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The Public Service Loan Forgiveness Program: Selected Issues

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SUMMARY

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The Public Service Loan Forgiveness Program: Selected Issues

The Public Service Loan Forgiveness (PSLF) program provides Direct Loan borrowers who, on or after October 1, 2007, are employed full-time in certain public service jobs for 10 years while making 120 separate qualifying monthly payments on their Direct Loans with the opportunity to have any remaining balance of principal and interest on their loans forgiven. The program was enacted under the College Cost Reduction and Access Act of 2007 (P.L. 110-84) to encourage individuals to enter into and remain employed in public service and to alleviate the potential financial burdens associated with federal student loans of borrowers in public service occupations who were presumed generally to earn less than their counterparts in other occupations.

With the opportunity to apply for program benefits first being made available on October 1, 2017, based on service completed and payments made prior to that date, many issues that span several aspects of the program have been raised and have garnered congressional interest. This report addresses numerous issues, which are highlighted below.

Program implementation issues that have surfaced relate to how the PSLF program's statutory requirements have been operationalized, difficulties experienced by borrowers in participating in the program, and difficulties in administering the program. Some of these issues include:

- Operationally defining what constitutes a "public service job." This includes whether the definition in use is sufficiently targeted to meet congressional intent for the program and whether it has created inequities among types of borrowers. There have also been administrative difficulties associated with identifying and certifying qualifying employment.
- Determining what constitutes a "qualifying payment." Multiple criteria related to on-time payments, time periods over which payments must be made, and specific payment amounts must be met for a payment to be considered qualifying, which may cause confusion among borrowers and create administrative difficulties.
- Difficulties borrowers may face when determining which repayment plan to enroll in to maximize PSLF benefits. Payments made according to an income-driven repayment (IDR) plan may decrease the monthly dollar amount of payments made, which may ultimately lead to greater amounts of PSLF forgiveness benefits. Payments made under other plans may also qualify for PSLF but may not be as valuable to borrowers in terms of eventual PSLF forgiveness benefits.
- The effects of loan consolidation on a borrower's progress toward receiving PSLF benefits. Of particular importance, PSLF qualifying payments made prior to consolidation do not count toward forgiveness of the resulting Direct Consolidation Loan.
- The complexities and challenges that administering the program may present for the Department of Education, loan servicers, and borrowers. These include issues of communication among the parties regarding program requirements and processes, lack of coordination among loan servicers, loans servicers making errors or not completing tasks associated with the program in a timely manner, and the lack of automation of some administrative functions.

Issues pertaining to PSLF program interactions with other programs and benefits relate to whether borrowers understand the interactions well enough to make rational choices and maximize available benefits and, from the federal government's perspective, questions have arisen regarding whether the desired targeting of benefits is being achieved and about the potential costs associated with such interactions. Some of these issues include:

- There is no limit to the amount of loan forgiveness benefits an individual may realize under the PSLF program. While it is possible that many borrowers may receive limited benefits, some Direct Loan borrowers may realize large forgiveness benefits under the program. This outcome

may be more likely to occur for borrowers of Direct PLUS Loans for graduate and professional students, which have no aggregate borrowing limits, and which were newly authorized to be made just prior to the enactment of PSLF. Also, the variety of IDR plans has expanded greatly since the PSLF program's inception, with several of the new IDR plans providing for lower monthly payments than under the Income-Based Repayment plan—the primary IDR plan available when the PSLF program was enacted. This expansion may allow borrowers to lower monthly payments and potentially realize larger forgiveness benefits under the program. The current borrowing limits and variety of IDR plans, coupled with PSLF program benefits, have raised questions about whether certain types of students are not incentivized to limit borrowing and whether they may be less sensitive to the price of postsecondary education.

- Borrowers may receive benefits under a number of federal student loan repayment programs. Borrowers may also be able to avail themselves of certain income tax provisions to maximize PSLF program benefits. For borrowers, understanding whether the same service that qualifies for PSLF may also qualify for other loan repayment benefits is important, as is their understanding of how other benefits and tax provisions may interact with PSLF. From the perspective of the federal government, a key consideration may relate to what constitutes a "double benefit" for service performed by borrowers and the extent to which overlapping benefits might be provided.

Broad program-related issues relate to (1) how the program fits into the overall suite of federal student aid benefits and (2) the difficulty of estimating the potential participation in and costs of the program.

1. The enactment of the PSLF program is reflective of a broadening of the federal approach to student aid, providing more widely available assistance to individuals after a postsecondary education's costs have been incurred. This approach may place greater emphasis on providing aid on the basis of economic circumstances after enrollment, rather than at the time of enrollment. It also makes some aid available on a targeted basis—providing relief to individuals who pursue certain types of service or occupations, rather than providing aid more broadly to individuals who enroll in postsecondary education.
2. The granting of loan forgiveness benefits results in costs to the federal government, and there has been some speculation that the cost of PSLF could be much higher than anticipated. Limited information is available on the actual and future costs to the government of the PSLF program. It has just recently become possible to claim program benefits; thus, little is known about what the costs associated with the program will be based on the experiences of actual cohorts of borrowers. In addition, estimating potential costs may prove difficult as borrowers are not required to submit information on their intent to participate in the program until they seek forgiveness benefits after 10 years of service and qualifying payments.

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Introduction

Student loan forgiveness and loan repayment programs provide borrowers a means of having all or part of their student loan debt forgiven or repaid upon satisfying certain criteria, such as having worked or served in particular fields or professions for a specified period of time.[1] Some of these programs are intended to support goals such as providing a financial incentive to encourage individuals to enter into and/or remain in a particular profession or public service. One such federal program that has received considerable attention in recent years is the Public Service Loan Forgiveness (PSLF) program.

Under the PSLF program, borrowers of the U.S. Department of Education's (ED's) Direct Loans[2] who are employed full-time in certain public service jobs for 10 years while making 120 separate qualifying monthly payments on their Direct Loans may be eligible to have any remaining balance of principal and interest forgiven. Borrowers first became eligible to apply for PSLF forgiveness benefits on October 1, 2017, based on service completed and payments made prior to that date.

With the opportunity to apply for program benefits being made available recently, many issues that span multiple aspects of the program have been raised and have garnered congressional interest. In general, identified issues fit into the following groupings:

1. Program implementation issues, which pertain to the operationalization of statutory provisions, difficulties experienced by borrowers in participating in the program, and difficulties experienced by entities administering the program. Specific issues include operationally defining a "public service job," certifying qualified public service employment, determining qualifying payments, and administering a program with relatively complex eligibility criteria.
2. Interaction of the PSLF program with other programs and benefits, which from a borrower's perspective relates to understanding the interactions to make rational choices and maximize available benefits. This involves borrowers understanding the various loan repayment plans available, interaction between PSLF and other service benefits (e.g., loan repayment programs), deciding the amount of student loans to borrow, and the tax treatment of program benefits. From the federal government's perspective, interaction of program benefits relates to whether desired targeting of benefits is being achieved and the potential costs associated with such interactions. This issue also relates to subsequent changes to benefits (e.g., expansion of available loan repayment plans), which may substantially affect the targeting of PSLF and resulting program costs.
3. Broad program-related issues, which relate to how the program complements or fits into the overall suite of federal student aid benefits and how costly the program might ultimately be.

[1] For information on the numerous federal student loan forgiveness and loan repayment programs, see CRS Report R43571, *Federal Student Loan Forgiveness and Loan Repayment Programs*, coordinated by Alexandra Hegji. Some loan forgiveness programs are made available to borrowers following prolonged periods during which their student loan debt is high relative to their income.

[2] For additional information on Direct Loans, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

This report begins with a brief legislative and regulatory history of the PSLF program. This is followed by a brief description of how the program works. Finally, the report describes several selected program issues that have arisen in recent years. These are issues that have received recent congressional and stakeholder attention and issues identified in reviews of the program, as well as some that have been raised by researchers, analysts, and other entities outside of the government.[3] The issues discussed in this report are not intended to be an exhaustive list.

Legislative History

The PSLF program was first authorized in 2007 under the College Cost Reduction and Access Act of 2007 (CCRAA; P.L. 110-84). However, at least as early as 2003, other bills, including H.R. 1306,[4] proposed authorization of a program providing loan forgiveness benefits to individuals making payments under specified repayment plans while also being employed in public service. H.R. 1306 presented findings suggesting that student loan debt was placing constraints on the career options of many college graduates, resulting in borrowers choosing higher-paying jobs over public service, and that many public service professions such as teaching and nursing were facing staffing shortages.[5]

Over the years, several iterations of this construct of providing loan forgiveness benefits to individuals who were employed in public service and who made monthly payments on their loans over a specified period of time were introduced in Congress. Several of these sought to encourage individuals to enter into public service occupations and were often introduced under the presumption that borrowers may choose higher-paying jobs in the private sector over public service and that this issue was at least somewhat exacerbated by student loan debt burdens. However, the means for meeting this goal differed among the proposals. For instance, some proposals would have based borrowers eligibility for forgiveness largely on the type of their employer (e.g., federal, state, or local government),[6] while others seemed to have proposed making benefits available to borrowers based largely on a borrower's job function while employed (e.g., jobs in public safety, education).[7] In addition, some proposals would have provided for the forgiveness of a borrower's entire outstanding loan balance after a specified number of years of public service employment and monthly payments,[8] while others would have provided borrowers the opportunity to have a percentage of their loans forgiven based on the number of years employed in public service (e.g., 10% of a borrower's loan balance could be forgiven for each year of employment in public service, up to 100% forgiveness).[9] Finally, some proposals would have made benefits available to borrowers whose annual income or earnings fell below a threshold amount.[10]

[3] The policy issues discussed in this report are generally based on those identified by external researchers, think tanks, practitioner groups, media accounts of the program, and reports by the Government Accountability Office and the Consumer Financial Protection Bureau. In some instances, common and underlying themes are synthesized by CRS. No attempt is made to evaluate the policy issues discussed herein.

[4] 108th Congress, College Opportunity for a Better America Act of 2003.

[5] Ibid.

[6] See, for example, H.R. 4102 (108th Congress), Access and Equity in Higher Education Act.

[7] See, for example, S. 1614 (109th Congress), Higher Education Amendments of 2005.

[8] See, for example, H.R. 1859 (109th Congress), Education for Public Service Act of 2005.

[9] See, for example, S. 1762 (110th Congress), Higher Education Access Act of 2007.

[10] Ibid.

Congress authorized the PSLF program in 2007 to encourage individuals to enter into and remain employed in public service and to alleviate the potential financial burdens associated with federal student loans of borrowers in public service who were presumed to generally earn less than their counterparts in other types of occupations.[11] In doing so, it stated it was concerned with the number of individuals who chose not to enter into lower paying jobs, such as public service, due to increasing student loan debt.[12] Under the program, Direct Loan borrowers employed full-time in certain public service jobs for 10 years while making 120 qualifying payments are given the opportunity to have any balance of principal and interest that remains after those 10 years forgiven. The CCRAA specified that monthly payments made under, among others, the Income Contingent Repayment (ICR) plan[13] or the newly created Income Based Repayment (IBR) plan (discussed below) would qualify for purposes of PSLF and that only Direct Loan borrowers would be eligible for PSLF forgiveness benefits.[14]

In addition to enacting the PSLF program, the CCRAA made another change to the HEA that would have a bearing on the design and operation of the PSLF program; specifically, it authorized the Income-Based Repayment plan for pre-July 1, 2014, borrowers.[15] Prior to the enactment of the CCRAA, the ICR plan was the only income-driven repayment (IDR) plan available to borrowers. Under ICR, a Direct Loan borrower's monthly payments are set at an amount equal to the lesser of 20% of their annual discretionary income divided by 12, or what they would pay under a repayment plan with a fixed monthly payment over a 12-year period multiplied by an income percentage factor that corresponds to a borrower's adjusted gross income (AGI). Borrowers make payments on their loans for 25 years, and any loan balance remaining after that period is forgiven. The CCRAA made no changes to the ICR plan but did authorize the IBR plan for pre-July 1, 2014, borrowers, under which eligible borrowers with partial financial hardships[16] may have their monthly payments capped at 15% of their annual discretionary income divided by 12. Borrowers make payments for a maximum of 25 years, and any loan balance remaining at the end of that period is forgiven. The CCRAA specified that payments made under both the ICR and IBR plans would qualify for purposes of PSLF. In coupling PSLF with the newly created IBR plan, Congress expressed its intent to offer a suite of benefits to borrowers who entered public

[11] See, for example, U.S. Congress, House Committee on Education and Labor, *College Cost Reduction Act of 2007*, report to accompany H.R. 2669, 110th Cong., 1st sess., June 25, 2007, H.Rept. 110-210, pp. 48-49.

[12] Ibid.

[13] As originally introduced, the CCRAA would have amended the Income Contingent Repayment plan by providing for shortened repayment terms for public sector employees and loan forgiveness of remaining outstanding balances at the end of the repayment term.

[14] Leading up to the enactment of the CCRAA, some bills that proposed a program offering loan forgiveness benefits in exchange for public service would have made benefits available to Federal Family Education Loan (FFEL) program borrowers. See, for example, H.R. 4102 (108th Congress), Access and Equity in Higher Education Act. However, it appears that PSLF benefits were only made available to Direct Loan borrowers, at least in part to act as an incentive for borrowers to switch from the FFEL program to the Direct Loan program; such a switch was predicted to result in cost savings to the federal government. See U.S. Congress, House Committee on Education and Labor, *College Cost Reduction Act of 2007*, 110th Cong., 1st sess., June 25, 2007, H.Rept. 110-210, p. 72.

[15] This Income-Based Repayment plan was made available to borrowers who had outstanding Direct Loan program or FFEL program loans prior to July 1, 2014. The HEA was later amended in 2010 by the SAFRA Act (Title II of P.L. 111-152) to offer an IBR plan to new borrowers on or after July 1, 2014, with partial financial hardships the opportunity to make monthly payments on their loans capped at 10% of their annual discretionary income divided by 12, and to receive loan forgiveness of any remaining balance at the end of 20 years of repayment. Hereinafter, these two forms of Income-Based Repayment plans are referred to as "the IBR plans" unless otherwise noted.

