the date the physician certified the borrower’s application; or

(B) As of the date the Secretary received the SSA notice of award for SSDI or SSI benefits.

(ii) The Secretary may require the borrower to submit additional medical evidence if the Secretary determines that the borrower’s application does not conclusively prove that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b). As part of the Secretary’s review of the borrower’s discharge application, the Secretary may require and arrange for an additional review of the borrower’s condition by an independent physician at no expense to the borrower.

(iii) Upon making a determination, after determining that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b), the Secretary notifies the borrower and the borrower’s lenders that the application for a disability discharge has been approved. With this notification, the Secretary provides the date the physician certified the borrower’s loan discharge application or the date the Secretary received the SSA notice of award for SSDI or SSI benefits and directs the borrower to submit a disability claim to the guaranty agency so that the loan can be assigned to the Secretary. The Secretary returns any payment received by the Secretary after the date the physician certified the borrower’s loan discharge application or received the SSA notice of award for SSDI or SSI benefits to the person who made the payment.

(iv) After the loan is assigned, the Secretary discharges the borrower’s obligation to make further payments on the loan and notifies the borrower and the lender that the loan has been discharged. Any payments received after the date the physician certified the borrower’s loan discharge application are returned to the person who made the payments on the loan. The notification to the borrower explains the terms and conditions under which the borrower’s obligation to repay the loan will be reinstated, as specified in paragraph (c)(5)(i) of this section.

(v) If the Secretary determines that the physician’s certification or SSA notice of award for SSDI or SSI benefits provided by the borrower does not support the conclusion that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b), the Secretary notifies the borrower and the lender that the application for a disability discharge has been denied. The notification includes—

(A) The reason or reasons for the denial;

(B) A statement that the loan is due and payable to the Secretary or lender under the terms of the promissory note, and that the loan will return to the status that would have existed had the total and permanent disability discharge application not been received;

(C) A statement that the lender will notify the borrower of the date the borrower must resume making payments on the loan;

(D) An explanation that the borrower is not required to submit a new total and permanent disability discharge application if the borrower requests that the Secretary re-evaluate the application for discharge by providing, within 12 months of the date of the notification, additional information that supports the borrower’s eligibility for discharge, and

(E) An explanation that if the borrower does not request re-evaluation of the borrower’s prior discharge application within 12 months of the date of the notification, the borrower must submit a new total and permanent disability discharge application to the Secretary if the borrower wishes the Secretary to re-evaluate the borrower’s eligibility for a total and permanent disability discharge.

(vi) If the borrower requests re-evaluation in accordance with paragraph (c)(3)(v)(D) of this section or submits a new total and permanent disability discharge application in accordance with paragraph (c)(3)(v)(E) of this section, the request must include new information regarding the borrower’s disabling condition that was not provided to the Secretary in connection with the prior application at the time the Secretary reviewed the borrower’s initial application for a total and permanent disability discharge.

(iv) The Secretary reserves the right to require the borrower to submit additional medical evidence if the Secretary determines that the borrower’s application does not conclusively prove that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b). As part of the Secretary’s review of the borrower’s discharge application, the Secretary may arrange for an additional review of the borrower’s condition by an independent physician at no expense to the borrower.
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(4) Treatment of disbursements made during the period from the date of the physician’s certification or the date the Secretary received the SSA notice of award for SSDI or SSI benefits until the date of discharge. If a borrower received a Title IV loan or TEACH Grant prior to the date the physician certified the borrower’s discharge application or before the date the Secretary received the SSA notice of award for SSDI or SSI benefits and a disbursement of that loan or grant is made during the period from the date of the physician’s certification or the Secretary’s receipt of the SSA notice of award for SSDI or SSI benefits until the date the Secretary grants a discharge under this section, the processing of the borrower’s loan discharge request will be suspended until the borrower ensures that the full amount of the disbursement has been returned to the loan holder or to the Secretary, as applicable.

(5) Receipt of new Title IV loans or TEACH Grants after the date of the physician’s certification or after the date the Secretary received the SSA notice of award for SSDI or SSI benefits. If a borrower receives a disbursement of a new Title IV loan or receives a new TEACH Grant made on or after the date the physician certified the borrower’s discharge application or the date the Secretary received the SSA notice of award for SSDI or SSI benefits and before the date the Secretary grants a discharge under this section, the Secretary denies the borrower’s discharge request and collection resumes on the borrower’s loans.

