



TO: HRSA Administrator

FROM: Associate Administrator
Bureau of Health Workforce

DATE: 4/29/2020

SUBJECT: Request to Temporarily Waive Interest on Student Loans under the Nurse Faculty Loan Program (NFLP) and Revolving Loan programs through September 30, 2020, to Support Student Loan Borrowers during the COVID-19 Pandemic– **DECISION**

ISSUE

This memo is for your consideration to temporarily waive student loan interest under the Nurse Faculty Loan Program (NFLP) and Revolving Loan Programs, to provide relief to student loan borrowers during the COVID-19 national emergency. The Revolving Loan Programs include Health Professions Student Loans (HPSL), Loans for Disadvantaged Students (LDS), Primary Care Loans (PCL), and Nursing Student Loans (NSL) programs.

BACKGROUND

On March 13, 2020, President Trump announced that interest would be waived on all student loans held by Federal Government agencies. Following this declaration, the Coronavirus Aid, Relief and Economic Security (CARES) Act extended the suspension of payments for all federally held student loans until September 30, 2020.¹ Thereafter, the Department of Education (ED) issued a press release confirming President Trump's promise and set interest at 0% on all loans held by ED for a period of at least 60 days.² To date, there has not been an Executive Order directing these actions, however, it appears that the President's promise was enacted through a policy decision by ED.

The loans made under the HPSL, LDS, PCL, NSL, and NFLP programs are not held by the Department of Health and Human Services (HHS), but rather by grantee institutions as HHS's role is to make grants to recipient institutions who then disburse and administer the loans. As such, these programs are not classified as loans held by Federal government agencies, and therefore the President's action does not directly apply to the loans by its terms. Additionally, the CARES Act's provisions regarding student loans also do not apply to HRSA's revolving loans programs. The statutory language outlined below only refers to specific ED loan programs, and does not apply to all federal loan programs.

¹ Singman, Brooke. "Trump Announces Coronavirus-Related Suspension of Federal Student Loan Payments, Standardized Testing." *Fox News*, FOX News Network, 24 Mar. 2020, www.foxnews.com/politics/trump-suspends-federal-student-loan-payments-without-penalty-for-at-least-60-days-amid-coronavirus-outbreak.

² U.S. Department of Education. "Delivering on President Trump's Promise, Secretary DeVos Suspends Federal Student Loan Payments, Waives Interest During National Emergency." *U.S. Department of Education*, 20 Mar. 2020, www.ed.gov/news/press-releases/delivering-president-trumps-promise-secretary-devos-suspends-federal-student-loan-payments-waives-interest-during-national-emergency.

- CARES Act section 3513 entitled, Temporary Relief for Federal Student Loan Borrowers, states: “(a) IN GENERAL.—*The Secretary [of Education] shall suspend all payments due for loans made under part D and part B (that are held by the Department of Education) of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.; 1071 et seq.) through September 30, 2020.*”
- Subsection (b) provides that interest shall not accrue “on a loan described under subsection (a) for which payment was suspended for the period of suspension.”

To inform grantee institutions of this temporary change, the Bureau of Health Workforce (BHW) will work with the Division of External Affairs (DEA) to publish external guidance in the form of frequently asked questions (FAQs) on HRSA’s emergency preparedness webpage. In addition to the publication of FAQs, an email will be sent out to all recipient organizations to communicate this change to their third-party loan servicers.

LEGAL ANALYSIS

The President’s promise of 0% interest for federal loans and the CARES Act provisions on student loans are not applicable to BHW Revolving Loan Programs and NFLP. However, the Public Health Service (PHS) Act gives the Secretary of HHS discretion to provide the same loan provisions promised by President Trump and included in the CARES Act for ED loans. BHW, in conjunction with the Office of the General Counsel (OGC), has identified the following legally supportable reading of the Revolving Loan programs’ statutory provisions:

- Section 725, applicable to loans under the HPSL, PCL, and LDS programs, provides that, “[t]he Secretary may agree to modifications of agreements or loans made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.”
- Section 840, applicable to NSL loans, similarly provides that, “[t]he Secretary may agree to modifications of agreements made under this part, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part.”
- Sections 722(e) and 836(b)(5) state that loans made under the HPSL, PCL, LDS, and NSL programs “shall bear interest” on the loans at 5% per year. The breadth of the authority granted to the Secretary to alter the terms of the loans and to waive or release any right or claim of the United States would allow the Secretary to provide an interest rate reduction and forbearance on payments to HPSL, PCL, LDS, and NSL borrowers.

While the programs discussed above have specific language that allows the Secretary to “compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part,” authority to provide this relief for NFLP participants is not as clear cut. However, BHW believes NFLP is legally supportable under the exceptional circumstances in section 846A(c)(1), which allows schools to provide a limited waiver of interest payments for NFLP participants. The waiver would be subject to limitations imposed by HRSA, such as effective dates only between March 13th through September 20th, 2020, unless extended. Specifically, the statute provides that:

- Section 846(c)(1). “[I]oans from any student loan fund established by a school pursuant to an agreement under subsection (a) shall be made to an individual on such terms and conditions as the

school may determine, except that— (1) such terms and conditions are subject to any conditions, limitations, and requirements prescribed by the Secretary.”

RECOMMENDATION

I recommend that you approve the NFLP and Revolving Loan programs waiving interest on student loans through September 30, 2020, to provide financial relief during the COVID-19 pandemic. In accordance with the statutory authorities in the PHS Act, sections 725, 840, 722(e), 836(b)(5) and 846(c)(1), the Secretary of HHS has the discretion to waive the loan interest requirement, which is the same relief promised by President Trump and provided in the CARES Act for ED loans. This would apply to loans serviced by both the institutions and those serviced by third-party loan servicers. Although OGC identified a low level of legal risk in the proposed reading of the NFLP provisions, HRSA has the authority to suggest loan relief provisions for NFLP borrowers for any forthcoming COVID-19 response bills. We recommend you approve waiving interest for loans under the NFLP and Revolving Loan programs.

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ou=HHS, ou=HRSA, ou=People,
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Luis Padilla, M.D.

DECISION

Approved X Disapproved _____ Need More Information _____



Thomas J. Engels

05/08/2020

Date