[16] For purposes of the IBR plans, a borrower has a partial financial hardship when the annual amount a borrower would be required to repay on his or her eligible FFEL and Direct Loans under a Standard repayment plan with a 10-year amortization exceeds 15% or 10% of the borrower's discretionary income, respectively.

service that would not only offer loan forgiveness benefits after 10 years of such service, but also provide borrowers with the opportunity to make reduced monthly loan payments during that 10 years.[17]

Proponents of the PSLF provisions argued that the program would incentivize individuals to enter into and remain in those professions with shortages and that paid relatively less than other professions. In addition, proponents argued that PSLF benefits would help address the effects on borrowers of increasing tuition at institutions of higher education (IHEs) by alleviating the higher debt burden they assumed.[18] On the other hand, opponents argued that the program's benefits were not well targeted. For instance, some argued that the program would not make sufficient distinctions among types of borrowers. It was contended that higher-income students would be more likely to receive larger benefits than low-income students because higher-income individuals tend to attend higher-priced IHEs and would likely borrow larger amounts of federal student loans that could then be forgiven under the program.[19] It was also argued that, because the program placed no cap on potential program benefits, it might create an incentive for individuals to borrow the maximum amount of federal student loans possible with the expectation of receiving program benefits.[20]

The statutory provisions of the PSLF program have remained largely unchanged since its enactment.[21] However, changes were made to the federal student loans programs both immediately prior to and several years following the enactment of PSLF that may have effects on the program. The Deficit Reduction Act of 2005 (P.L. 109-171) authorized Direct PLUS Loans to be made to graduate and professional students, with no specified aggregate borrowing limits, unlike Direct Subsidized and Unsubsidized Loans.[22] In relation to the PSLF program, there is no limit to the amount of loan forgiveness benefits that a borrower may realize under the program. Thus, it is possible that borrowers with large amounts of debt, and in particular Direct PLUS Loans for graduate and professional borrowers for whom there are no aggregate borrowing limits, may realize significant forgiveness benefits under PSLF. Because PLUS Loan eligibility for graduate and professional students was relatively new at the time PSLF was enacted, it is possible that adequate data were unavailable to fully assess the extent to which PLUS Loan availability to graduate and professional students would affect the program. In addition, the SAFRA Act (P.L. 111-152, Title II) terminated the authority to make new loans under the Federal Family Education Loan (FFEL) program[23] after June 30, 2010. Thus, as of July 1, 2010, the Direct Loan program is the primary federal student loan program. This shift to an almost all Direct Loan lending model likely had the effect of ensuring that a larger portion of federal student loan borrowers had PSLF

[17] See Senator Edward Kennedy, College Cost Reduction Act of 2007, Senate consideration of H.R. 2669, *Congressional Record*, daily edition, vol. 153, No. 116 (July 19, 2007), pp. S9534-S9535.

[18] Ibid, pp. S19673-S19674.

[19] Senator Jeff Sessions, College Cost Reduction Act of 2007, Senate consideration of H.R. 2669, *Congressional Record*, daily edition, vol. 153, part 14 (July 19, 2007), pp. S19696-S19697.

[20] Ibid.

[21] The Higher Education Opportunity Act (P.L. 110-315) made relatively minor amendments to the definition of "public service job" for purposes of the program and specifically excluded time employed as a Member of the U.S. Congress from the public service job definition.

[22] For additional information on loans made available under the Direct Loan program, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

[23] Prior to the establishment of the Direct Loan program in 1992, the FFEL program was the primary federal student loan program.

eligible loans than might have originally been contemplated by Congress, and could increase the number of borrowers potentially eligible for PSLF benefits.

Since the CCRAA's enactment, several other IDR plans have been made available. These include the Income-Based Repayment plan for post-July 1, 2014, borrowers, the Pay As You Earn (PAYE) repayment plan, and the Revised Pay As You Earn (REPAYE) repayment plan. Each of these programs is more beneficial to borrowers than the ICR and the IBR for pre-July 1, 2014, borrowers plans in that the monthly payments are generally limited to 10% of annual discretionary income divided by 12. Also, with the introduction of each new repayment plan, larger numbers of borrowers have become eligible to utilize IDR plans. Payments made under each of these plans qualify under the PSLF program. With the expansion of the availability of more generous IDR plans, it is possible for more individuals to participate in and realize even larger forgiveness benefits under the program than what Congress might have originally contemplated. Thus, more individuals may qualify for IDR plans, and more may reduce their monthly payments below what the payments would be under ICR or IBR for pre-July 1, 2014, plans. This could result in PSLF eligible borrowers repaying a lesser total amount of their loans, and receiving larger forgiveness benefits after completing PSLF program requirements.

The Public Service Loan Forgiveness Program

Section 455(m) of the Higher Education Act of 1965 (HEA; P.L. 89-329), as amended, authorizes the PSLF program. As noted previously, its purpose is to encourage individuals to enter into and remain employed in public service.[24] The program offers Direct Loan borrowers who are employed full-time[25] in certain public service jobs for 10 years during repayment of their loans the opportunity to have any balance of principal and interest that remains after those 10 years forgiven.[26] To qualify for loan forgiveness, on or after October 1, 2007, borrowers must be employed full-time in a public service job, which includes jobs in government, at organizations described in Section 501(c)(3) of the Internal Revenue Code (IRC) and exempt from taxation under IRC Section 501(a), and at private nonprofit organizations that provide at least one of several enumerated public services (e.g., emergency management, public safety, public interest law services).[27]

Concurrent with being employed in public service, borrowers must make 120 separate qualifying monthly payments (10 years' worth) on their Direct Loans according to qualifying loan repayment plans.[28] Qualifying loan repayment plans include any of the income-driven repayment plans (IDR);[29] a standard repayment plan with a 10-year repayment period; and a standard,

[24] U.S. Congress, House Committee on Education and Labor, *College Cost Reduction Act of 2007*, report to accompany H.R. 2669, 110th Cong., 1st sess., June 25, 2007, H.Rept. 110-210, pp. 48-49.

[25] Full-time is defined as working for one or more qualifying employers for the greater of (1) an annual average of 30 hours per week or, for a contractual or employment period of at least 8 months, an average of 30 hours per week, or (2) the number of hours the employer considers full-time. 34 C.F.R. §685.219(b)

[26] PLUS Loans made to parents on behalf of a dependent student and Direct Consolidation Loans that repaid a PLUS Loan made to parents may only be forgiven for service completed by the parent borrower. Office of Federal Student Aid, "Public Service Loan Forgiveness Questions and Answers," https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions, accessed December 29, 2017.

[27] In addition, employment as a full-time faculty member at a Tribal College or University as defined under Section 316(b) of the HEA and other faculty teaching in high-need subject areas, as determined by the Secretary of Education, is qualifying employment under the program.

[28] The 10 years of employment in public service and concurrent loan payments need not be consecutive.

[29] These include the income-contingent repayment (ICR) plan; the IBR plans; the Pay As You Earn (PAYE) plan; and the Revised Pay As You Earn (REPAYE) plan.

graduated, or extended repayment plan to the extent that monthly payments are equal to or greater than the monthly amount due as calculated according to a standard plan with a 10-year repayment period. In effect, this means that payments made under the IDR plans and a standard plan with a 10-year repayment period frequently are the payments that qualify for PSLF purposes. Additionally, although monthly payments made under a standard plan with a 10-year repayment period, qualify for PSLF, should a borrower make payments under a such a plan for the entirety of his or her employment in public service, he or she will not realize any PSLF forgiveness benefits, because there will be no remaining loan balance to be forgiven after having made 120 (10 years' worth) of qualifying PSLF payments. Thus, individuals are most likely to qualify for PSLF program benefits while making payments under an IDR plan.

In addition, all 120 monthly payments must be qualifying monthly payments. That is, they must be required monthly payments (e.g., they cannot be payments made during a deferment or forbearance period) that are made on-time (within 15 days of the scheduled due date) and for the full scheduled monthly payment amount.[30] Payments made while a loan is in default are not qualifying payments.

Borrowers must be employed in public service at the time they apply for and receive forgiveness, and they may not be in default on loans for which forgiveness is sought.[31] Loan amounts forgiven under the program are not subject to federal income tax.[32]

Administering PSLF

ED contracts with multiple federal student loan servicers to perform the majority of administrative tasks associated with federal student loans once they have been disbursed to borrowers.[33] All federal student loan servicers are responsible for selected activities relating to PSLF, such as communicating with borrowers about the general availability of the program and enrolling borrowers in selected repayment plans that may enable them to qualify for PSLF. ED has contracted with a single loan servicer—FedLoan Servicing—to perform the majority of administrative tasks specific to PSLF.

To receive forgiveness benefits under the program, borrowers must apply for forgiveness from ED via FedLoan Servicing using an ED-developed form.[34] In general, FedLoan Servicing reviews the application and determines whether the borrower has met all PSLF requirements; if so, FedLoan Servicing forwards the application to ED for final review. If the application is approved by ED, ED directs FedLoan Servicing to forgive the remaining balance of the borrower's eligible loans.[35] If either FedLoan Servicing or ED denies an application, a borrower may dispute the determination[36] and/or subsequently reapply for forgiveness benefits. Borrowers were first eligible to apply for forgiveness benefits under the program on October 1, 2017.

[30] 34 C.F.R. §685.219(c)(iii).

[31] HEA §455(m)(1).

[32] IRC, Section 108(f).

[33] For additional information on loan servicing, see CRS Report R44845, *Administration of the William D. Ford Federal Direct Loan Program*, by Alexandra Hegji.

[34] 34 C.F.R. §685.219(e).

[35] U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, pp. 6-7.

[36] Ibid., p. 23.

To have eligibility status reviewed and to track progress toward forgiveness benefits, borrowers may periodically submit an Employment Certification Form (ECF)[37] to their loan servicer, which is then forwarded to FedLoan Servicing. Upon receipt of an initial ECF form, FedLoan Servicing determines whether the borrower has qualifying Direct Loans and evaluates the ECF to determine whether the borrower's employment qualifies. If the borrower has Direct Loans and PSLF employment that qualify, his or her ED-held loans (including those that are not Direct Loans) are transferred to FedLoan Servicing for all servicing activities, including those not associated with the PSLF program. After transfer, FedLoan Servicing determines how many qualifying payments the borrower has made while employed in public service. Borrowers have several options to dispute payment counts and other aspects of eligibility determination.[38] Borrowers are encouraged, but not required, to submit the ECF periodically.[39]

Selected Issues Related to the PSLF Program

Although borrowers have been eligible to apply for PSLF forgiveness benefits only since October 1, 2017, many issues that span several aspects of the program have arisen that have garnered congressional interest. In general, as has been noted, issues fall into a few categories (1) program implementation, (2) interaction of the program with other federal programs and benefits, and (3) facets of program design. Each will be discussed in the sections that follow.

Implementation Issues

Implementation issues relate to how the PSLF program's statutory requirements have been operationalized, difficulties experienced by borrowers in participating in the program, and program administration. They include how employment in a "public service job" has been operationally defined, how qualifying payments are determined, the effects of loan consolidation on a borrower's progress towards receiving PSLF benefits, and the administrative challenges and complexities faced by ED, borrowers, and student loan servicers.

Operationally Defining Employment in Public Service

A foundational concept in the PSLF program is defining what comprises employment in public service. Statutory provisions provide broad guidance but do not precisely define what constitutes qualifying employment, and regulatory and sub-regulatory administrative decisions have resulted in operationally defining it based primarily on employer characteristics rather than borrower job functions. This has led to some perceived inequities among borrowers and difficulties in identifying eligible employers.

The HEA requires, among other criteria, that an individual be employed in a "public service job" for 10 years to be eligible for PSLF benefits. It specifies that a public service job includes full-time jobs in a variety of fields including, but not limited to, government,[40] military service, law enforcement, public education, public health, and public interest law services. It adds that jobs in

[37] U.S. Department of Education, Public Service Loan Forgiveness (PSLF): Employment Certification Form, OMB No. 1845-0110, Exp. Date May 31, 2020.

[38] U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, p. 23.

[39] Office of Federal Student Aid, "Public Service Loan Forgiveness" https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service#apply, accessed May 29, 2018.

[40] Time employed as a Member of the U.S. Congress is excluded.

an organization "described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code"[41] (hereinafter a "501(c)(3) organization") are also considered public service jobs.

In implementing the statutory provisions, ED added specificity to the employment requirements in regulations by focusing largely on the type of employer at which an individual is employed, rather than on the type of services rendered by the employee. Specifically, the program's regulations state that an eligible individual must be an employee of a "public service organization," which includes federal, state, local, or tribal governments[42]; most 501(c)(3) organizations; and private organizations that provide at least one of many specified types of public service (e.g., public interest law services or public health) and that are "not businesses organized for profit."[43] Thus, operationally, employment in public service is identified largely by employer type rather than the nature of the work performed by an individual.

Concerning PSLF, ED regulations define "employed" as being hired and paid by a public service organization.[44] Individuals who are hired and paid by an employer that is not a qualifying public service organization but that is under contract with and renders services for a public service organization are ineligible for PSLF benefits.[45]

501(c)(3) Organizations

For PSLF purposes, 501(c)(3) organizations are nonprofit organizations that qualify for tax-exempt status under Section 501(c)(3) of the IRC and that are not engaged in religious activities, "unless the qualifying activities are unrelated to religious instruction, worship services, or any form of proselytizing."[46] Under IRC Section 501(c)(3), a nonprofit organization that qualifies for tax-exempt status is an entity "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals." In addition, no part of the net earnings of any such entities may benefit a private shareholder or an individual, and such entities are substantially limited in their ability to lobby and are prohibited from engaging in political campaign activity.[47]

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[41] HEA §455(m)(3)(B)(i).

[42] Employment with a foreign government or international, intergovernmental organization (e.g., the United Nations) does not qualify. Employment for a U.S. delegation to an international intergovernmental organization does qualify. U.S. Department of Education, "Public Service Loan Forgiveness Questions and Answers," https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions#qualifying-employment, accessed May 29, 2018.

[43] 34 C.F.R. §685.219(b). A public service organization also includes public child or family services agencies and Tribal colleges or universities. Service in the AmeriCorps and Peace Corps is considered qualifying "employment" for PSLF. Employment with a foreign nonprofit organization that operates in the United States may qualify for PSLF. U.S. Department of Education, "Public Service Loan Forgiveness Questions and Answers," https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions#qualifying-employment, accessed May 29, 2018.

[44] 34 C.F.R. §685.219(b).

[45] U.S. Department of Education, "Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program," 73 *Federal Register* 37705, July 1, 2008.

[46] 34 C.F.R. §685.219(b).

[47] For additional information on tax-exempt organizations, including 501(c)(3) organizations, see CRS Report 96-264, *Frequently Asked Questions About Tax-Exempt Organizations*, by Erika K. Lunder.