(6) Conditions for reinstatement of a loan after a total and permanent disability discharge. (i) The Secretary reinstates the borrower’s obligation to repay a loan that was discharged in accordance with paragraph (c)(3)(iiii) of this section if, within three years after the date the Secretary granted the discharge, the borrower—

(A) Has annual earnings from employment that exceed 100 percent of the poverty guideline for a family of two, as published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2);

(B) Receives a new TEACH Grant or a new loan under the Perkins, FFEL, or Direct Loan programs, except for a FFEL or Direct Consolidation Loan that includes loans that were not discharged; or

(C) Fails to ensure that the full amount of any disbursement of a Title IV loan or TEACH Grant received prior to the discharge date that is made during the three-year period following the discharge date is returned to the loan holder or to the Secretary, as applicable, within 120 days of the disbursement date; or

(D) Receives a notice from the SSA indicating that the borrower is no longer disabled or that the borrower’s continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits.

(ii) If the borrower’s obligation to repay a loan is reinstated, the Secretary—

(A) Notifies the borrower that the borrower’s obligation to repay the loan has been reinstated; and

(B) Returns the loan to the status that would have existed if the total and permanent disability discharge application had not been received; and

(C) Does not require the borrower to pay interest on the loan for the period from the date the loan was discharged until the date the borrower’s obligation to repay the loan was reinstated.

(iii) The Secretary’s notification under paragraph (c)(6)(iiii)(A) of this section will include—

(A) The reason or reasons for the reinstatement;

(B) An explanation that the first payment due date on the loan following reinstatement will be no earlier than 60 days after the date of the notification of reinstatement; and

(C) Information on how the borrower may contact the Secretary if the borrower has questions about the reinstatement or believes that the obligation to repay the loan was reinstated based on incorrect information.

(67) Borrower’s responsibilities after a total and permanent disability discharge. During the three-year period described in paragraph (c)(6)(iiii) of this section, the borrower or, if applicable, the borrower’s representative must—

(i) Promptly notify the Secretary of any changes in the borrower’s address or phone number;

(ii) Promptly notify the Secretary if the borrower’s annual earnings from employment exceed the amount specified in paragraph (c)(67)(iiii)(A) of this section; and

(iii) Provide the Secretary, upon request, with documentation of the borrower’s annual earnings from employment on a form approved by the Secretary;

(iv) Promptly notify the Secretary if the borrower receives a notice from the SSA indicating that the borrower is no longer disabled or that the borrower’s continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits.
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(78) Lender and guaranty agency actions. (i) After being notified by a borrower or a borrower's representative that the borrower claims to be totally and permanently disabled, the lender must continue collection activities until it receives either the certification of total and permanent disability from a physician or a letter from a physician stating that the certification has been requested and that additional time is needed to determine if the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b). Except as provided in paragraph (c)(7)(iii) of this section, after receiving the physician's certification or letter the lender may not attempt to collect from the borrower or any endorser. If the Secretary approves the borrower's total and permanent disability discharge application—

(ii) The lender must submit a disability claim to the guaranty agency if the borrower submits a certification by a physician and the lender makes a determination that the certification supports the conclusion that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b), in accordance with paragraph (g)(1) of this section;

(iii) The guaranty agency must assign the loan to the Secretary within 45 days of the date the guaranty agency pays the disability claim and receives the reimbursement payment, or within 45 days of the date the guaranty agency receives the notice described in paragraph (c)(3)(iii) of this section if a guaranty agency is the lender;

(iv) The guaranty agency must pay a claim submitted by the lender if the guaranty agency has reviewed the application and determined that it is complete and that it supports the conclusion that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in §682.200(b);

(v) If the guaranty agency does not pay the disability claim, the guaranty agency must return the claim to the lender with an explanation of the basis for the agency's denial of the claim. Upon receipt of the returned claim, the lender must notify the borrower that the application for a disability discharge has been denied, provide the basis for the denial, and inform the borrower that the lender will resume collection on the loan. The lender is deemed to have exercised forbearance of payment of both principal and interest from the date collection activity was suspended. The lender may capitalize, in accordance with §682.202(b), any interest accrued and not paid during that period, except if the lender is a guaranty agency it may not capitalize accrued interest;

(vi) If the guaranty agency pays the disability claim, the lender must notify the borrower that—

(A) The loan will be assigned to the Secretary for determination of eligibility for a total and permanent disability discharge and that no payments are due on the loan; and

(B) If the Secretary discharges the loan based on a determination that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §682.200(b), the Secretary will reinstate the borrower's obligation to repay the loan if, within three years after the date the Secretary granted the discharge, the borrower—

(1) Receives annual earnings from employment that exceed 100 percent of the poverty guideline for a family of two, as published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2);

(2) Receives a new TEACH Grant or a new Title IV loan, except for a FFEL or Direct Consolidation Loan that includes loans that were not discharged; or

(3) Fails to ensure that the full amount of any disbursement of a Title IV loan or TEACH Grant received prior to the discharge date that is made during the three-year period following the discharge date is returned to the loan holder or to the Secretary, as applicable, within 120 days of the disbursement date.

