Pew

February 8, 2023

Mr. Richard Blasen
Office of Postsecondary Education
400 Maryland Ave. SW,
Washington, DC 20202

Dear Mr. Blasen:

The Pew Charitable Trusts' Project on Student Borrower Success (Pew) thanks the U.S. Department of Education (Department) for the opportunity to comment on the Department's rule to amend the Revised Pay As You Earn (REPAYE) income-driven repayment (IDR) plan (Docket ID ED-2023-OPE-0004). Pew is a non-profit research and public policy organization dedicated to serving the public. Pew commends the Department for the thorough process and the involvement of stakeholders to write a rule that meets the needs of borrowers. The rule specifically addresses borrowers most at risk of delinquency and default, including low-income borrowers and borrowers who did not complete their program of study. The reforms to the REPAYE plan address many of the concerns of borrowers identified in Pew's research – lack of affordability for low-income borrowers, balance growth, and the complexity of enrollment and reenrollment in IDR plans.

Beginning with its initial proposal during the Fall 2021 negotiated rulemaking, which focused on affordability, the Department has built out a plan to assist borrowers who struggle the most to repay their student loans and are most likely to experience delinquency and default. This difficulty is reflected by the 20% of borrowers who are in a default status on their loans. This rule demonstrates the need to restructure repayment requirements in order help borrowers get back on track before they face the life-altering consequences of default.

This rule is also takes important steps to address disparate loan repayment outcomes by race. More Black (49%) and Hispanic (46%) borrowers are enrolled in income-driven plans when compared to 39% of White borrowers. Though Black borrowers were more likely to enroll than White borrowers, they were also twice as likely to fall behind on payments without accessing an IDR plan. The proposed plan will help borrowers already enrolled stay in repayment, while making enrollment more affordable for many new borrowers.

Each of the areas that this rule addresses – affordability, balance growth and simplification—are required to help borrowers realize the real benefits of IDR and avoid the pitfalls of complexity. While IDR reform alone cannot resolve all the long-standing problems in higher education, including affordability that impede the promise of equality and economic mobility intended by the Higher Education Act of 1965, this rule represents an important first step.

Borrower Eligibility for IDR Plans (§ 685.209(c))

The Department proposes additional eligibility changes to streamline the repayment options available to borrowers, primarily by limiting future enrollment in the PAYE and ICR plans. This streamlining would make the IDR program easier for borrowers to understand and simpler for servicers and the department to administer. Pew previously recommended streamlining the multiple existing IDR plans into fewer options last year when assessing how the department's Fall 2021 IDR proposal could be improved.

Pew survey data has found that many borrowers are unaware that IDR plans exist. Among those who never enrolled in an IDR plan, 48% reported not being aware of the program's availability as the main reason, some of whom may be low-income borrowers. Research has previously found having limited access to financial resources can constrain individual's capability to navigate complex financial decisions. And borrowers already find the IDR enrollment process confusing, with 44% reporting the application process was somewhat or very difficult to navigate. By changing eligibility requirements and as result limiting future enrollment to the REPAYE and IBR plans, the Department will make it easier for borrowers to evaluate the tradeoffs between IDR plans, in comparison to the current situation of having to navigate four available options. Streamlining the number of plans would also make it easier for servicers to administer the program and connect borrowers with relief options such as IDR.

Communication of these revised and streamlined repayment options to borrowers will also be crucial, given the large share of borrowers who reported not being aware of IDR options as recently as last year. Information provided by servicers and important tools like the Office of Federal Student Aid's Loan Simulator will need to be updated as soon as possible to help borrowers navigate their options, especially given the relative complexity of the provisions of the revised REPAYE plan.

In addition, retaining IBR—rather than making REPAYE the sole IDR plan available to borrowers—will provide borrowers who may not qualify for REPAYE, such as those with unconsolidated FFEL loans, an option for more affordable income-driven payments. IBR could also be available to borrowers with defaulted loans; helping such borrowers make progress towards forgiveness while in default and make lower payments than they would if subject to involuntary collections such as wage garnishment. IDR for borrowers in default is discussed in depth later in this comment. This type of thoughtful simplification will meaningfully improve the repayment system for borrowers and servicers alike.

Income Protection Threshold (§ 685.209(f)) and Payment Amounts (§ 685.209(f))

The Department proposes lowering undergraduate loan payments in the revised REPAYE plan in two ways: lowering the amount of discretionary income borrowers are required to repay from 10% to 5% and increasing the amount of income protected from 150% to 225% of the Federal Poverty Guideline (FPL).
As Pew has highlighted, lower monthly payments are often a primary factor in borrowers' decision-making process when selecting a repayment plan. Among borrowers currently enrolled in IDR plans, 61% report a lower payment was the primary reason leading to their enrollment. But while current IDR plans often offer lower payments than the Standard Plan, these payments may still be unaffordable for a borrowers' financial situation. Almost half (47%) of borrowers previously or currently enrolled in an IDR plan reported that their monthly payment was still too high. In focus groups, borrowers with varying balance sizes described this perception in greater detail. Borrowers reported that due to volatile incomes, or because plans did not adequately account for other aspects of their balance sheets, income-driven payments would still be unaffordable for their financial situation.
Pew previously modeled the impact of changing income protection thresholds and payment amounts, finding that doing so would increase the number of borrowers with a calculated $0 payment and substantially lower monthly payments for other enrolled borrowers. The changes proposed by the department would extend meaningful relief to borrowers who may have found income-driven repayment to be unaffordable and may encourage borrowers previously not enrolled to pursue such plans in the future.