Many types of entities may be 501(c)(3) organizations. They can include the following:

- hospitals;
- private nonprofit IHEs and elementary and secondary schools;
- public charities such as the American Red Cross;
- private foundations such as the Bill & Melinda Gates Foundation;
- other organizations organized for one of the purposes specified in IRC Section 501(c)(3), such as the American Society for the Prevention of Cruelty to Animals, the American Chemical Society, and the National Collegiate Athletic Association; and
- churches and religious organizations.[48]

In total, there are approximately 1,237,000[49] organizations serving a variety of purposes that are tax-exempt under IRC Section 501(c)(3).

Nonprofit, non-501(c)(3) Organizations

Private organizations that are not tax-exempt organizations under IRC Section 501(c)(3), including private organizations that are tax-exempt under other sections of IRC Section 501(c), may nonetheless be considered qualifying employers for the PSLF program. Pursuant to regulations, to qualify, such organizations must not be (1) organized for profit; (2) a labor union; (3) a partisan political organization; or (4) an organization engaged in religious activities, unless the qualifying work engaged in by an individual is unrelated to religious instruction, worship services, or any form of proselytizing. In addition, such organizations must provide at least one of several enumerated public services (e.g., public interest law or public health). Although, the regulations do not specify the extent to which such public services must be offered at these organizations, the ECF and PSLF Application specify that a nonprofit organization that is not a 501(c)(3) organization must provide one of the several enumerated public services as its "primary purpose."

Discussion of Issues

A number of issues regarding the way in which qualifying employment is determined have surfaced. Criticisms have been raised that the PSLF program is not well targeted because qualifying employment under the program covers a broad array of occupations, credential levels, and pay levels. Other concerns include whether the operational definition of "public service job" has created inequities among types of borrowers and whether employer type is a sufficient proxy for identifying employers that provide public service. In addition, some aspects of the term "public service job" are fluid in nature and may make it difficult for borrowers and employers to realize intended benefits. To address some of these issues, basing PSLF eligibility on job functions rather than employer type might be considered. However, if employer type were not the

[48] Although churches and religious organizations may be 501(c)(3) organizations, PSLF regulations specify that organizations engaged in religious activities are not PSLF qualifying public service organizations, unless the work engaged in by an individual is unrelated to religious instruction, worship services, or any form of proselytizing. The ECF and Public Service Loan Forgiveness Application Form specify that for purposes of determining whether an individual is employed full-time at such an organization, ED will exclude time spent participating in religious instruction, worship services, or any form of proselytizing.

[49] Internal Revenue Service, *IRS Data Book: FY2016*, Table 25, "Tax-Exempt Organizations, Nonexempt Charitable Trusts, and Nonexempt Split-Interest Trusts, Fiscal Year 2016."

primary determinant of public service status, it would seemingly be necessary to identify types of jobs that determine eligibility, which may be difficult and inefficient to administer and may provide less certainty to borrowers regarding their qualifications for the program.

First, in enacting the PSLF program, Congress intended to provide forgiveness benefits to encourage individuals to enter into and remain employed in public service, as it was concerned with the number of individuals who chose not to enter into lower paying jobs, such as public service, due to increasing student loan debt.[50] To operationally define public service employment, distinctions are made between individuals employed in government and nonprofit entities and those employed in the private sector. As noted above, criticisms have been raised that the PSLF program is not well targeted and that distinctions made among employer types are inappropriate, because qualifying employment under the program encompasses a broad array of occupations, credential levels, and pay levels.[51] Some argue, however, that a distinction among employer types may be relevant, as public service positions may be lower paying than similar positions in the private sector.[52] Moreover, even for those individuals employed in higher-paying, more desirable positions, they may have borrowed large amounts relative to their income to pursue the education necessary to enter their field. Thus, it is argued, in such instances the receipt of PSLF forgiveness benefits is proper and serves as a "public service premium."[53]

Policies to more narrowly define the types of employment that could qualify for PSLF might be considered; however, there may be tradeoffs between targeting specific types of service and providing a more open-ended public service employment category. There is precedent within other federal loan forgiveness and loan repayment programs for providing benefits to individuals employed in specific occupations that have perceived recruitment and retention issues,[54] which result in the provision of a rather targeted benefit. Such an approach, however, may potentially exclude from program eligibility other populations of borrowers perceived as employed in occupations that also further the public interest.

Second, the construct of determining PSLF eligibility based on employer characteristics rather than services rendered may be seen as leading to disparate treatment of borrowers perceived as being similarly situated. Some have questioned ED's interpretation of qualifying public service jobs.[55] For example, consider a full-time Department of Defense (DOD) employee performing computer programming tasks. Such an individual's employment would qualify for PSLF because

[50] See, for example, U.S. Congress, House Committee on Education and Labor, *College Cost Reduction Act of 2007*, report to accompany H.R. 2669, 110th Cong., 1st sess., June 25, 2007, H.Rept. 110-210, pp. 48-49.

[51] See, for example, Beth Akers, "It's time to axe student loan forgiveness for public service," *The Hill*, June 22, 2017, http://thehill.com/blogs/pundits-blog/education/338908-its-time-to-axe-student-loan-forgiveness-program-for-public; and Jason Delisle, "The coming Public Service Loan Forgiveness bonanza," *Economic Studies at Brookings*, vol. 2, no. 2 (September 22, 2017), pp. 3, 6.

[52] See, for example, Letter from Tim Delaney, President & CEO, National Counsel of Nonprofit Associations, to Nikki Harris, U.S. Department of Education, August 15, 2008, ED-2008-OPE-0009-0063, https://www.regulations.gov/document?D=ED-2008-OPE-0009-0063.

[53] Mark Zuckerman, "Why teachers deserve a break on their student debt," *Politico*, October 3, 2017.

[54] For instance, the John R. Justice Loan Repayment for Prosecutors and Public Defenders program provides loan repayment benefits to individuals employed as full-time prosecutors or public defenders (42 U.S.C. §3797cc-21), and the National Health Service Corps (NHSC) Students to Service Loan Repayment program provides loan repayment benefits to individuals employed as primary care physicians at an NHSC-approved site in a federally designated Health Professional Shortage Area (42 U.S.C. §§254d-254f, 254l-1, 254m, 254n, 254o).

[55] See, for example, 73 *Federal Register* 63242. See also, Letter from Thomas M. Susman, Director, Governmental Affairs Office, American Bar Association, to Nikki Harris, U.S. Department of Education, August 15, 2015, ED-2008-OPE-0009-0174.

he or she is hired and paid by a qualifying public service organization. However, employment as a full-time contractor who performs the same computer programming tasks for DOD may not qualify for PSLF if the third-party entity that hires and pays the contracted employee is not a qualifying public service organization (e.g., it is a for-profit company). Yet, if the third-party entity that hires and pays the same contracted employee is a qualifying public service organization (e.g., a 501(c)(3) organization), then the employment could qualify for PSLF.

In addition, some state laws prevent some types of workers from being directly employed by certain types of organizations that might otherwise be PSLF qualifying employers. For instance, in many states physicians may be employed directly by a nonprofit hospital and, thus, may qualify for PSLF based on their employment. However, some states bar physicians from being directly employed by qualifying nonprofit hospitals.[56] Physicians in such states may form physician corporations that then provide the same types of services as their counterparts in other states without such restrictions within hospital settings. They essentially operate as contract employees of the hospital. Where such physician corporations are organized as for-profit organizations that provide services within a PSLF qualifying nonprofit hospital, a physician employed by such a corporation would not qualify for PSLF based on his or her employment.

In both of the above examples, the individual might be performing similar job functions (e.g., computer programmer, physician) in support of the same type of endeavor. Nonetheless, in accordance with PSLF program rules, the determination of whether an individual's work constitutes public service is dependent on the status of the individual's employer. Employment with governments and most nonprofit organizations has been determined to be public service employment, whereas employment with for-profit organizations and certain nonprofit organizations has been determined not to be public service employment.

For purposes of awarding PSLF benefits, one may question whether a distinction should be made between two individuals working side-by-side and performing the same functions. It might be argued that the tasks performed by such individuals advance similar purposes. However, it may also be argued that even if the tasks performed are similar, there are important differences in the nature of these individuals' employment such that only employment by organizations satisfying certain criteria should be considered public service jobs. There may also be important differences in employee salary structures that might be considered. Such differences might include, for example, the extent to which an employer's mission is to advance certain goals (e.g., a particular cause or to earn profits) other than "public service." Although an employee's particular job or tasks may advance public service, the employer's overall mission may not, in its entirety, do so. Concerns could arise that such an employer's mission could overtake any public interest aspect of its operations. Another difference that might be relevant is that if a contract employee's work is split across several projects supporting different contracts, some portion of the work may support public service while others may not. Under a scenario in which a contract employee is devoting time both to projects that do and do not support public service, it may be hard to determine whether they qualify for PSLF benefits and how such an individual would document his or her work time.

Concerning 501(c)(3) organizations, there has been debate about whether a blanket qualification for all such organizations for PSLF purposes is appropriate. As described above, under the IRC a 501(c)(3) organization is one that is exclusively organized and operated for a variety of purposes

[56] California Medical Association, "Texas Medical Association joins CMA to urge U.S. education secretary to fix public service loan forgiveness program," press release, May 26, 2016, https://www.cmanet.org/news/detail/?article=texas-medical-association-joins-cma-to-urge-us.

including charitable and educational activities and has no part of its net earnings benefitting a private shareholder or an individual. Concerns have been raised that some 501(c)(3) organizations may not meet this criteria and that they should not be given tax-exempt status.[57] For instance, there have been questions about whether some tax-exempt 501(c)(3) hospitals are truly organized and operated for a charitable purpose, as they may be spending a small fraction of funds on charity and community benefit (one manner of determining the extent to which a hospital is operating for a charitable purpose).[58] In other instances, questions have been raised about whether some private nonprofit IHEs are organized and operated exclusively for educational purposes, because they may also engage in non-educational, profit-seeking activities such as patent, trademark, and copyright licensing and venture capital businesses.[59]

Operationally, under the PSLF program, an organization's 501(c)(3) status is used as a proxy for identifying employers that provide public service. However, because questions have been raised about whether some 501(c)(3) organizations are organized and operating exclusively for one of the enumerated purposes in the IRC, related concerns may arise regarding whether such organizations consistently provide a public service and, thus, should be considered qualifying employers under the PSLF program. Providing a blanket qualification for all 501(c)(3) organizations, rather than requiring a determination of each organization's characteristics, may make administering the PSLF program more efficient and clear but 501(c)(3) status may be an imperfect proxy for public service.

There may also be a need for clarification as to which nonprofit organizations that are not 501(c)(3) organizations might qualify for PSLF purposes. An organization that is not a 501(c)(3) organization may be considered a public service organization under PSLF if it, among other criteria, provides one of several enumerated public services as its primary purpose. While some limiting factors are placed on this type of organization, the definition is broad enough to potentially encompass a variety of employers. Also, there is no definition of "primary purpose." Whether a non-501(c)(3) employer is a qualifying PSLF employer appears largely to be a case-by-case determination. The current lack of available information regarding whether certain organizations provide public service as their primary purpose may also provide uncertainty for borrowers employed at such organizations. This potentially undermines a principal purpose of the PSLF program, which is to encourage employment in public service. Some organizations may find the prospect of being designated as a PSLF eligible employer a useful recruitment tool, but without guarantee of being considered a qualifying PSLF employer, such organizations may experience difficulty in yielding intended benefits of recruiting and retaining qualified employees who wish to work in public service.[60]

To address some of the perceived inequities created by the distinction between borrowers based on employer type, policies to base PSLF eligibility on job function rather than employer types could be considered.[61] If organizational affiliation were not the primary determinant of public

[57] A full discussion of the extent to which some 501(c)(3) organizations are meeting these criteria is beyond the scope of this report.

[58] See, for example, Richard Cohen, "Debatable: How Nonprofit Are Nonprofit Hospitals?", *Nonprofit Quarterly*, December 18, 2013.

[59] Leslie A. Pappas, "Challenge to Princeton's Tax Exempt Status Will Proceed, New Jersey Tax Judge Rules," *Tax Management: Weekly State Tax Report*, vol. 2016, no. 8 (February 19, 2016).

[60] *American Bar Association v. U.S. Department of Education*, 1:16-cv-02476 (U.S. District Court for the District of Columbia), Complaint for Declaratory and Injunctive Relief, filed December 20, 2016.

[61] See, for example, Erica Blom, *Who does the Public Service Loan Forgiveness program really benefit?*, The Urban Institute, October 27, 2017, https://www.urban.org/urban-wire/who-does-public-service-loan-forgiveness-program-

service status, it would seemingly be necessary to identify types of jobs that determine eligibility. Identifying all types of specific jobs that could arguably qualify under the HEA definition of a public service job might be inefficient and unwieldy, as it might require a case-by-case consideration of each individual's employment and job functions, and may provide less certainty to borrowers regarding their qualifications for the program.[62]

Qualifying Payments

To qualify for PSLF, borrowers must make, on or after October 1, 2007, 120 separate qualifying monthly payments on their Direct Loans while employed full-time in public service. Qualifying payments are on-time (within 15 days of the schedule due), full, scheduled, and separate monthly payments that are made under a qualifying repayment plan.

To maximize PSLF program benefits, it may be most beneficial for borrowers to enroll in one of the IDR plans; however, borrowers may face difficulties determining which plan is most advantageous to them. In addition, requirements related to on-time payments and specific payment amounts necessary for a payment to qualify for PSLF benefit purposes may be difficult for borrowers to meet without an understanding of loan servicing practices.

Qualifying Repayment Plans

PSLF qualifying payments include payments made under the IDR plans and a standard repayment plan with a 10-year repayment period (hereinafter, the Standard 10-year repayment plan). Also included are payments made under a standard repayment plan with a greater than 10-year repayment period, a graduated repayment plan, or an extended repayment plan, to the extent that monthly payment amounts are equal to or greater than the monthly amount due as calculated according to a standard plan with 10-year repayment period at the time the loan entered repayment.[63] **Table 1** provides general descriptive information on the types of repayment plans that are available to Direct Loan borrowers and indicates the extent to which monthly payments made under each type of plan may be PSLF qualifying, assuming all other PSLF criteria for monthly payments (i.e., they are on-time, full, scheduled, and separate payments) are met.