(ii) After receiving a claim payment from the guaranty agency, the lender must forward to the guaranty agency any payments subsequently received from or on behalf of the borrower.

(iii) The Secretary reimburses the guaranty agency for a disability claim paid to the lender after the agency pays the claim to the lender.

(iv) The guaranty agency must assign the loan to the Secretary after the guaranty agency pays the disability claim.

(89) Discharge application process for veterans who are totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b). (i) General. After being notified by the veteran or the veteran's representative that the veteran claims to be totally and permanently disabled, the lender promptly requests that the veteran or the veteran's representative submit a discharge application to the lender, on a form approved by the Secretary. If a veteran notifies the lender that the veteran claims to be totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the lender must direct the veteran to notify the Secretary of the veteran's intent to submit an application for a total and permanent disability discharge and provide the veteran with the information needed for the veteran to apply for a total and permanent disability discharge to the Secretary.

(ii) If the veteran notifies the Secretary of the veteran's intent to apply for a total and permanent disability discharge, the Secretary—
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(A) Provides the veteran with information needed for the veteran to apply for a total and permanent disability discharge;

(B) Identifies all title IV loans owed by the veteran and notifies the lenders of the veteran’s intent to apply for a total and permanent disability discharge;

(C) Directs the lenders to suspend efforts to collect from the veteran for a period not to exceed 120 days; and

(D) Informs the veteran that the suspension of collection activity described in paragraph (c)(9)(iii)(C) of this section will end after 120 days and the lender will resume collection on the loans if the veteran does not submit a total and permanent disability discharge application to the Secretary within that time.

(iii) If the veteran fails to submit an application for a total and permanent disability discharge to the Secretary within 120 days, collection resumes on the veteran’s title IV loans and the lender is deemed to have exercised forbearance of principal and interest from the date it suspended collection activity. The lender may capitalize, in accordance with §682.202(b), any interest accrued and not paid during that period, except that if the lender is a guaranty agency it may not capitalize accrued interest.

(iv) The veteran must submit to the Secretary an application for a total and permanent disability discharge on a form approved by the Secretary.

(v) The application must be accompanied by documentation from the Department of Veterans Affairs showing that the Department of Veterans Affairs has determined that the veteran is unemployable due to a service-connected disability. The veteran will not be required to provide any additional documentation related to the veteran’s disability.

(vi) After the Secretary receives the application and supporting documentation described in paragraphs (c)(9)(iv) and (c)(9)(v) of this section, the Secretary notifies the holders of the veteran’s title IV loans, that the Secretary has received a total and permanent disability discharge application from the veteran. The holders of the loans must notify the applicable guaranty agencies that the total and permanent disability discharge application has been received.

(vii) If the application is incomplete, the Secretary notifies the veteran of the missing information and requests the missing information from the veteran or the veteran’s representative. The Secretary does not make a determination of eligibility until the application is complete.

(viii) The lender notification described in paragraph (c)(9)(vi) of this section directs the lenders to suspend collection activity or maintain the suspension of collection activity on the veteran’s title IV loans.

(ix) After the Secretary receives the disability discharge application, the Secretary sends a notice to the veteran that—

(A) States that the application will be reviewed by the Secretary;

(B) Informs the veteran that the veteran’s lenders will suspend collection activity on the veteran’s title IV loans while the Secretary reviews the veteran’s application for a discharge; and

(C) Explains the process for the Secretary’s review of total and permanent disability discharge applications.

(x) After making a determination that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the Secretary notifies the veteran and the veteran’s lenders that the application for a disability discharge has been approved. With this notification, the Secretary provides the effective date of the determination and directs each lender to submit a disability claim to the guaranty agency.

(xi) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is not totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the Secretary notifies the veteran and the lender that the application for a disability discharge has been denied. The notification includes—

(A) The reason or reasons for the denial;

(B) An explanation that the loan is due and payable to the lender under the terms of the promissory note and that the loan will return to the status it was in at the time the veteran applied for a total and permanent disability discharge;

(C) An explanation that the lender will notify the veteran of the date the veteran must resume making payments on the loan;

(D) An explanation that the veteran is not required to submit a new total and permanent disability discharge application if the veteran requests that the Secretary re-evaluate the application for discharge by providing, within 12 months of the date of the notification, additional documentation from the Department of Veterans Affairs that supports the veteran’s eligibility for discharge; and

(E) Information on how the veteran may reapply for a total and permanent disability discharge in accordance with procedures described in paragraphs (c)(2) through (c)(8) of this section. If the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), but indicates that the veteran may be totally and permanently disabled as described in paragraph (1) of the definition of that term, the veteran is deemed to have exercised forbearance of principal and interest from the date it suspended collection activity. The lender may capitalize, in accordance with §682.202(b), any interest accrued and not paid during that period, except that if the lender is a guaranty agency it may not capitalize accrued interest.