Interest Benefits (§ 685.209(h))

The Department proposes expanding REPAYE's current interest subsidy to not charge any interest that might remain after a borrower makes their monthly IDR payment. Under current plan design, a borrower's monthly payment may not cover the full amount of interest that accrues each month—leading to persistent balance growth that can be overwhelming for borrowers and undermine persistence in the plan and ultimately forgiveness of the balance. The Department's proposed interest benefit would constrain balance growth so that borrowers do not see it increase while they make payments, or remain in good standing while eligible for $0 payments. This change may improve borrowers' long-term outlook towards repayment success and would alleviate key friction points around IDR enrollment for borrowers.

Borrowers enrolled in an IDR plan report experiencing balance growth at higher rates than borrowers never enrolled in an IDR plan. In a 2021 Pew survey, 72% of borrowers ever enrolled in an IDR plan said they owed approximately the same or more than what they originally borrowed, compared to 43% of borrowers who did not have experience with an IDR plan. While this balance growth is part of the design of the plan—the lower the payment, the less likely it is to pay down principal that is owed and extend the length of time it takes to repay a loan—it can be discouraging for borrowers. In focus groups conducted by Pew, borrowers reported that balance growth experienced when repaying their loans led them to feel frustrated and lose their motivation to continue making payments. Borrowers reported feeling a tension between wanting lower monthly payments yet being frustrated by the potential for rising balances in an income-driven plan, all while repaying over a longer period. A borrower from Kansas City noted turning down a suggestion from their servicer to enroll in an income-driven plan, remarking that: "They called me and asked me if I wanted to make lower monthly payments, but I would have to pay longer, and I said no."

The new REPAYE interest benefit, in concert with other changes to interest capitalization recently made by the Department, will help borrowers enrolled in REPAYE avoid the dual psychological and financial impacts of balance growth and will make income-driven payments a more attractive option for borrowers.

Forgiveness Timeline (§ 685.209(k))

The Department proposes changing the thresholds for forgiveness in the revised REPAYE plan to accelerate forgiveness for low-balance borrowers. Borrowers with balances of $12,000 or less would have their outstanding balance forgiven after ten years of qualifying payments, increasing by 1 year for every $1,000 added to the original balance.

This change would make IDR enrollment more appealing for low-balance borrowers and may lead to increased enrollment in the program. As highlighted above, qualitative research suggests that the combination of rapid unpaid interest accrual and long repayment periods can lead to borrowers perceiving IDR as not being a solution for repayment relief. This perception may be especially prominent among low-balance borrowers, who may not have completed their program of study and often face a difficult choice between a faster time to fully repay in the Standard Plan versus lower payments and additional years in in repayment in an IDR plan. With research finding that a majority of defaulted borrowers owe less than $10,000, the shortened forgiveness timeline proposed by the Department REPAYE may help make this decision easier for struggling borrowers, especially those who borrowed for a degree they were unable to complete and face difficult repayment circumstances as a result. A shortened forgiveness period along with the new interest benefits proposed by the Department will provide a clearer "finish line" for borrowers and begin to alleviate concerns expressed about endless repayment periods. As Pew has previously highlighted, forgiving a portion of borrowers' balances at intervals before the current threshold may also help borrowers stay engaged with repayment and encourage more trust in the system. It should be noted that, if Congress were to raise federal student loan limits in the future, the effectiveness of this threshold would likely be reduced for low-balance borrowers.

Automatic Enrollment in an IDR Plan (§ 685.209(m))

The Department proposes automatically enrolling borrowers that are 75 days delinquent on their student loan into an IDR plan. This change would help connect struggling borrowers with relief and protect them from the negative credit reporting that is initiated after 90 days of delinquency. As the Department notes, this proposal would require borrowers to provide approval for the Internal Revenue Service (IRS) to share data about their discretionary income with the Department of Education, stemming from the passage of the Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act in 2019. The infrastructure supporting such data transfer is currently being implemented by both agencies, with a target completion date of later this year.

Pew strongly supports the Department acting to directly enroll severely delinquent borrowers in IDR plans and encourages the Department to move as quickly as possible to ensure such provisions are in place before this rule is finalized and student loan repayment resumes. As previously highlighted, Pew research suggests that struggling borrowers may be unaware that IDR exists, and even if they do know, may struggle with cumbersome enrollment procedures. Additionally, research suggests that many borrowers who exit default end up redefaulting in part because they are unable to access IDR in time. Automatically enrolling severely delinquent borrowers into an IDR plan will help break the re-default cycle and ensure borrowers at risk of default are connected to resources that will help them avoid further penalties.