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[62] In response to criticisms of its regulatory construct, ED has stated that it derived the term public service organization from the HEA's term public service job, and in doing so, it "intended to identify broad categories of eligible jobs rather than define specific jobs under those categories," (73 *Federal Register* 63232, 63243) believing that using such a construct would be "clearer and more efficient" than defining specific jobs that may qualify (73 *Federal Register* 37694, 37704) and stating that "the term 'public service job' does not encompass every job. The nature of the employer ... [is an] appropriate consideration[]" (73 *Federal Register* 63232, 63243).

[63] The point at which a loan enters repayment depends on the type of loan borrowed. For instance, repayment of a Direct Subsidized or Unsubsidized Loan begins six months and one day after the borrower first ceases to be enrolled on at least a half-time basis in an eligible school, and repayment of a Direct PLUS or Consolidation Loan begins the day that the loan is fully disbursed. 34 C.F.R. §685.207(b)-(e).

Table 1. Characteristics of Repayment Plan Types Available to Direct Loan Borrowers and the Extent to Which Monthly Payments Under Them May Qualify for PSLF

Plan	Monthly Payments	Maximum Repayment Term	Extent to which monthly payments may qualify for PSLF[a]
Standard 10-year	Fixed monthly payments	Up to 10 years	Always
Income-Contingent Repayment	Generally, equal to the lesser of (a) 20% of their discretionary income,[b] divided by 12 or (b) the amount calculated according to a 12-year repayment period, multiplied by an income percentage factor that corresponds to the borrower's adjusted gross income.	Up to 25 years	Always
IBR for pre-July 1, 2014, borrowers	Generally, equal to 15% of borrower's discretionary income,[c] divided by 12	Up to 25 years	Always
IBR for post-July 1, 2014, borrowers	Generally, equal to 10% of borrower's discretionary income,[c] divided by 12	Up to 20 years	Always
Pay As You Earn	Generally, equal to 10% of borrower's discretionary income,[c] divided by 12	Up to 20 years	Always
Revised Pay As You Earn	Equal to 10% of borrower's discretionary income,[d] divided by 12	If all loans being repaid were received for undergraduate studies, up to 20 years If any loan being repaid was received for graduate or professional studies, up to 25 years	Always
Standard repayment plan for Consolidation Loans	Fixed monthly payments	10-30 years, depending on borrower's total outstanding federal student loans at the time of entering repayment	In limited circumstances
Graduated repayment plan	Monthly payments gradually increase over the repayment period	Up to 10 years	In limited circumstances
Graduated repayment plan for Consolidation Loans	Monthly payments gradually increase over the repayment period	10-30 years, depending on borrower's total outstanding student loan debt	In limited circumstances

Plan	Monthly Payments	Maximum Repayment Term	Extent to which monthly payments may qualify for PSLF[a]
Extended repayment plan	Fixed monthly payments	Up to 25 years	In limited circumstances
Extended graduated repayment plan	Monthly payments gradually increase over the repayment period	Up to 25 years	In limited circumstances
Alternative repayment plans	Varies, depending on individual borrower circumstances	Up to 30 years	Never

Source: CRS analysis of 34 C.F.R. §§685.208, 685.209, 685.219, and 685.221.

Notes:

a. This column displays the extent to which monthly payments made under each type of plan may be PSLF qualifying, assuming all other PSLF criteria for monthly payments (i.e., they are on-time, full, scheduled, and separate payments) are met. Monthly payments may be qualifying payments for PSLF to the extent that monthly payment amounts are equal to or greater than the monthly amount due as calculated according to a standard plan with 10-year repayment period at the time the loan entered repayment.

b. "Discretionary income" is the amount by which a borrower's adjusted gross income (AGI) (including the borrower's spouse's income, if filing jointly) exceeds the Department of Health and Human Servicers' poverty guidelines for the borrower's family size.

c. "Discretionary income" is the amount by which a borrower's AGI (including borrower's spouse's income, if filing jointly) exceeds 150% of the Department of Health and Human Services' poverty guidelines for the borrower's family size.

d. "Discretionary income" is the amount by which a borrower's AGI (including borrower's spouse's income, in most circumstances, regardless of whether they file jointly) exceeds 150% of the Department of Health and Human Services' poverty guidelines for the borrower's family size.

As noted, to maximize forgiveness benefits under PSLF, it may generally be most beneficial for borrowers to repay their Direct Loans according to one of the IDR plans. Typically, monthly payments made under an IDR plan are lower than they would be under a Standard 10-year plan, and in some instances can even equal $0. This is particularly true for borrowers with more modest income levels and for some borrowers with relatively high levels of debt. Therefore, over a 10-year period many borrowers are likely to make a lower total amount of payments on their loans than they would under the Standard 10-year plan. This would result in larger amounts of loan principal and interest remaining outstanding at the time a borrower has completed 10 years of public service and receives PSLF forgiveness benefits.

Payments made under many of the other repayment plans available to Direct Loan borrowers may also be considered PSLF qualifying payments. However, making payments under such plans may not be as valuable to borrowers in terms of eventual PSLF forgiveness benefits. In addition, under some repayment plans only some payments may qualify, and it may be difficult for borrowers to discern whether such payments might qualify. Recent attention has been given to some of the difficulties borrowers may face when selecting a repayment plan that is beneficial to them for purposes of PSLF.[64] This section of the report discusses the extent to which loan payments made under selected repayment plans other than the IDR plans might qualify for PSLF purposes.

The HEA specifies that monthly payments made under a Standard 10-year repayment plan qualify for PSLF. However, should a borrower make payments under a Standard 10-year repayment plan for the entirety of his or her employment in public service, he or she will not realize any PSLF forgiveness benefits, because there will be no remaining loan balance to be forgiven after having made 120 (10 years' worth) of qualifying PSLF payments.

The HEA also specifies that monthly payments under a standard, graduated, or extended repayment plan are qualifying PSLF payments, to the extent that the monthly payments are equal to or greater than the monthly amount due as calculated according to a Standard 10-year repayment plan. Depending on an individual borrower's circumstances, it is possible that some payments made under such plans may qualify for PSLF purposes. Below are a few examples of the circumstances under which some payments made under these plans might qualify for PSLF:[65]

- **Standard repayment plan for Consolidation Loans:** Under this plan, Direct Consolidation Loan borrowers make fixed monthly payments on their loans for the duration of the repayment period. The repayment period can be 10-30 years in length, depending on the borrower's total outstanding student loan debt. The longer repayment periods generally result in monthly payments that are less than the amount that would be required under a Standard 10-year repayment plan. Therefore, payments made with a repayment period of greater than 10 years generally do not qualify for PSLF. A 10-year repayment period is only available to borrowers with total outstanding education debt of less than $7,500.[66] Thus, in

[64] See, for example, Ron Lieber, "A Student Loan Nightmare: The Teacher in the Wrong Payment Plan," *The New York Times*, October 27, 2017, https://www.nytimes.com/2017/10/27/your-money/paying-for-college/student-loan-payments.html.

[65] This section of the report describes repayment plans available to borrowers who entered repayment on or after July 1, 2006. For borrowers who entered repayment plans prior to July 1, 2006, repayment plans are available that are similar to the ones described herein but some terms and conditions may vary. For additional information on these repayment plans, see 34 C.F.R. §685.208.

[66] 34 C.F.R. §685.208(c).

limited circumstances, payments under this repayment plan may qualify for PSLF.[67]

- **Graduated repayment plan:** Under this plan, repayment is structured so that a borrower's monthly payment amount changes over the course of the repayment period. In general, a borrower makes smaller payments at first and larger payments later, and no payment may be more than three times the amount of any other. The repayment period cannot exceed 10 years.[68] Because monthly payments increase over time, it is possible that some payments toward the end of the repayment period may be greater than payments made under a Standard 10-year repayment plan and that those payments would qualify under PSLF.[69]
- **Graduated repayment plan for Consolidation Loans:** Under this plan, Direct Consolidation Loan borrowers may make graduated payments over a repayment period that is between 10 and 30 years, depending on the borrower's outstanding student loan debt.[70] Because monthly payments increase over time, it is possible that some payments (typically toward the end of the repayment period) may be greater than payments that would be made under a Standard 10-year repayment plan and, thus, could qualify under PSLF.[71]
- **Extended repayment plan:** Under this plan, new borrowers with more than $30,000 of outstanding Direct Loan debt accumulated on or after October 7, 1998, may make fixed monthly payments over a repayment period not to exceed 25 years. Monthly payments made under this plan are typically lower than monthly payments made under the Standard 10-year repayment plan[72]; however, they may be greater than those made under the Standard 10-year repayment plan in limited circumstances.[73]
- **Extended graduated repayment Plan:** Under this plan, new borrowers with more than $30,000 of outstanding Direct Loan debt accumulated on or after October 7, 1998, may make graduated monthly payments over a repayment period not to exceed 25 years.[74] Because monthly payments increase over time, it is possible that some payments (typically toward the end of the repayment period) may be greater than payments that would be made under a Standard 10-year repayment plan and, thus, could qualify under PSLF.

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[67] Office of Federal Student Aid, "Public Service Loan Forgiveness Questions and Answers," Qualifying Repayment Plans, https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions#qualifying-repayment-plans, accessed May 29, 2018.

[68] 34 C.F.R. §685.208(g).

[69] Office of Federal Student Aid, "Public Service Loan Forgiveness Questions and Answers," Qualifying Repayment Plans, https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions#qualifying-repayment-plans, accessed May 29, 2018.

[70] 34 C.F.R. §685.208(h).

[71] Office of Federal Student Aid, "Public Service Loan Forgiveness Questions and Answers," Qualifying Repayment Plans, https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions#qualifying-repayment-plans, accessed May 29, 2018.

[72] 34 C.F.R. §685.208(e).

[73] For instance, under certain circumstances, such as loan default, unpaid interest may capitalize. 34 C.F.R. §685.202(b)(5). It is possible that the amount of capitalized interest could cause monthly payments under the Extended repayment plan to be larger than what monthly payments under the Standard 10-year repayment would have been on the date the loan originally entered repayment.

[74] 34 C.F.R. §685.202(b)(5).

Media accounts[75] and a Consumer Financial Protection Bureau (CFPB) report[76] have recently highlighted the difficulties some borrowers may face when deciding which repayment plan to enroll in to maximize PSLF program benefits. For instance, a borrower may make 120 on-time monthly loan payments under the extended graduated repayment plan, believing the payments qualify for PSLF. After making 60 monthly payments (five years' worth), the borrower then learns they do not qualify for PSLF because the payments made were less than the monthly amount due as calculated according to the Standard 10-year repayment plan at the time his or her loan entered repayment. Because qualifying payments and employment must be concurrent, if the borrower wishes to continue pursuing PSLF, he or she would be required to complete at least another 10 years of employment in a public service job while making 120 qualifying payments, thus delaying his or her eligibility for forgiveness benefits. It appears that these difficulties may arise, at least in part, due to borrowers' misunderstandings of program requirements and/or administrative complexities associated with the program (discussed below).

Issues related to nonqualifying payments have been temporarily addressed in recent legislation (see below).

[75] See, for example, Ron Lieber, "A Student Loan Nightmare: The Teacher in the Wrong Payment Plan," *The New York Times*, October 27, 2017, https://www.nytimes.com/2017/10/27/your-money/paying-for-college/student-loan-payments.html.

[76] Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017.

Temporary Expanded Public Service Loan Forgiveness

On March 23, 2018, the Consolidated Appropriations Act of 2018 (P.L. 115-141) was enacted. The act provides $350 million to fund the costs of a modification to the Direct Loan program through which up to $500 million in loan forgiveness benefits may be made available to borrowers who would otherwise qualify for PSLF program benefits except for the fact that they made certain nonqualifying payments. To be eligible for the cancellation benefits, borrowers must meet the following criteria.

- They would qualify for PSLF program benefits except that some or all of the 120 required monthly payments they made do not qualify for purposes of the program because they were made in accordance with a graduated or extended repayment plan or the "corresponding repayment plan for a consolidation loan";
- The payments made under the above-described plans were less than the amount calculated under a Standard 10-year repayment plan; and
- The amounts of the monthly payments made 12 months before and immediately prior to application for loan cancellation under the act were each equal to or greater than the monthly amount that would have been calculated under an IDR plan for which the borrower would otherwise qualify. An exception to this criterion is made for borrowers who would otherwise be eligible for loan cancellation under the act's provisions but who demonstrate an "unusual fluctuation of income" over the past five years.
- In addition, according to ED's implementation of this provision, prior to applying for this newly created loan forgiveness benefits a borrower must have previously submitted a PSLF application and had the application denied because some or all of the payments made were not qualifying.

Loan cancellations will be made on a "first-come, first-served" basis. Borrowers who receive loan cancellations under this provision are prohibited from receiving loan repayment or cancellation benefits under the Stafford Loan Forgiveness for Teachers program, the Loan Forgiveness for Service in Areas of National Need program, and the Civil Legal Assistance Attorney Student Loan Repayment program for the same service performed.

In addition, the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019, and Continuing Appropriations Act, 2019 (P.L. 115-245) was enacted on September 28, 2018. It provides an additional $350 million to fund the costs of a modification to the Direct Loan program through which up to $500 million in loan forgiveness benefits may be made available to borrowers under the same circumstances as described above.

For additional information, see Office of Federal Student Aid, "Temporary Expanded Public Service Loan Forgiveness," https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/temporary-expanded-public-service-loan-forgiveness.

Payments for Less than the Amount Due

Loan payments must be for the full required monthly amount to be considered qualifying for PSLF.[77] For an individual with multiple loans, should he or she make a payment that is less than the total amount due on all such loans, the payment typically may be applied to each loan in proportion to the required monthly payment amount for each loan, unless requested otherwise.[78] For instance, if an individual had a total of eight loans (e.g., a Direct Subsidized Loan and a Direct Unsubsidized Loan for each of four years of undergraduate study), each with a monthly payment equal to $50 ($400 in total), and he or she made a payment of $300 in a particular month, $37.50 would be applied to each of the eight loans. None of the payments on these loans would be considered PSLF qualifying. If the borrower made a $500 payment the next month, $100 of that payment would first be applied to the past due amount from the previous month and the rest would be applied proportionally across all loans to the current month's payments, thereby bringing all of the loans into current repayment status. The amount of the payment applied to the

[77] 34 C.F.R. §685.219(c)(1)(iii).