(xii) Lender and guaranty agency actions. (A) After being notified by a veteran or a veteran’s representative that the veteran claims to be totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the lender must continue collection activities until it receives the veteran’s completed loan discharge application with the required documentation. If the Secretary approves the veteran’s total and permanent disability discharge application based on the documentation from the Department of Veterans Affairs, as described in paragraph (9)(i) of this section. Except as provided in paragraph (c)(9)(ii)(C) of this section, the lender will not attempt to collect from the veteran or any endorser after receiving the
veteran's discharge application and documentation from the Department of Veterans Affairs the lender must submit a disability claim to the guaranty agency, in accordance with paragraph (g)(1) of this section.

(B) If the veteran submits a completed loan discharge application and the required documentation from the Department of Veterans Affairs, and the documentation indicates that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the lender must submit a disability claim to the guaranty agency.

(C) If the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the lender—

(B) If the claim meets the requirements of paragraph (g)(1) of this section and §682.406, the guaranty agency must pay the claim and discharge the loan.

(C) The Secretary reimburses the guaranty agency for a disability claim after the agency pays the claim to the lender.

(D) Upon receipt of the claim payment from the guaranty agency, the lender returns any payments received by the lender on or after the effective date of the determination by the Department of Veterans Affairs to the person who made the payments.

(E) If the Secretary does not approve the veteran's total and permanent disability discharge application based on documentation from the Department of Veterans Affairs, the lender—

(1) Must inform the veteran that he or she may reapply for a total and permanent disability discharge in accordance with the procedures described in §682.402(c)(2) through (c)(7), if the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), but indicates that the veteran may be totally and permanently disabled as described in paragraph (1) of the definition of that term.

(2) Must inform the veteran that he or she may reapply for a total and permanent disability discharge in accordance with the procedures described in §682.402(c)(2) through (c)(7), if the documentation from the Department of Veterans Affairs indicates that the borrower is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the guaranty agency must submit a copy of the veteran's discharge application and supporting documentation to the Secretary, and must notify the veteran that the veteran's loan discharge request has been referred to the Secretary for a determination of discharge eligibility.

(E) If the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the guaranty agency does not pay the disability claim and must return the claim to the lender with an explanation of the basis for the agency's denial of the claim. Upon receipt of the returned claim, the lender must notify the veteran that the application for a disability discharge has been denied, provide the basis for the denial, and inform the veteran that the lender will resume collection on the loan. The lender is deemed to have exercised forbearance of payment of both principal and interest from the date collection activity was suspended until the first payment due date. The lender may capitalize, in accordance with §682.202(b), any interest accrued and not paid during that period, except that if the lender is a guaranty agency it may not capitalize accrued interest.

(F) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is not totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the Secretary notifies the guaranty agency that the veteran's obligation to make any further payments on the loan has been discharged and returns to the person who made the payments on the loan any payments received on or after the effective date of the determination by the Department of Veterans Affairs that the veteran is unemployable due to a service-connected disability.

(G) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is not totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200(b), the Secretary notifies the guaranty agency of this determination. Upon notification by the Secretary that the veteran is not eligible for a discharge, the guaranty agency and the lender must follow the procedures described in paragraph (c)(8)(ii)(E) of this section.

(H) The Secretary reimburses the guaranty agency for a disability claim paid to the lender after the agency pays the claim to the lender.
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(g) Claim procedures for a loan held by a lender—(1) Documentation. A lender shall provide the guaranty agency with the following documentation when filing a death, disability, closed school, false certification, or bankruptcy claim:

(i) The original or a true and exact copy of the promissory note.

(ii) The loan application, if a separate loan application was provided to the lender.

(iii) In the case of a death claim, an original or certified death certificate, or other documentation supporting the discharge request that formed the basis for the determination of death.

(iv) In the case of a disability claim, a copy of the certification of disability described in paragraph (c)(2) of this section or notification described in paragraph (c)(3)(iii) or (c)(9)(ix) of this section in which the Secretary notifies the lender that the borrower is totally and permanently disabled.

(v) In the case of a bankruptcy claim—

(A) Evidence that a bankruptcy petition has been filed, all pertinent documents sent to or received from the bankruptcy court by the lender, and an assignment to the guaranty agency of any proof of claim filed by the lender regarding the loan; and

(B) A statement of any facts of which the lender is aware that may form the basis for an objection or exception to the discharge of the borrower's loan obligation in bankruptcy and all documents supporting those facts.