It is important to note that the success of automatic IDR enrollment will hinge on whether the Department and servicers are able to obtain borrowers' consent to have their data shared between the IRS and the Department of Education before they begin to struggle in repayment. Borrowers should be provided with multiple opportunities to give their approval to have their data shared—both before and after they leave school—to make sure as many borrowers as possible are able to successfully opt-in. Communications notifying borrowers of their ability to opt-in should be provided in tandem with other departmental announcements, especially those having to do with the resumption of repayment.

Defaulted Loans (§ 685.209(d) and (k))
The department proposes allowing borrowers to enroll in the IBR plan while still in default. If made final, this proposal would lower payments for borrowers in default and to make progress towards eventual forgiveness while in default. We commend the Department for taking this step, but recommend it consider allowing borrowers in default to enroll in REPAYE instead of IBR.

Because of the limitations identified by the Department, borrowers in default enrolled in REPAYE would not be able to make progress towards forgiveness while still in default. However, research suggests that the lower payment provided by REPAYE would be more likely to generate long-term repayment success among struggling borrowers and help them stay engaged in the repayment system then the prospect of forgiveness progress alone. Trading forgiveness progress for lower monthly payments is more advantageous for the repayment system for several reasons:

- Research suggests that many struggling borrowers experience obstacles enrolling in an IDR plan after exiting default, especially those who use rehabilitation. Many of these borrowers eventually re-default after failing to enroll in an IDR plan. Granting borrowers in default the ability to use REPAYE—which will provide them the lowest payment—may assist with their ability to remain in an IDR plan long-term, as borrowers will maintain the same payment in default as they would in "current" repayment status. Additionally, if borrowers in default are only allowed to enroll in IBR, they would have to go through a separate enrollment process once back in repayment to obtain access to REPAYE. While this process may be easier for some borrowers than the initial IDR enrollment, it still presents an additional friction point with the potential to set borrowers off track.
- Borrowers who default on their loans often do so because of unaffordable monthly payments required by existing repayment plans. By providing borrowers in default access to the lowest possible monthly payment, borrowers could find it easier to transition back into repayment. Pew survey research suggests that a lower monthly payment is a key factor for borrowers choosing IDR, and that payments required

under existing plans are often not low enough to incentivize enrollment by struggling borrowers. Providing more borrowers in default with the ability to make payments as low as $0 via REPAYE may create a strong incentive for them to reach out to their servicer, and make payment arrangements.

- REPAYE's interest benefits would also hedge against balance growth better than IBR. As noted above, Pew survey and focus group research identifies balance growth as a key barrier preventing borrowers from staying enrolled in IDR long-term. Limiting balance growth as much as possible should be a priority for the Department to ensure struggling borrowers perceive the benefits of IDR and maintain their enrollment. Additionally, exiting IBR remains an interest capitalizing event, which will increase the amount owed and may create another negative incentive towards enrollment.

Conclusion

We commend the Department of Education on its reform of IDR in this rule. As the end of the pause to loan repayment and forced collections for millions of borrowers quickly approaches, we urge the Department to move quickly to finalize this rule and work diligently with its loan servicing partners to be prepared to enroll borrowers in this plan when the pause concludes. Considering the length of the pause and the economic turmoil that has occurred for so many borrowers during the last three years, it is imperative that this plan be available to borrowers when payments resume.

Pew surveys demonstrated that borrowers have reprioritized their finances in the three years without student loan payments and many (67%) did not feel confident they could make their student loan payment if required to in the next month. Payment affordability is a cornerstone of the revised REPAYE plan and enrolling borrowers who could most benefit into this plan immediately upon the resumption of repayment is crucial to helping them be successful in the long term.

Moreover, as the NPRM notes, the implementation of the data sharing provisions between the Department and the IRS of FUTURE Act pertaining to IDR is a crucial underpinning of this rule. The Department makes important inroads towards simplification of enrollment in IDR in this rule by reducing the number of IDR plans available to borrowers. However, a crucial element in reducing barriers to IDR enrollment and retention is to quickly and effectively implement the FUTURE Act's data sharing requirements. This would allow borrowers to opt in to easily provide accurate information about income and family size , which can be verified automatically each year, instead of the current process that can frustrate borrowers and extend the length of payment.

Notably for some of the most vulnerable borrowers, data sharing would enable one of the key enhancements from this rule—automatic enrollment into REPAYE of borrowers 75 days delinquent on their loans. As discussed previously, this has the potential to help these borrowers avoid serious consequences such as negative credit reporting while providing them with a more affordable payment, or even a $0 payment, to help avoid default. This is impossible without the FUTURE Act data sharing.

We urge the Department to prioritize the implementation of both the revised REPAYE plan as detailed in this NPRM and the FUTURE Act data sharing provisions. Any questions about this comment or requests for additional information can be directed to Regan Fitzgerald, Manager of the Project on Student Borrower Success, rfitzgerald@pewtrusts.org.

Sincerely,

Regan Fitzgerald

Regan Fitzgerald
Manager

Brian Denten

Brian Denten
Officer