[78] See, for example, Nelnet, "How Are Payments Allocated," https://www.nelnet.com/how-payments-are-allocated, accessed May 3, 2018, and Great Lakes, "How Payments Are Applied," https://mygreatlakes.org/educate/knowledge-center/how-payments-are-applied.html, accessed May 3, 2018.

past due amount from the previous month would not be considered PSLF qualifying, but the remaining amount applied to the current month's payments would be considered PSLF qualifying, as it would be for the full scheduled monthly amount.

However, an individual could request that a payment for less than the amount due be applied in a specific way, such that the monthly payment made on some loans would be considered to be for the full amount and, thus, qualify for PSLF purposes. In the above example, for instance, the borrower could specify that the $300 payment be applied to six of the eight loans. The payments on the six loans would be considered full payments that qualify for PSLF, while the remaining two loans would be considered delinquent and, thus, not be PSLF qualifying. If the borrower made a $500 payment the next month, unless otherwise specified, $100 would be applied to the past due amount and $400 would be applied across all of the loans; the amount of payment applied to the past due amount would not be considered PSLF qualifying, but the remaining amount applied to the current month's payments would be considered PSLF qualifying.

In such instances, the timing of when a particular loan may be eligible to be forgiven under PSLF may vary.

Payments Made When Not Due

In general, loan payments must be scheduled payments to be considered qualifying for PSLF.[79] Scheduled payments are those that are made while a borrower is in repayment on his or her loan and a payment is required.[80] Thus, loan payments made while an individual is in an in-school[81] or other type of deferment, grace status,[82] or forbearance are not considered qualifying payments.

One instance in which this may be particularly relevant is when an individual previously entered repayment on his or her Direct Loan and subsequently returned to school while being employed in public service. Direct Subsidized and Unsubsidized Loans are considered as having entered repayment upon the expiration of the grace period; PLUS Loans are considered to have entered repayment when the loan is fully disbursed.[83] Although Direct Loan borrowers are automatically placed in an in-school deferment upon enrolling on at least a half-time basis in an eligible program, an individual may decline the in-school deferment for those loans that previously entered repayment, such that he or she may continue making qualifying payments while employed in public service concurrently with his or her enrollment.[84] However, if the individual borrowed a new Direct Subsidized or Unsubsidized Loan for his or her return to school, the individual would be unable to decline the initial in-school deferment and the grace period and, thus, may not be able to make PSLF qualifying payments on those loans while enrolled in school, as the loans would not be considered to have entered repayment. If the individual borrowed a

[79] 34 C.F.R. §685.219(c)(1)(iii).

[80] U.S. Department of Education, Public Service Loan Forgiveness (PSLF): Employment Certification Form, OMB No. 1845-0110, expiration date May 31, 2020.

[81] Borrowers of Subsidized and Unsubsidized Direct Loans typically are not required to make payments on their loans while they are enrolled on at least a half-time basis in an eligible program. 34 C.F.R. §685.211(b) & (c).

[82] The repayment period for Subsidized and Unsubsidized Direct Loans typically begins six months and one day after the borrower first ceases to be enrolled on at least a half-time basis in an eligible program. This six-month period is commonly referred to as the grace period. 34 C.F.R. § 685.207(b) & (c).

[83] 34 C.F.R. §685.211.

[84] U.S. Department of Education, Office of Federal Student Aid, "Public Service Loan Forgiveness Questions and Answers," https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service/questions, accessed May 2, 2018.

PLUS Loan for his or her return to school, the PLUS Loan would be considered to have entered repayment upon full disbursement. Thus, the borrower could decline an initial in-school deferment on that loan and would be able to make PSLF qualifying payments on those particular loans while enrolled in school.

Lump Sum Payments

Loan payments must be separate monthly payments to be considered qualifying for PSLF.[85] Thus, making a monthly payment that is greater than the required monthly amount will not make a borrower eligible for PSLF forgiveness benefits any sooner, as it will not count as more than one qualifying payment. However, regulations for the PSLF program provide for several exceptions. In instances of a borrower making a lump sum payment using the proceeds of an AmeriCorps Segal Education Award, a Peace Corps transition payment, or through certain DOD programs, the lump sum payment may be counted as up to 12 required monthly payments. In such instances, the number counted as qualifying monthly payments is determined by taking the lesser of the amount of funds from one of the above sources that was applied toward a lump sum payment, divided by the required monthly payment amount under a qualifying repayment plan, or 12 monthly payments.[86]

Aside from these exceptions, any excess amount paid may be applied to cover all or part of one or more future monthly payments, unless the borrower requests otherwise. Depending on how much extra the borrower pays, the borrower's next payment due date could be advanced a month or more in the future from the date the extra payment amount was made. This is called being "paid ahead." Generally, payments resulting in a borrower's paid ahead status only count as one qualifying PSLF payment, even if the payments could equal multiple months' worth of payments.[87] In addition, subsequent payments made during a period when a borrower is paid ahead will not qualify for PSLF. However, if a borrower requests that the extra payment amount not be applied to future scheduled payments (e.g., the borrower requests that the excess payments be applied to reduce outstanding loan principal), the excess amount would not advance the due date of the next scheduled payment, and any subsequent monthly payments made would count toward the required 120 payments.[88] It has been reported that some borrowers, particularly those whose loan payments are automatically debited from their bank accounts, may not realize that the advanced payments they have made do not qualify for PSLF and, thus, they may not have made the progress toward PSLF they expected.[89]

Loan Consolidation

Loan consolidation may also affect a borrower's eligibility for and receipt of PSLF benefits. Only borrowers of Direct Loans are eligible to receive PSLF benefits, but borrowers of other types of federal student loans (e.g., Federal Family Education Loans, Perkins Loans, and Public Health

[85] 34 C.F.R. §685.219(c)(1)(iii).

[86] 34 C.F.R. §685.219(c)(2) and (3).

[87] Office of Federal Student Aid, "Public Service Loan Forgiveness," What is a qualifying monthly payment?, https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service#qualifying-repayment-plan, accessed December 29, 2017.

[88] 34 C.F.R. §685.211(a).

[89] See, for example, Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017, pp. 42-43.

Service Act loans) may consolidate their loans into a Direct Consolidation Loan[90] to pursue PSLF benefits. While loan consolidation may be a useful option for individuals considering PSLF, the timing of it may be an important factor in borrower eligibility for and receipt of program benefits. When a borrower consolidates multiple loans into a Direct Consolidation Loan, its proceeds are used to pay off the borrower's previous loans. Thus, no PSLF qualifying payments made on Direct Loans and non-Direct Loans prior to consolidation will count towards the required 120 PSLF payments. In addition, because a Direct Consolidation Loan is an entirely new loan with potentially different terms and conditions than the underlying loans, benefits uniquely associated with the underlying loans may be no longer be available upon consolidation. For instance, Perkins Loan[91] borrowers may have a portion of these loans cancelled after service in qualifying occupations (e.g., teachers in low-income schools). When a borrower consolidates his or her Perkins Loan into a Direct Consolidation Loan, the Perkins Loan cancellation benefit is no longer available to the individual. There have been reports that some borrowers may not have been aware of the effects of consolidation on their PSLF eligibility when they consolidated their loans and that had they been aware, they would have consolidated their loans earlier or would not have consolidated them at all in order to preserve their qualifying payments or other loan benefits.[92]

Administrative Complexities and Challenges

The administration of the PSLF program presents complexities and some challenges for ED, its loan servicers, and borrowers. Receipt of program benefits is dependent on an individual fulfilling multiple requirements related to qualifying employment and qualifying payments. An overarching administrative issue faced by ED, loan servicers (tasked with administering various aspects of the PSLF program), and borrowers is communications among the parties regarding PSLF eligibility requirements and processes. Borrowers sometimes seem to have imperfect information about the program's requirements,[93] which may make attainment of program benefits difficult. Loan servicers also seemingly are troubled by imperfect information related to a borrower's employment status,[94] which may make aspects of program administration difficult or inefficient. In addition, the program's overall complexity, lack of automation in administrative functions, lack of coordination among loan servicers, and fragmented guidance issued by ED to loan servicers may lead to mistakes, inefficiencies, and inconsistent administration of the program that could affect borrower eligibility for program benefits.

All contracted federal student loan servicers are responsible for selected activities relating to PSLF, such as communicating with borrowers about the general availability of the program and enrolling borrowers in selected repayment plans that may enable them to qualify for PSLF. ED has contracted with a single loan servicer—FedLoan Servicing—to perform the majority of

[90] For additional information on Direct Consolidation Loans, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

[91] For additional information on the Perkins Loan program, see CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by Joselynn H. Fountain.

[92] See, for example, Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017, p. 38.

[93] See, for example, U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018 and Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017.

[94] See, for example, U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018.

administrative tasks specific to PSLF, including determining whether an individual's employment and/or payments qualify for the program and processing forgiveness applications.

Communication Issues

PSLF can offer borrowers significant benefits to help ease the financial burdens associated with student loan debt, but borrowers can only avail themselves of the program if they actively seek forgiveness benefits. Therefore, knowledge of the program's availability is one aspect that contributes to a borrower's successful utilization of the program. Additionally, even if borrowers are aware of the program's availability, imperfect information on program eligibility requirements can negatively affect a borrower's progress toward loan forgiveness. Multiple reports have highlighted communication issues among parties regarding the program.[95]

One communication issue faced by some borrowers may be their general lack of knowledge of the existence of the program. One report found that ED has not notified all borrowers who have entered repayment about the program. It also found that while ED primarily relies on its loan servicers to communicate with borrowers who have entered repayment, it has established few requirements related to the information the servicers should provide to borrowers about PSLF and when those communications should occur. It is reported that ED has taken some steps intended to help increase borrower awareness of the program, such as developing requirements for servicers to include information about PSLF in initial communications to borrowers.[96] However, servicers are not required to provide PSLF information in ongoing communications with borrowers beyond the initial communications,[97] which could affect a borrower's ability to participate in the program at a future point should he or she forget the information provided earlier in the repayment process.

In addition to issues relating to communicating about the general availability of the program to borrowers, reports suggest communications about program requirements between borrowers, ED, and loan servicers may be imperfect.[98] Imperfect communications may lead to borrower confusion about program requirements and could result in a borrower making extra payments, prolonging a borrower's potential time to forgiveness, or rendering a borrower's loans ineligible for PSLF. Issues experienced by borrowers relating to communication about PSLF eligibility requirements include the following:

- loan servicers not informing borrowers of the availability of PSLF and/or its requirements, despite knowing a borrower was employed in public service;
- loan servicers not explaining to borrowers that their FFEL or Perkins Loan program loans do not qualify for PSLF or that they are not enrolled in a qualifying repayment plan, despite borrowers informing the servicer that they are

[95] See, for example, U.S. Government Accountability Office, *Federal Student Loans: Education Could Do More to Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options*, GAO-15-663, August 2015; U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547; and Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017.

[96] U.S. Government Accountability Office, *Federal Student Loans: Education Could Do More to Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options*, GAO-15-663, August 2015, pp. 34-36.

[97] Communications between CRS and FedLoan Servicing, September 28, 2018.

[98] See, for example, U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, p. 13.

pursuing PSLF and believing they otherwise meet PSLF program requirements; and

- loan servicers not explaining to borrowers that if they consolidate their loans, any previous PSLF qualifying payments made will be lost.[99]

ED takes several approaches to conduct outreach to inform borrowers about PSLF requirements, but at least one report concluded that there remains a need for ED to provide borrowers with clear and sufficient information about how to qualify for the program.[100] For example, GAO found that multiple loan servicers that are not the primary servicer responsible for administering the program have policies not to answer specific questions about an individual borrower's PSLF eligibility due to the complex nature of the program.[101] While such an approach may help avoid the risk of a non-PSLF loan servicer providing inaccurate information, it may hinder a borrower's ability to make informed decisions regarding his or her pursuit of PSLF benefits.

Recently, the Consolidated Appropriations Act of 2018 (P.L. 115-141) authorized $2.3 million for the Secretary of Education to conduct activities that may help to address some of the issues described in this section. The act directs the Secretary to conduct outreach to borrowers "who may intend to qualify" for PSLF to ensure that they are meeting program terms and conditions. It also directs the Secretary to communicate to all Direct Loan borrowers all PSLF program requirements and to improve the process for filing the ECF by providing improved outreach and by creating an option for all borrowers to complete the employment certification process on a centralized website.

Additional Issues Faced by Student Loan Borrowers

A 2017 CFPB report also highlighted a variety of challenges related to the administration of the PSLF program that borrowers may face. Some complaints highlighted in the report include the following:

- Borrowers consolidating federal student loans that are otherwise ineligible for PSLF into Direct Consolidation Loans in order to become eligible for PSLF report delays in the loan consolidation process. In some instances, borrowers report the process taking more than six months to complete because their original loan servicer did not provide the information necessary to complete the consolidation.
- Some borrowers report that after submitting materials to enable them to become eligible for PSLF (e.g., applications to enroll in a qualifying repayment plan or to consolidate PSLF-ineligible loans into a Direct Consolidation Loan), servicers either incorrectly denied their applications or did not give them a chance to correct deficiencies in their applications.
- Some borrowers who have had their loans transferred to FedLoan Servicing after having their employment certified as PSLF qualifying report issues related to the transfer process. In some instances, borrowers have reported that during transfer

[99] Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017.

[100] U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, pp. 13-14.

[101] U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, pp. 13-14.

and without notice, their loans were removed from an IDR plan. Thus, when they continued to submit payments during transfer, such payments did not qualify for PSLF. In other instances, borrowers have reported that their full payment history may not be received by FedLoan Servicing from the transferring servicer, which may impede FedLoan Servicing's ability to accurately track qualifying payments.