(vi) In the case of a closed school claim, the documentation described in paragraph (d)(3) of this section, or any other documentation as the Secretary may require;

(vii) In the case of a false certification claim, the documentation described in paragraph (e)(3) of this section.

(2) Filing deadlines. A lender shall file a death, disability, closed school, false certification, or bankruptcy claim within the following periods:

(i) Within 60 days of the date on which the lender determines that a borrower (or the student on whose behalf a parent obtained a PLUS loan) has died, or the lender determines that the borrower is totally and permanently disabled.

(ii) Within 60 days of the date the lender received notification from the Secretary that the borrower is totally and permanently disabled, in accordance with paragraphs (c)(3)(iii) or (c)(9)(ix) of this section.

(iii) In the case of a closed school claim, the lender shall file a claim with the guaranty agency no later than 60 days after the borrower submits to the lender the written request and sworn statement described in paragraph (d)(3) of this section or after the lender is notified by the Secretary or the Secretary's designee or by the guaranty agency to do so.

(iv) In the case of a false certification claim, the lender shall file a claim with the guaranty agency no later than 60 days after the borrower submits to the lender the written request and sworn statement described in paragraph (e)(3) of this section or after the lender is notified by the Secretary or the Secretary's designee or by the guaranty agency to do so.

(A) 30 days after the date on which the lender receives notice of the first meeting of creditors or other information described in paragraph (f)(3) of this section; or

(B) 15 days after the lender is served with a complaint or motion to have the loan determined to be dischargeable on grounds of undue hardship, or, if the lender secures an extension of time within which an answer may be filed, 25 days before the expiration of that extended period, whichever is later.
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(h) Payment of death, disability, closed school, false certification, and bankruptcy claims by the guaranty agency—

(i) General. (i) Except as provided in paragraph (h)(1)(v) of this section, the guaranty agency shall review a death, disability, bankruptcy, closed school, or false certification claim promptly and shall pay the lender on an approved claim the amount of loss in accordance with paragraphs (h)(2) and (h)(3) of this section—

(A) Not later than 45 days after the claim was filed by the lender for death, disability, and bankruptcy claims; and

(B) Not later than 90 days after the claim was filed by the lender for disability, closed school, or false certification claims.

(ii) In the case of a bankruptcy claim, the guaranty agency shall, upon receipt of the claim from the lender, immediately take those actions required under paragraph (i) of this section to oppose the discharge of the loan by the bankruptcy court.

(iii) In the case of a closed school claim or a false certification claim based on the determination that the borrower did not sign the loan application, the promissory note, or the authorization for the electronic transfer of loan funds, or that the school failed to test, or improperly tested, the student’s ability to benefit, the guaranty agency shall document its determination that the borrower is eligible for discharge under paragraphs (d) or (e) of this section and pay the borrower or the holder the amount determined under paragraph (h)(2) of this section.

(iv) In reviewing a claim under this section, the issue of confirmation of subsequent loans under an MPN will not be reviewed and a claim will not be denied based on the absence of any evidence relating to confirmation in a particular loan file. However, if a court rules that a loan is unenforceable solely because of the lack of evidence of the confirmation process or processes, insurance benefits must be repaid.

(v) In the case of a disability claim based on a veteran’s discharge request application processed in accordance with §682.402(iii) of this section, the guaranty agency must—

(A) Review the claim promptly and not later than 45 days after the claim was filed by the lender submit the veteran’s discharge application and supporting documentation to the Secretary; pay the claim or return the claim to the lender in accordance with §682.402(iii) of this section, as applicable; and

(B) Not later than 45 days after receiving notification from the Secretary of the veteran’s eligibility or ineligibility for discharge, pay the claim or return the claim to the lender in accordance with §682.402(c)(8)(ii)(E) or (G), as applicable.

(2)(i) The amount of loss payable—

(A) On a death or disability claim is equal to the sum of the remaining principal balance and interest accrued on the loan, collection costs incurred by the lender and applied to the borrower’s account within 30 days of the date those costs were actually incurred, and unpaid interest up to the date the lender should have filed the claim.

(B) On a bankruptcy claim is equal to the unpaid balance of principal and interest determined in accordance with paragraph (h)(3) of this section.

(ii) The amount of loss payable to a lender on a closed school claim or on a false certification claim is equal to the sum of the remaining principal balance and interest accrued on the loan, collection costs incurred by the lender and applied to the borrower’s account within 30 days of the date those costs were actually incurred, and unpaid interest determined in accordance with paragraph (h)(3) of this section.

(iii) In the case of a closed school or false certification claim filed by a lender on an outstanding loan owed by the borrower, on the same date that the agency pays a claim to the lender, the agency shall pay the borrower an amount equal to the amount paid on the loan by or on behalf of the borrower, less any school tuition refunds or payments received by the borrower or the borrower from a tuition recovery fund, performance bond, or other third-party source.