- Some borrowers report that FedLoan Servicing has provided inaccurate counts of the number of qualified payments they have made towards PSLF forgiveness and that they have experienced difficulty in having those errors corrected.
- Borrowers report that loan servicers have failed to process IDR plan recertification paperwork in a timely manner and have placed them in repayment plans or statuses (e.g., forbearance) that do not qualify for PSLF, despite servicers being required to keep the borrower in the same IDR plan until the recertification paperwork can be processed.[102]

Provisional Qualifying Employment Determination

Another administrative issue that may affect borrowers (and their employers) is a recent lawsuit between ED and the American Bar Association (ABA) that brings into question the extent to which some borrowers may be able to rely on FedLoan Servicing's determination of whether their employment qualifies for PSLF. In December 2016, the ABA filed a lawsuit against ED stating that FedLoan Servicing had notified several ABA employees that their employment with the ABA qualified for purposes of PSLF, and that subsequently ED retroactively revoked that determination. In response, ED stated that FedLoan Servicing's determination of employment eligibility was "provisional guidance" and that ED retains the right to make a final determination as to an employer's status.[103] The lawsuit has not yet been resolved, but it has called into question the extent to which some borrowers may rely on FedLoan Servicing's determination that their employment qualifies for PSLF.[104]

This issue may be of particular concern for individuals who are employed at nonprofit organizations that are not 501(c)(3) organizations but who might otherwise qualify for PSLF, as determining whether such organizations are qualifying is not always a straight-forward exercise (see discussion below regarding administrative issues with determining employer eligibility). Upon receipt of notification from FedLoan Servicing that their employment qualifies for PSLF, such individuals could remain in a job in which they might not have otherwise remained but for the availability of PSLF. Should ED then make a subsequent determination that their employment did not qualify, they may be delayed in qualifying for forgiveness benefits. Additionally, the benefit for which they may ultimately qualify may be reduced if borrowers made more unqualified payments (i.e., payments not made while concurrently employed in a qualifying public service job) on their loans than they would have with reliable information about the employer's eligibility status.

The ABA lawsuit may have implications for employers as well. Employers may use PSLF as a recruitment tool by informing potential employees that their current employees have been

[102] Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017.

[103] *American Bar Association v. United States Department of Education*, Case 1:16-cv-02476-RDM (U.S. District Court for the District of Columbia), July 31, 2017.

[104] For additional information, see Stacy Cowley, "Student Loan Forgiveness Program Approval Letters May Be Invalid, Education Dept. Says," *The New York Times*, March 30, 2017, https://www.nytimes.com/2017/03/30/business/student-loan-forgiveness-program-lawsuit.html.

informed that employment with them qualifies for PSLF. If job-seeking borrowers feel they cannot rely on FedLoan Servicing's determination, they may choose employment elsewhere and public service organizations may not benefit from recruiting and retaining qualified employees as intended by PSLF.

Need for 10 Years of Individual Recordkeeping

A final administrative issue potentially faced by borrowers is individual recordkeeping. Overall, loan servicers and ED are responsible for determining whether an employer qualifies for PSLF and how many qualifying payments an individual has made. However, in some instances, a loan servicer may provide inaccurate or incomplete information to borrowers regarding their PSLF qualifications. Borrowers who are adept at recordkeeping (e.g., maintaining employment records such as paystubs, keeping track of payments previously made) may be better able to substantiate and resolve any issues or complaints brought to the loan servicer's and/or ED's attention than those who are not.

One instance in which individual recordkeeping may be useful is when a borrower believes his or her PSLF qualifying loan payments have been miscounted. In some instances, FedLoan Servicing may not provide borrowers with sufficient information to catch payment counting errors easily. In addition, previous loan servicers may have provided inconsistent prior-payment information to FedLoan Servicing, which could result in payment counting mistakes. FedLoan Servicing relies on borrowers to catch payment counting errors resulting from issues with information provided by previous loan servicers.[105] If a borrower has not kept records of individual payments made over time, he or she may face difficulties in disputing payment counts with FedLoan Servicing or ED.

Addressing Administrative Issues Faced by Borrowers

Proposed policies to address many of these administrative issues faced by borrowers often center around strengthening loan servicing standards related to PSLF and other aspects of loan servicing that may affect PSLF eligibility, such as borrower enrollment in qualifying repayment plans. Suggestions to strengthen servicing standards include, for instance, earlier servicer engagement with borrowers regarding the general availability of PSLF, better communication of PSLF eligibility requirements, and accessible tracking of payments toward PSLF.[106] Other policy options center around actions ED may take to strengthen the administration of the program, such as strengthening outreach to borrowers to increase awareness about the program.[107] While strengthened borrower engagement and outreach may enable some borrowers to navigate the PSLF process more easily, one might consider whether such information could be targeted to specific subgroups of borrowers, such as those individuals known to be employed in public service. Using a one-size-fits-all approach to providing PSLF information to all borrowers, regardless of whether they may be eligible for or interested in PSLF, may lead to borrower confusion and imprudent decision making about whether to pursue PSLF.

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[105] U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, pp. 22-23.

[106] Ibid, pp. 44-47, and Consumer Financial Protection Bureau, *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, June 2017, p. 44-47

[107] U.S. Government Accountability Office, *Federal Student Loans: Education Could Do More to Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options*, GAO-15-663, August 2015, p. 37.

Issues Faced by Student Loan Servicers

Loan servicers may face additional issues, aside from the communication issues described above, in administering the PSLF program. Key administrative issues faced by loan servicers pertain to the complexity of the PSLF program requirements and the lack of automation of many functions related to determining a borrower's PSLF eligibility, and the fragmented guidance provided by ED to FedLoan Servicing in administering the program.[108]

Determining Employment Eligibility

One administrative task potentially affected by the lack of automation is determining whether a borrower's employment is eligible for PSLF. When FedLoan Servicing receives a borrower's ECF and determines that the borrower has an eligible Direct Loan, it then makes an initial determination of whether the borrower's employer is PSLF qualifying. ED has not provided FedLoan Servicing with a definitive source of information for determining which employers qualify for PSLF. Although ED has provided FedLoan Servicing with some resources to assist it in identifying qualifying employers, the sources are not comprehensive, and sometimes FedLoan Servicing must consult other sources and make its own determination.[109] FedLoan Servicing has expressed that a master list of qualifying employers supplied by ED that it could reference when making initial PSLF employment determinations or other data matching initiatives (such as with the IRS) could help streamline the process and add a layer of certainty to its determinations,[110] especially in light of the current ABA lawsuit.

Counting Payments

Another administrative task potentially affected by lack of automation is counting the amount of PSLF qualifying payments a borrower has made. Once a borrower has submitted an ECF and his or her employment has been determined qualifying by FedLoan Servicing, his or her loans are transferred, along with any relevant documentation such as information on previous monthly payments made, from the borrower's current servicer to FedLoan Servicing. FedLoan Servicing then counts the number of PSLF qualifying payments the borrower has made and notifies him or her of the tally. However, FedLoan Servicing reports it does not always receive consistent information regarding prior payments from other loan servicers. This may be due in part to a lack of standard definitions and terminology among loan servicers and to them operating different IT systems to complete loan servicing tasks.[111] As described above, qualifying payments are on-time, full, scheduled, and separate monthly payments that are made under a qualifying repayment plan. Monthly payments that are greater or less than the required monthly amount may result in a borrower being in paid-ahead or delinquent status, respectively, and payments made while in these statuses are not qualifying for PSLF purposes. Due to the complexity of determining precisely what constitutes a qualifying payment and the inconsistencies in reporting among loan servicers, this process can be work intensive, which could delay FedLoan Servicing's ability to notify a borrower of the number of qualifying payments made. In addition, it could lead to miscounting payments. Were a more consistent and automated process to be developed, FedLoan Servicing might be able to tally and notify borrowers of qualifying loans payments in a more accurate and timely manner.

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[108] This section is based on conversations between CRS and FedLoan Servicing, November 2, 2017.

[109] U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, pp. 18-20.

[110] Ibid., p. 19.

[111] Ibid., pp. 21-22.

Fragmented and Incomplete Guidance

An overarching issue faced by FedLoan Servicing in administering the PSLF program is the fragmented and incomplete guidance ED has provided it. GAO reports that ED provides guidance and instructions to FedLoan Servicing in a piecemeal manner across multiple documents, including ED's original contract with FedLoan Servicing, contract updates, and emails. FedLoan Servicing has indicated to GAO that the use of email to communicate guidance and instructions is especially problematic, as information in the emails may not be disseminated to all relevant individuals.[112] GAO also reports that there are gaps in ED's guidance to FedLoan Servicing, which may leave the servicer uncertain about how to administer aspects of the program.[113] Such a fragmented and incomplete approach to communicating guidance and instructions may create a risk of inconsistent interpretations of law and procedures, which could negatively affect borrowers' abilities to benefit from PSLF. GAO indicates ED has taken steps (e.g., conducting regular meetings with FedLoan Servicing to discuss administrative issues) to ensure it is providing clearer and more consistent guidance and instructions.[114] However, a central source of guidance and instructions, such as a PSLF processing manual, may be helpful to further address additional administrative concerns and could provide additional levels of certainty that the PSLF program will be consistently administered.

Interaction with Other Programs and Benefits

Issues have surfaced related to the interactions between PSLF and other federal programs and benefits. From a borrower's perspective, these relate to their need to understand the interactions to make rational choices and maximize program benefits. This involves borrowers' understanding of the various loan repayment plans available and the interaction between PSLF and other service benefits (e.g., loan repayment or forgiveness programs); deciding the amount of student loans to borrow; and being able to avail themselves of certain income tax provisions to maximize PSLF program benefits.

From the federal government's perspective, program interaction issues relate to whether desired targeting of benefits is being achieved. They may also relate to consideration of how large PSLF program benefits should be, as well as consideration of the extent to which overlapping benefits might be provided and whether any may constitute an unintended "double benefit" for the same service. Other issues relate to subsequent changes to "interacting benefits" (e.g., expansion of available loan repayment plans), which may substantially affect the targeting of PSLF benefits and associated costs.

Loan Limits and Repayment Plans

For borrowers, key issues relating to PSLF program interactions with loan limits and repayment plans are deciding the amount of student loans to borrow and understanding how loan repayment plans interact with PSLF to maximize PSLF program benefits. For the federal government, key issues relate to the amount of student loans forgiven, whether the benefits provided may be outsized for certain borrower populations, and the associated costs with providing benefits. Another issue for the federal government is subsequent changes to benefits, which may substantially affect the targeting of benefits and associated costs.

[112] Ibid., p. 16-17.

[113] Ibid., 17.

[114] Ibid., p. 18

There is no limit to the amount of loan forgiveness benefits that a borrower may realize under PSLF. As such, it is possible that borrowers with large amounts of Direct Loan debt may realize significant forgiveness benefits under the program.[115] While this outcome potentially could occur for a variety of individuals borrowing different types of Direct Loans, it may be more likely for individuals who borrowed Direct PLUS Loans as graduate or professional students, because there are higher aggregate borrowing limits for Direct Unsubsidized Loans for graduate and professional students and there are no aggregate limits to the amount of PLUS Loans an individual may borrow.[116]

Table 1 depicts the average cumulative amount of federal student loans borrowed by academic level of the borrower for the cohort of students who began undergraduate study during academic year (AY) 2003-2004. Based on these data, it appears that individuals who borrowed to pursue a graduate or professional education may have the potential to realize larger PSLF loan forgiveness benefits than those who borrowed only to pursue an undergraduate education. Moreover, it appears that individuals who borrowed Direct PLUS Loans as graduate and professional students have the potential to realize an even larger PSLF loan forgiveness benefit than their counterparts who did not borrow Direct PLUS Loans as graduate and professional students.

Table 2. Average Cumulative Federal Student Loans Borrowed, by Academic Level

As of June 1, 2015

Academic Level	Average Cumulative Amount Borrowed[a]
Undergraduate	$16,612
Graduate/Professional[b]	$74,476
Did not borrow PLUS Loans for graduate study	$50,981
Borrowed PLUS Loans for graduate study	$132,199

Source: CRS analysis of U.S. Department of Education, National Center for Education Statistics, 2003-04 Beyond Postsecondary Students Longitudinal Study, Second Follow-up (BPS: 04/09).

Notes: Estimates in nominal dollars.

a. Represents the average cumulative amount of all federal loans received within 12 years of beginning postsecondary education.

b. Estimates include undergraduate debt for loan borrowers.

To realize PSLF program benefits, a borrower must make 120 qualifying monthly payments. When Congress first authorized the PSLF program, it specifically cited the concern that public service professions paid comparatively less than other professions. By permitting borrowers to

[115] It is difficult to estimate the potential amount of PSLF benefits that could be realized by an individual, as a variety of factors must be taken into consideration, including an individual's loan balance, interest rate, repayment plan, current and future earnings, and family size. Nonetheless, some have attempted to provide illustrative examples of the amount of forgiveness benefits that might be realized under the PSLF program. See Office of Federal Student Aid, "Repayment Estimator," https://studentloans.gov/myDirectLoan/mobile/repayment/repaymentEstimator.action; Student Loan Hero, "Public Service Loan Forgiveness Calculator, https://studentloanhero.com/calculators/public-service-loan-forgiveness-calculator/; and Jason Delisle and Alexander Holt, *Zero Marginal Cost: Measuring Subsidies for Graduate Education in the Public Service Loan Forgiveness Program*, New America, September 2014.

[116] Conversely, there are aggregate borrowing limits placed on Direct Subsidized and Unsubsidized Loans, the only types of Direct Loans undergraduate students may borrow. For additional information on loan limits, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

maximize PSLF program benefits by tying monthly payments to income, as is done under an IDR plan, the issue of disparate pay among employment types (i.e., public service versus non-public service) may be further addressed. For individuals enrolled in IDR plans, their monthly payments are often less than what they would be under a Standard 10-year repayment plan. Also, under several of the IDR plans, borrowers' monthly payments may be capped not to exceed the monthly amount a borrower would have repaid under a Standard 10-year repayment plan at the time the borrower began repaying under the IDR plan.[117] Thus, depending on individual circumstances and the repayment plan chosen, a borrower may maximize the amount of loan forgiveness received under PSLF by lowering monthly payments. Some speculate this may encourage student over-borrowing, as the amount a borrower repays on a loan under the IDR plans is largely based on the borrower's income and family size, once a certain amount has been borrowed. Some individuals may borrow at a high enough level that, provided qualified service and on-time payment requirements are met, borrowing additional sums may not result in a borrower incurring any increases in future loan payments. Consequently, such individuals may have little incentive to limit their borrowing.[118] In addition, some hypothesize that the lack of student incentive to limit borrowing may also make some students less sensitive to the price of education.[119]

Criticisms have been raised that the level of program benefits provided is not well targeted because it may depend on borrower characteristics (e.g., amount of debt and repayment plan) and allows borrowers potentially to accrue large amounts of debt and subsequently receive large dollar amounts of benefits, through both reduced monthly payments in IDR plans while performing public service and eventual loan forgiveness following 10 years of public service. Critics often argue that the program's design may provide outsized benefits to certain types of borrowers who have the opportunity to accrue large amounts of debt; specifically, graduate and professional student borrowers who tend to borrow more cumulatively and also tend to have higher earning potential than individuals without graduate or professional degrees. These two factors may enable such borrowers to realize the greatest amount of benefits (in terms of dollar amount forgiven) under the program and they may face little incentive to curtail their borrowing.[120] However, even for borrowers with modest amounts of debt but very low incomes, and who repay their loans according to an IDR plan, the amount repaid on their loans could be as low as $0, and the amount forgiven could be substantial compared to the amount borrowed.[121] On the other hand, some argue that the opportunity to make lower monthly payments under an IDR plan, coupled with the potential for an unlimited amount of debt forgiveness, makes the PSLF program attractive to individuals with debt repayment responsibilities who may not otherwise consider entering public service due to the amount of their debt.[122]

The evolution of the federal student loan programs since the PSLF program's enactment may also have a bearing on the types of individuals who receive program benefits and the amounts of debt relief they may realize under the program. PSLF originally was designed so that it would

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[117] Monthly payments made under the IBR plans and the Pay As You Earn (PAYE) plans are capped at the amount the borrower would pay under the Standard 10-year repayment plan.

[118] Jason Delisle and Alexander Holt, *Zero Marginal Cost: Measuring Subsidies for Graduate Education in the Public Service Loan Forgiveness Program*, New America, September 2014.

[119] Ibid., p. 21.

[120] See ibid. and Jason Delisle, "The coming Public Service Loan Forgiveness bonanza," *Economic Studies at Brookings*, vol. 2, no. 2 (September 22, 2017), p. 3.

[121] Jason Delisle and Alexander Holt, *Zero Marginal Cost: Measuring Subsidies for Graduate Education in the Public Service Loan Forgiveness Program*, New America, September 2014, p. 21.

[122] Christopher P. Chapman, "Scrapping loan forgiveness for public servants hurts our democracy," *The Hill*, November 1, 2011, http://thehill.com/opinion/civil-rights/358258-scrapping-loan-forgiveness-for-public-servants-hurts-our-democracy.

primarily be borrowers whose post-enrollment income (from employment in public service) was low enough for them to qualify for the pre-July 1, 2014, IBR plan (i.e., they demonstrated a partial financial hardship (PFH)), with monthly payments based on 15% of their discretionary income, who would qualify for PSLF benefits. Since that time, additional IDR plans with varying terms have become available that make it easier for individuals to qualify for IDR repayment plans. Repayment term changes encompassed by these new plans include basing monthly payments on 10% of a borrower's discretionary income (i.e., post-July 1, 2014, IBR; PAYE; REPAYE) and not requiring borrowers to demonstrate a PFH to qualify for certain repayment plans (i.e., REPAYE). These changes enabling additional borrowers to qualify for IDR plans and to repay their loans at a lower rate mean that individuals may also be more likely to qualify for PSLF benefits.

With the expansion of the various types of IDR plans under which monthly payments made generally qualify for PSLF, one could argue that PSLF benefits have been tilted toward high-income participants, as monthly payments required under the various IDR plans have decreased from 15% to 10% of discretionary income, while the amount of nondiscretionary income excluded from monthly payment calculations has remained the same—150% of the federal poverty guidelines. Nonetheless, the enhancement of such programs may still amplify PSLF benefits for some low-income borrowers as well. In addition, under the two IBR and PAYE plans, monthly payment amounts are capped at the amount a borrower would have paid under a Standard 10-year repayment plan at the time he or she entered repayment under the plan. This characteristic may provide an outsized benefit to borrowers with very large debts who initially have low AGIs but then experience a substantial growth in income (e.g., doctors who experience significant income growth upon completion of their residencies). In some instances, without this IDR benefit, individuals who are employed in public service and experience rapidly rising income trajectories would otherwise be required to make payments sufficient to pay off a much larger portion of their loans within the qualifying 10-year period of service. Finally, the amounts of debt that may be forgiven under PSLF are likely to be higher due to the lower rates at which outstanding balances may be repaid under several of the more generous IDR plans under which an individual is required to make monthly payments equal to 10% of his or her discretionary income.

Other student loan program factors may also lead to higher amounts of debt being forgiven under PSLF. First, later cohorts are borrowing larger amounts of student loans than previous cohorts.[123] Second, with the end of the FFEL program and the switch to 100% Direct Loan lending, many more borrowers have Direct Loans, the only loans eligible for PSLF.

Receipt of Multiple Benefits

Another issue related to PSLF interaction with other programs or benefits pertains to whether borrowers can or should be able to receive loan repayment or forgiveness benefits under other programs for the same service used to qualify for PSLF program benefits. For borrowers, key aspects of this issue include whether the same service that qualifies them for PSLF may also qualify them for other benefits and their understanding of how other benefits may interact with PSLF. For the federal government, key aspects are the need to decide what constitutes a "double benefit" for borrower service performed and the extent to which overlapping benefits might be provided.

[123] See CRS In Focus IF10158, *A Snapshot of Student Loan Debt*, by David P. Smole.

In general, borrowers receiving loan repayment benefits under one of a number of federal student loan repayment programs[124] may use the monetary benefits provided under such programs to make payments on their Direct Loans, and payments made using those funds could count as a qualifying payment under PSLF. In some instances, the service performed to receive the monetary benefit under the loan repayment program may also be considered qualifying employment for purposes of PSLF. This is often the case for loan repayment programs that operate on a fairly limited scale and that typically target individuals employed in specific fields. For example, under the Nurse Corps Loan Repayment Program, the Student Loan Repayment Program for House Employees, or the Student Loan Repayment Program for Senate Employees borrowers perform specified service to receive monthly loan repayment benefits, and the service performed would likely qualify as a public service job under the PSLF program. Individuals could use funds provided under these programs to make scheduled monthly payments on their Direct Loans, and payments made with those funds could count toward the required 120 payments under PSLF. This could be viewed as providing multiple benefits to an individual for the same service performed. Borrowers and employers might consider this an additional benefit that could further aid in the recruitment and retention of employees. Alternatively, this could be viewed as providing overlapping or double benefits across multiple federal programs with the same or substantially similar goals and activities, which could be considered akin to a windfall.

Although some federal student loan repayment programs do not prohibit individuals from receiving benefits under multiple programs for the same service performed, several federal student loan forgiveness and repayment programs authorized under HEA, Title IV do prohibit borrowers from receiving a reduction in their loan repayment obligations through more than one program for the same service.[125] For instance, the HEA prohibits individuals from receiving PSLF benefits for the same service under the PSLF program and the Loan Repayment for Civil Legal Assistance Attorneys programs. Programs with such prohibitions typically operate on a rather small scale, but one, the Teacher Loan Forgiveness program, provides benefits to a relatively large number of beneficiaries—approximately 43,000 individuals in FY2017.[126]

Under the Teacher Loan Forgiveness program, individuals must teach full-time for five complete and consecutive academic years in certain qualifying teaching positions to receive up to $17,500 in forgiveness benefits. Typically, such service would likely be considered qualifying employment for PSLF. Because receipt of benefits under both the PSLF and Teacher Loan Forgiveness programs for the same service performed is specifically prohibited, however, an individual may be required to choose between the two benefits, either choosing a defined benefit after five years under Teacher Loan Forgiveness or a potentially greater amount of loan forgiveness after a longer 10-year period under PSLF. In addition, depending on an individual's knowledge of the availability of the Teacher Loan Forgiveness and PSLF programs, it may be

[124] For information on authorized federal student loan repayment programs, see CRS Report R43571, *Federal Student Loan Forgiveness and Loan Repayment Programs*, coordinated by Alexandra Hegji.

[125] The HEA, Title IV loan forgiveness and loan repayment programs that have coordinated language specifying the ineligibility of borrowers for double benefits are the FFEL Teacher Loan Forgiveness program (HEA, §428J), the Loan Forgiveness for Service in Areas of National Need program (HEA, §428K), the Loan Repayment for Civil Legal Assistance Attorneys program (HEA, §428L), the Direct Loan Public Service Loan Forgiveness program (HEA, §455(m)), and the Direct Loan Teacher Loan Forgiveness program (HEA, §460). The Loan Forgiveness for Service in Areas of National Need program has never been funded, and the Loan Repayment for Civil Legal Assistance Attorneys program was last funded in FY2010 and, thus, is not currently operational. Due to these circumstances, neither of these programs is addressed further in this report.

[126] U.S. Department of Education, Office of Federal Student Aid Data Center, "Teacher Loan Forgiveness Report," https://studentaid.ed.gov/sa/node/874.

difficult for some individuals to determine which program is most beneficial to them. Consequently, some individuals may be unable to maximize program benefits.

Other Loan Repayment Programs and Lump Sum Payments

As described earlier in this report, PSLF qualifying payments are on-time, full, scheduled, and separate monthly payments that are made under a qualifying repayment plan.[127] In certain instances, a lump-sum payment made by a borrower may result in him or her being "paid ahead,"[128] which generally results in a borrower's paid ahead status only counting as one qualifying PSLF payment, even if the amount paid equaled multiple months' worth of payments.[129] In addition, subsequent payments made during a period when a borrower is paid ahead will not qualify for PSLF. In instances in which an employer provides lump-sum loan repayment benefits to an employee, the current policies regarding the application of lump-sum payments may have the effect of partially limiting an individual's ability to benefit from more than one program for the same service. Such circumstances may occur with both private employer loan repayment benefits and certain federal student loan repayment programs, such as lump-sum payments received by certain federal employees under the Government Employee Student Loan Repayment Program. It can be argued that such policies decrease the effectiveness of these programs[130] that are intended to aid in the recruitment and retention of qualified employees, in that the value of an employer's loan repayment benefit and the PSLF program's benefit to the borrower may be lessened. However, it can also be argued that such policies are appropriate and that the provision of double benefits to individuals employed in public service would be akin to a windfall.

Federal Income Tax

In addition to amounts of PSLF benefits being excluded from an individual's gross income for purposes of federal income taxation,[131] other federal income tax provisions may provide additional benefits, both in terms of lowering income tax liability and reducing loan burdens. These, in turn, could have the effect of increasing PSLF benefits received by certain individuals. A full discussion of every applicable tax provision is beyond the scope of this report, but at least one education tax benefit—the student loan interest tax deduction—may be particularly relevant as it relates to the overall federal effort in postsecondary education.[132] Monthly payments under an IDR plan are based on an individual's adjusted gross income (AGI) as reported to the Internal Revenue Service on a borrower's federal income tax return. Various federal income tax provisions may be used to reduce an individual's AGI, which could reduce an individual's monthly IDR payments. This, in turn, could increase the total amount of debt forgiven under

[127] 34 C.F.R. §685.219(c)(1)(iii).

[128] A borrower may request that the extra payment amounts not be applied to future scheduled payments (e.g., the borrower requests that the excess payments be applied to reduce outstanding loan principal). 34 C.F.R. §685.211(a).

[129] Office of Federal Student Aid, "Public Service Loan Forgiveness," What is a qualifying monthly payment?, https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service#qualifying-repayment-plan, accessed December 29, 2017.

[130] Consumer Financial Protection Bureau, *Public Service & Student Debt: Analysis of Existing Benefits and Options for Public Service Organizations*, August 2013, p. 12, http://files.consumerfinance.gov/f/201308_cfpb_public-service-and-student-debt.pdf.

[131] IRC §108(f).

[132] For additional information on federal education tax benefits, see CRS Report R41967, *Higher Education Tax Benefits: Brief Overview and Budgetary Effects*, by Margot L. Crandall-Hollick.

PSLF due to lower rates at which outstanding balances are paid under the IDR plans. The student loan interest tax deduction could have this effect, as it enables eligible taxpayers to deduct up to $2,500 in out-of-pocket student loan interest payments from their gross income.[133]

In addition, under most of the IDR plans (ICR, the IBR plans, and PAYE), if a borrower and his or her spouse file separate federal income tax returns (i.e., their federal income tax filing status is "Married Filing Separately"), then the borrower's monthly payments will be calculated using only the borrower's AGI. If a borrower and his or her spouse file jointly, however, the borrower's monthly payments will be calculated using the spouses' combined AGI.[134] Two similarly situated households (i.e., those with similar combined spousal incomes) could pay significantly different monthly payments on their federal student loans, and, thus, could potentially receive significantly different PSLF benefits based on their federal income tax filing status. In addition, some borrowers who are enrolled in these plans and whose tax filing status is Married Filing Separately may end up making "artificially low monthly payment[s]."[135] In promulgating regulations for the REPAYE plan, ED sought to address the issues of disparate treatment of individuals based on tax filing status and the potential for some individuals making artificially low monthly payments. The regulations require married individuals enrolled in the REPAYE plan to use their combined spousal AGI when calculating their monthly loan payments.[136] The other IDR plans, however, continue to calculate a borrower's AGI based on the federal income tax filing status of the borrower.[137]

Broad Program-Related Considerations

There are multiple broad program-related considerations pertaining to PSLF. One issue relates to how the program fits into the overall suite of federal postsecondary education benefits and a broadening of the federal approach to student aid by providing aid after enrollment. Other issues include the difficulty in estimating the potential participation in and costs of the program due to individuals only recently being eligible to apply for and receive program benefits and that borrowers are not required to submit information on their intent to participate in the program until they seek forgiveness benefits after 10 years of service and qualifying payments.

Expansion of Post-Enrollment Benefits

To a large extent, federal policy related to supporting students pursuing postsecondary education has historically centered on providing up-front, in-school assistance to individuals and their families. This assistance helps provide access to postsecondary education and encourages persistence by providing a range of monetary benefits to help students and their families finance its costs. Federal efforts to provide such support to certain types of postsecondary students (e.g., veterans) can be traced back to at least the enactment of the Serviceman's Readjustment Act of 1944 (P.L. 82-550), which authorized the first veterans' educational assistance program (the GI

[133] IRC §221.

[134] 34 C.F.R. §§685.209(a)(1)(i) and (b)(2), and 685.221(a)(1).

[135] U.S. Department of Education, "Student Assistance General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program," 81 *Federal Register* 67210, October 31, 2015.

[136] Only the borrower's AGI will be used to calculate monthly payments if the borrower is separated from his or her spouse and the borrower is unable to reasonably access the spouse's income information. 34 C.F.R. §685.209(c)(1)(i).

[137] Approximately 5.4 million borrowers with approximately $259 billion in outstanding Direct Loans are enrolled in the two IBR plans, the ICR plan, and the PAYE plans. Approximately 2 million borrowers with outstanding Direct Loan debt totaling $169 billion are enrolled in the REPAYE plan. U.S. Department of Education, Office of Federal Student Aid, Data Center, "Portfolio by Repayment Plan (DL, FFEL, ED-Held FFEL, ED-Owned," 2018 Q1.