(iv) In the case of a claim filed by a lender based on a request received from a borrower whose loan had been repaid in full by, or on behalf of the borrower to the lender, on the same date that the agency notifies the lender that the borrower is eligible for a closed school or false certification discharge, the agency shall pay the borrower an amount equal to the amount paid on the loan by or on behalf of the borrower, less any school tuition refunds or payments received by the holder or the borrower from a tuition recovery fund, performance bond, or other third-party source.

(v) In the case of a loan that has been included in a Consolidation Loan, the agency shall pay to the holder of the borrower's Consolidation Loan, an amount equal to—

(A) The amount paid on the loan by or on behalf of the borrower at the time the loan was paid through consolidation;

(B) The amount paid by the consolidating lender to the holder of the loan when it was repaid through consolidation; minus

(C) Any school tuition refunds or payments received by the holder or the borrower from a tuition recovery fund, performance bond, or other third-party source if those refunds or payments were—

(1) Received by the borrower or received by the holder and applied to the borrower's loan balance before the date the loan was repaid through consolidation; or

(2) Received by the borrower or received by the Consolidation Loan holder on or after the date the consolidating lender made a payment to the former holder to discharge the borrower's obligation to that former holder.

(3) Payment of interest. If the guarantee covers unpaid interest, the amount payable on an approved claim includes the unpaid interest that accrues during the following periods:

(i) During the period before the claim is filed, not to exceed the period provided for in paragraph (g)(2) of this section for filing the claim.
§682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

(ii) During a period not to exceed 30 days following the receipt date by the lender of a claim returned by the guaranty agency for additional documentation necessary for the claim to be approved by the guaranty agency.

(iii) During the period required by the guaranty agency to approve the claim and to authorize payment or to return the claim to the lender for additional documentation not to exceed—

(A) 45 days for death, disability, or bankruptcy claims; or

(B) 90 days for disability, closed school, or false certification claims.
§685.213 Total and permanent disability discharge.

(a) General. (1) A borrower’s Direct Loan is discharged if the borrower becomes totally and permanently disabled, as defined in 34 CFR 682.200(b) §685.102(b), and satisfies the eligibility requirements in this section.

(2) For a borrower who becomes totally and permanently disabled as described in paragraph (1) of the definition of that term in 34 CFR 682.200(b) §685.102(b), the borrower’s loan discharge application is processed in accordance with paragraph (b) of this section.

(3) For veterans who are totally and permanently disabled as described in paragraph (2) of the definition of that term in 34 CFR 682.200(b) §685.102(b), the veteran’s loan discharge application is processed in accordance with paragraph (c) of this section.

(b) Discharge application process. (1) Borrower application for discharge. To qualify for a discharge of a Direct Loan based on a total and permanent disability, a borrower must submit a discharge application to the Secretary on a form approved by the Secretary. If the borrower notifies the Secretary that the borrower claims to be totally and permanently disabled prior to submitting a total and permanent disability discharge application, the Secretary—

(i) Provides the borrower with information needed for the borrower to apply for a total and permanent disability discharge;

(ii) Suspends collection activity on any of the borrower’s title IV loans held by the Secretary, and notifies the borrower’s other title IV loan holders to suspend collection activity on the borrower’s title IV loans for a period not to exceed 120 days; and

(iii) Informs the borrower that the suspension of collection activity will end after 120 days and collection will resume on the loans if the borrower does not submit a total and permanent disability discharge application to the Secretary within that time.

(ii) Physician certification of Social Security Administration (SSA) disability notice of award. The application must contain—

(i) A certification by a physician, who is a doctor of medicine or osteopathy legally authorized to practice in a State, that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in 34 CFR 682.200(b) §685.102(b); or

(ii) An SSA notice of award for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits indicating that the borrower’s next scheduled disability review will be within five to seven years.

(iii) Deadline for application submission. The borrower must submit the application described in paragraph (b)(1) of this section to the Secretary within 90 days of the date the physician certifies the application. Upon receipt of the borrower’s application if applicable, the Secretary—

(i) Identifies all title IV loans owed by the borrower, notifies the lenders that the Secretary has received a total and permanent disability discharge application from the borrower and directs the lenders to suspend collection activity or maintain the suspension of collection activity on the borrower’s title IV loans;

(ii) If the application is incomplete, notifies the borrower of the missing information and requests the missing information from the borrower or the physician who certified the application, as appropriate, and does not make a determination of eligibility for discharge until the application is complete;

(iii) Notifies the borrower that no payments are due on the loan while the Secretary determines the borrower’s eligibility for discharge; and

(iv) Explains the process for the Secretary’s review of total and permanent disability discharge applications.

(c) Determination of eligibility. (i) If, after reviewing the borrower’s completed application, the Secretary determines that the physician’s certification provided by the borrower or the SSA notice of award for SSDI or SSI benefits supports the conclusion that the borrower meets the criteria for a total and permanent disability discharge, as described in paragraph (1) of the definition of that term in 34 CFR 682.200(b) §685.102(b), the borrower is considered totally and permanently disabled—

(A) As of the date the physician certifies the borrower’s application; or

(B) As of the date the Secretary received the SSA notice of award for SSDI or SSI benefits.

(ii) The Secretary may require the borrower to submit additional medical evidence if the Secretary determines that the borrower’s application does not conclusively prove that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §685.102(b). As part of the Secretary’s review of the borrower’s discharge application, the Secretary may require and arrange for an additional review of the borrower’s condition by an independent physician at no expense to the borrower.

(iii) Upon making a determination. After determining that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in 34 CFR 682.200(b) §685.102(b), the Secretary discharges the borrower’s obligation to make any further payments on the loan, notifies the borrower that the loan has been discharged, and returns to the person who made the payments on the loan any payments received after the date the physician certified the borrower’s loan discharge application or the date the Secretary received the SSA notice of award for SSDI or SSI benefits.
§685.213 Total and permanent disability discharge.

Secretary received the SSA notice of award for SSDI or SSI benefits. The notification to the borrower explains the terms and conditions under which the borrower’s obligation to repay the loan will be reinstated, as specified in paragraph (b)(47)(i) of this section. 

(iii) If the Secretary determines that the physician’s certification or the SSA notice of award for SSDI or SSI benefits provided by the borrower does not support the conclusion that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in 34 CFR 682.200(b) §685.102(b), the Secretary notifies the borrower that the application for a disability discharge has been denied, and that the loan is due and payable to the Secretary under the terms of the promissory note. The notification to the borrower includes—

(A) The reason or reasons for the denial;

(B) A statement that the loan is due and payable to the Secretary under the terms of the promissory note and that the loan will return to the status that would have existed if the total and permanent disability discharge application had not been received;

(C) The date that the borrower must resume making payments;

(D) An explanation that the borrower is not required to submit a new total and permanent disability discharge application if the borrower requests that the Secretary re-evaluate the borrower’s application for discharge by providing, within 12 months of the date of the notification, additional information that supports the borrower’s eligibility for discharge; and

(E) An explanation that if the borrower does not request re-evaluation of the borrower’s prior discharge application within 12 months of the date of the notification, the borrower must submit a new total and permanent disability discharge application to the Secretary if the borrower wishes the Secretary to re-evaluate the borrower’s eligibility for a total and permanent disability discharge.

(iv) If the borrower requests re-evaluation in accordance with paragraph (b)(47)(i)(D) of this section or submits a new total and permanent disability discharge application in accordance with paragraph (b)(47)(i)(E) of this section, the request must include new information regarding the borrower’s disabling condition that was not provided to the Secretary in connection with the prior application at the time the Secretary reviewed the borrower’s initial application for total and permanent disability discharge.

(v) The Secretary reserves the right to require the borrower to submit additional medical evidence if the Secretary determines that the borrower’s application does not conclusively prove that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in 34 CFR 682.200(b). As part of the Secretary’s review of the borrower’s discharge application, the Secretary may arrange for an additional review of the borrower’s condition by an independent physician at no expense to the borrower.

(35) Treatment of disbursements made during the period from the date of the physician’s certification. If the date the Secretary received the SSA notice of award for SSDI or SSI benefits is prior to the date the Secretary received the SSA notice of award for SSDI or SSI benefits, and a disbursement of that loan or grant is made during the period from the date of the physician’s certification or the receipt of the SSA notice of award for SSDI or SSI benefits until the date the Secretary grants a discharge under this section, the processing of the borrower’s loan discharge request will be suspended until the borrower ensures that the full amount of the disbursement has been returned to the loan holder or to the Secretary, as applicable.

(6) Receipt of new title IV loans or TEACH Grants after the date of the physician’s certification or after the date the Secretary received the SSA notice of award for SSDI or SSI benefits. If a borrower receives a disbursement of a new title IV loan or receives a new TEACH Grant made on or after the date the physician certified the borrower’s discharge application or on or after the date the Secretary received the SSA notice of award for SSDI or SSI benefits and before the date the Secretary grants a discharge under this section, the Secretary denies the borrower’s discharge request and resumes collection on the borrower’s loan.

(47) Conditions for reinstatement of a loan after a total and permanent disability discharge. (i) The Secretary reinstates a borrower’s obligation to repay a loan that was discharged in accordance with paragraph (b)(24)(iii) of this section if, within three years after the date the Secretary granted the discharge, the borrower—

(A) Has annual earnings from employment that exceed 100 percent of the poverty guideline for a family of two, as published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2);

(B) Receives a new TEACH Grant or a new loan under the Perkins, FFEL or Direct Loan programs, except for a FFEL or Direct Consolidation Loan that includes loans that were not discharged;

(C) Fails to ensure that the full amount of any disbursement of a title IV loan or TEACH Grant received prior to the discharge date that is made during the three-year period following the discharge date is returned to the loan holder or to the Secretary, as applicable, within 120 days of the disbursement date; or

(D) Receives a notice from the SSA indicating that the borrower is no longer disabled or that the borrower’s continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits.

(ii) If the borrower’s obligation to repay the loan is reinstated, the Secretary—

(A) Notifies the borrower that the borrower’s obligation to repay the loan has been reinstated;

(B) Returns the loan to the status that would have existed if the total and permanent disability discharge application had not been received; and

(BC) Does not require the borrower to pay interest on the loan for the period from the date the loan was discharged until the date the borrower’s obligation to repay the loan was reinstated.
$685.213 Total and permanent disability discharge.

(iii) The Secretary’s notification under paragraph (b)(47)(ii)(A) of this section will include—

(A) The reason or reasons for the reinstatement;

(B) An explanation that the first payment due date on the loan following reinstatement will be no earlier than 60 days after the date of the notification of reinstatement; and

(C) Information on how the borrower may contact the Secretary if the borrower has questions about the reinstatement or believes that the obligation to repay the loan was reinstated based on incorrect information.

(58) Borrower’s responsibilities after a total and permanent disability discharge. During the three-year period described in paragraph (b)(47)(i) of this section, the borrower or, if applicable, the borrower’s representative must—

(i) Promptly notify the Secretary if the borrower’s annual earnings from employment exceed the amount specified in paragraph (b)(47)(i)(A) of this section; and

(ii) Provide the Secretary, upon request, with documentation of the borrower’s annual earnings from employment on a form provided by the Secretary.

(iv) Promptly notify the Secretary if the borrower receives a notice from the SSA indicating that the borrower is no longer disabled or that the borrower’s continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits.

(c) Discharge application process for veterans who are totally and permanently disabled as described in paragraph (2) of the definition of that term in 34 CFR 682.200(b) §685.102(b), a veteran must submit a discharge application to the Secretary on a form approved by the Secretary. The application must be accompanied by documentation from the Department of Veterans Affairs showing that the Department of Veterans Affairs has determined that the veteran is unemployable due to a service-connected disability. The Secretary does not require the veteran to provide any additional documentation related to the veteran’s disability. Upon receipt of the veteran’s application, the Secretary—

(i) Identifies all title IV loans owed by the veteran and notifies the lenders that the Secretary has received a total and permanent disability discharge application from the borrower;

(ii) If the application is incomplete, requests the missing information from the veteran and does not make a determination of eligibility for discharge until the application is complete;

(iii) Notifies the veteran that no payments are due on the loan while the Secretary determines the veteran’s eligibility for discharge; and

(iv) Explains the Secretary’s process for reviewing total and permanent disability discharge applications.

(2) Determination of eligibility. (i) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §682.200$685.102(b), the Secretary discharges the veteran’s obligation to make any further payments on the loan and returns to the person who made the payments on the loan any payments received on or after the effective date of the determination by the Department of Veterans Affairs that the veteran is unemployable due to a service-connected disability.

(ii)(A) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is not totally and permanently disabled as described in paragraph (2) of the definition of that term in 34 CFR 682.200(b) §685.102(b), the Secretary notifies the veteran that the application for a disability discharge has been denied, and that the loan is due and payable to the Secretary under the terms of the promissory note. The notification to the veteran includes—

(A) The reason or reasons for the denial;

(B) An explanation that the loan is due and payable to the Secretary under the terms of the promissory note and that the loan will return to the status it was in at the time the veteran applied for a total and permanent disability discharge;

(C) The date that the veteran must resume making payments;

(D) An explanation that the veteran is not required to submit a new total and permanent disability discharge application if the veteran requests that the Secretary re-evaluate the veteran’s application for discharge by providing, within 12 months of the date of the notification, additional documentation from the Department of Veterans Affairs that supports the veteran’s eligibility for discharge; and

(BE) The Secretary notifies Information on how the veteran that he or she may reapply for a total and permanent disability discharge in accordance with the procedures described in paragraph (b) of this section if the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in 34 CFR 682.200(b) §685.102(b), but indicates that the veteran may be totally and permanently disabled as described in paragraph (1) of the definition of that term.