Bill). Over the next several decades, additional federal student aid programs were enacted that made postsecondary education benefits available to low-income students (e.g., National Defense Student Loan, Basic Educational Opportunity Grants (now known as Pell Grants)), and federal need analysis procedures were developed for the purpose of making such aid available to students on the basis of their demonstrated financial need. Later, certain types of federal student loans were made available without regard to financial need.

Today, a number of federal student aid grants and loans are available to students who demonstrate financial need or low-income status (e.g., Pell Grants, Direct Subsidized Loans) and to students without regard to financial need or low-income status (e.g., Direct Unsubsidized and Direct PLUS Loans, TEACH Grants). The largest of these programs are the Federal Pell Grant program, which provides need-based[138] aid to students that is not required to be repaid; and the Direct Loan program, which provides both need-based and non-need-based loans to students and their families that must be repaid.

Over time, reliance on federal student loans as a means to finance increasingly costly postsecondary education has increased.[139] At the same time, the number and availability of programs to alleviate the repayment burden associated with such loans has also increased. Such programs are often aimed at providing debt relief to borrowers and/or incentivizing individuals to enter into and remain in particular occupations or professions. The first major federal effort of this type was established under the National Defense Education Act of 1958 (P.L. 85-864), which authorized the forgiveness of a portion of an individual's federal student loan for those who taught full-time in public elementary or secondary schools. Today, over 50 federal loan forgiveness and loan repayment programs are authorized, at least 30 of which are operational as of October 1, 2015.[140] Based on the types of employment that may qualify an individual for program benefits and the potentially large amounts of debt that may be forgiven under the program in the future, it appears that the PSLF program could be the largest student loan forgiveness program in terms of scope.

The expansion of such loan forgiveness and loan repayment programs may be viewed as a broadening of federal policy toward providing more widely available assistance to individuals after postsecondary education costs (i.e., student loan debt) have been incurred and to alleviate some or all of the financial burdens associated with borrowing to pursue postsecondary education. Federal student aid awards are currently constructed on the basis of an individual's need at the time of enrollment; whereas, loan repayment and forgiveness program benefits are provided to individuals based on post-enrollment economic circumstances. The expansion of such benefits may signal a greater emphasis being placed on providing aid to individuals based on their post-enrollment economic circumstances by creating a system in which individuals may only be required to repay a portion of the loan amount they were originally expected to repay. These programs' expansion may also signal a broadening of the federal effort to provide more targeted aid to encourage service or specific occupational pursuits, versus providing aid that is more generally available to qualified students to pursue a wide variety of eligible postsecondary programs, regardless of students' future employment plans. As HEA reauthorization deliberations evolve and program configurations are contemplated, consideration might be given to the relative

[138] Need-based aid is aid for which a student's eligibility is based on his or her demonstrated need for the funds.

[139] For additional information, see CRS In Focus IF10158, *A Snapshot of Student Loan Debt*, by David P. Smole.

[140] See CRS Report R43571, *Federal Student Loan Forgiveness and Loan Repayment Programs*, coordinated by Alexandra Hegji.

emphasis to be placed on providing more widely available aid at the time of a student's enrollment versus providing more targeted aid post-enrollment.

Estimating Potential Costs and Participation

Granting loan forgiveness benefits results in costs to the federal government. Given that it has only recently become possible to claim benefits, little is known about what the costs associated with the program will be based on the experience of actual cohorts of borrowers.[141] Estimating such potential costs is difficult, as the estimates must take into consideration a variety of factors including borrower participation in certain repayment plans and their career trajectories. In a 2008 notice of proposed rulemaking to implement the PSLF program, ED estimated a cost to the government of $1.5 billion over the five-year period from FY2008 to FY2012,[142] but it did not provide additional details associated with the estimated cost, such as the number of borrowers expected to receive loan forgiveness benefits. In addition, the estimate was made prior to many Direct Loan program changes, such as the expansion of IDR plans and the switch to 100% Direct Loan lending. Since that time, no other estimates of the program's potential costs have been made publicly available by ED. Despite this, some policymakers speculate that the cost of the PSLF program to the federal government could be much higher than originally expected.[143]

Because borrowers first became eligible to apply for PSLF forgiveness benefits on October 1, 2017, limited information is available on the actual and future costs to the government of the PSLF program.[144] The number of borrowers receiving PSLF forgiveness benefits and the amount of their loan balances are likely to be large drivers of the program's costs.[145] This section of the report discusses two datasets that have been published by ED that provide limited insight into how the PSLF program is performing and actual and future costs of the program. The section concludes with a brief presentation of other data that have been made publically available that may provide some additional insight into the characteristics of borrowers who have had at least one ECF approved, which may be useful when attempting to conceptualize potential program costs.

Data on Public Service Loan Forgiveness Applications

ED recently made available some program data related to the number of individuals who have applied for and received loan forgiveness under the program. The data show that FedLoan

[141] ED's Office of the Inspector General issued a report in January 2018 finding that ED should have provided to decision makers and the public more detailed and easier to understand information on IDR plans and some loan forgiveness plans, including PSLF, to fully inform them about current and future program management and the resulting costs of such programs. U.S. Department of Education, Office of Inspector General, *The Department's Communication Regarding the Costs of Income-Driven Repayment Plans and Loan Forgiveness Programs*, ED-OIG/A09Q0003, January 31, 2018, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a09q0003.pdf.

[142] Of this amount, $1.2 billion was associated with loans made prior to FY2008. U.S. Department of Education, "Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program," 73 *Federal Register* 37709, July 1, 2008.

[143] See, for example, Jason Delisle, "The spiraling costs of a student loan relief program," *Politico*, July 21, 2017, http://www.politico.com/agenda/story/2017/07/21/public-service-loan-forgiveness-cost-double-000478.

[144] Although borrowers were first eligible for PSLF forgiveness benefits on October 1, 2017, data on whether or the extent to which any individual has actually received forgiveness benefits has not been made available.

[145] See U.S. Government Accountability Office, *Federal Student Loans: Education Needs to Improve Its Income-Driven Repayment Plan Budget Estimates*, GAO-17-22, November 2016, pp. 45-47; and Susan Shain, "Public Service Loan Forgiveness Might Cost $24 Billion--But Who's Paying for It?," Student Loan Hero, August 10, 2017, https://studentloanhero.com/featured/public-service-loan-forgiveness-changes/.

Servicing has processed approximately 28,913 forgiveness applications, and 1% of these applications were approved. However, it is possible that some portion of the individuals who submitted denied applications could qualify for forgiveness under the program in the future as borrowers complete program requirements or provide missing information from their applications.

Specifically, the data show that in total, between October 1, 2017, and June 30, 2018, ED received 32,601 forgiveness applications from 28,081 individuals. Of the 28,913 applications that have been processed by FedLoan Servicing, 20,521 (71%) were denied due to the individual not meeting program requirements and 8,103 (28%) were denied due to missing information on the application. FedLoan Servicing approved 289 applications for individuals who had met all PSLF program requirements.[146] After FedLoan Servicing has approved an application, it forwards it to ED for a final review. If ED approves the application, it directs FedLoan Servicing to forgive the remaining balance of the borrower's eligible loans.[147] Of the applications approved by FedLoan Servicing, 96 unique borrowers' applications have been fully reviewed and processed by ED, and those individuals have received program benefits totaling of $5.52 million in loan forgiveness.[148] The remaining 193 applications approved by FedLoan Servicing had been forwarded to ED for final approval but remained in process as of June 30, 2018; thus, the loans associated with those applications had not yet been forgiven.

While these data provide an initial impression of the number of individuals who have thus far received loan forgiveness under the program and the benefits received, limited conclusions regarding future participation in and costs of the program can be drawn from them. First, individuals have just recently become eligible to apply for forgiveness benefits. It is possible that the first cohort of individuals eligible to receive PSLF benefits is smaller than future cohorts, as borrowers with older loans may be more likely to have FFEL program loans, which do not qualify for PSLF.[149] This first cohort of borrowers also had less qualifying repayment plan options (i.e., less IDR plans) available to them when they would have likely entered repayment, which may make it less probable that they would have paid according to a PSLF qualifying plan for the previous 10 years. Second, although 28,624 processed applications have been denied, this does not necessarily preclude denied borrowers from receiving PSLF forgiveness benefits in the future. Some applications were denied for being incomplete; a borrower may submit a new and complete application and then be determined to meet PSLF requirements. In addition, some borrowers whose applications were initially denied for not meeting PSLF program requirements may meet the requirements at a later time.[150] For instance, an application may have been denied because the borrower had made 100 of the required 120 qualifying payments. The borrower could subsequently make 20 additional qualifying payments and then be eligible for loan forgiveness.

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[146] The remaining applications (3,688) were pending processing by FedLoan Servicing.

[147] U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, pp. 6-7.

[148] U.S. Department of Education, Office of Federal Student Aid, "Public Service Loan Forgiveness Data," PSLF Report, https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data, accessed September 20, 2018.

[149] For nearly two decades, both FFEL and Direct Loan program loans were available to borrowers. In 2010, the SAFRA Act, part of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), terminated the authority to make new FFEL program loans beginning July 1, 2010. A recent GAO report indicates that, for individuals who applied for forgiveness between October 2017 and April 2018, one common reason for denial was that a borrower did not have a qualifying loan. U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for Loan Servicer and Borrowers*, GAO-18-547, September 2018, p. 11.

[150] Borrowers may also dispute the determination, which could potentially lead to a reversal of the denial.

It may also be reasonable to expect that should communications issues, servicing, and other administrative challenges identified earlier in this report be addressed, a larger share of borrowers would be able to submit successful applications in the future.

Data on Borrowers Who Have Made Some Progress toward PSLF

Previously, ED published data on the number of individuals who have submitted PSLF employment certifications forms.[151] As of March 31, 2018, approximately 874,000 individuals had submitted at least one PSLF ECF, have had at least one ECF approved, and have at least one qualifying Direct Loan.[152] These data may provide a general estimate of the potential number of individuals who have made some progress toward meeting the PSLF program employment requirements, but they do not provide a good estimate of the number of individuals who may ultimately be eligible for and receive forgiveness benefits under the program for a variety of reasons:

4. 1. Borrowers may, but are not required to, submit ECFs at any point in time to assist them in tracking their progress towards PSLF eligibility requirements. Some borrowers may choose to wait until they believe they have met all program criteria before submitting documentation about their employment. Thus, submission of an ECF by an individual indicates that he or she has self-identified as interested in PSLF, not that he or she necessarily meets all program requirements.
5. 2. Although an individual may have an ECF approved, this does not guarantee that the borrower will receive forgiveness benefits under the program, as he or she may subsequently cease to be employed in a position that qualifies for PSLF, fail to meet other program requirements (e.g., make payments under a non-qualifying repayment plan), or decide not to otherwise participate in the program. Also, disapproval of an ECF does not guarantee that a borrower will not qualify for PSLF benefits in the future, as the borrower's ECF may have been disapproved for administrative reasons (e.g., submission of an incomplete form), or the borrower may later become employed in a PSLF qualifying job.
6. 3. While employed in public service, an individual must simultaneously make qualifying payments on his or her Direct Loans. An ECF's approval does not indicate whether a borrower was making qualifying payments while simultaneously employed in public service.

Data on Amount Borrowed and Borrower Income

Other data that have been made publicly available provide some additional insight into the characteristics of borrowers who have had at least one ECF approved and may be useful when attempting to conceptualize potential program costs. Data from two such datasets are provided below. It should be noted, however, that while this information may provide additional context pertaining to the PSLF program and the characteristics of individuals who have expressed interest in using it, the insight provided is limited for many of the reasons described above.

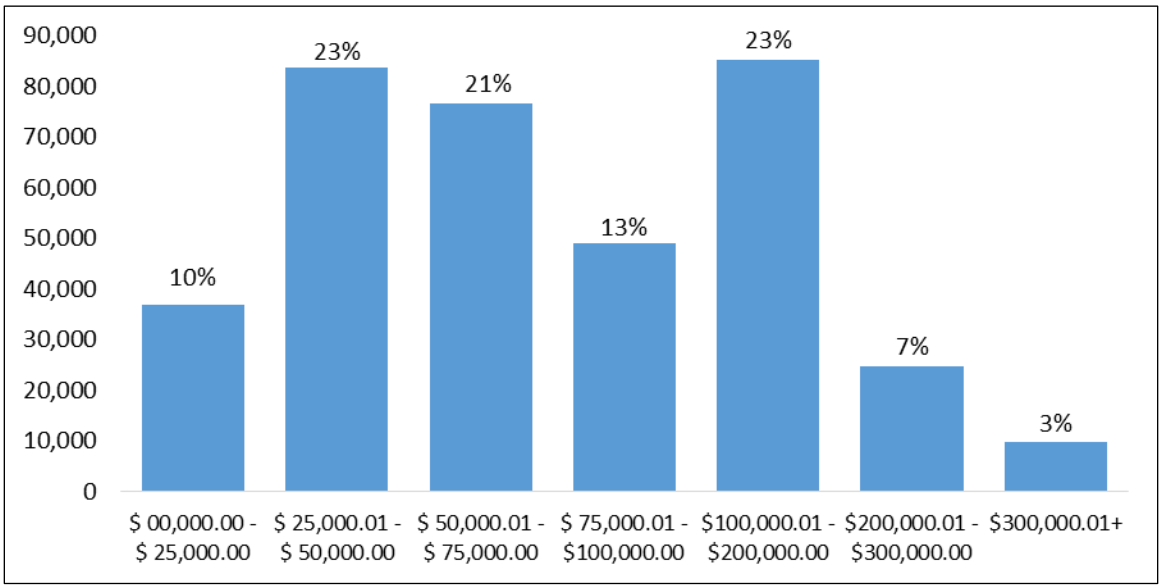
[151] ED stopped publishing these data in its FSA Data Center when data on the number of individuals who have applied for and received forgiveness under the program became available.

[152] U.S. Department of Education, Office of Federal Student Aid, "Loan Forgiveness Reports," Public Service Loan Forgiveness Employment Certification Forms, https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness, accessed June 22, 2018.

Figure 1 presents the amount borrowed by individuals who have qualifying Direct Loans and have had at least one ECF approved. This information may be useful in conceptualizing potential program costs because the amount of debt to be forgiven is a function of the total amount borrowed by an individual.

Figure 1. Distribution of Individuals with Qualifying Direct Loans Who Have Had at Least One ECF Approved, by Amount Borrowed

As of September 2016



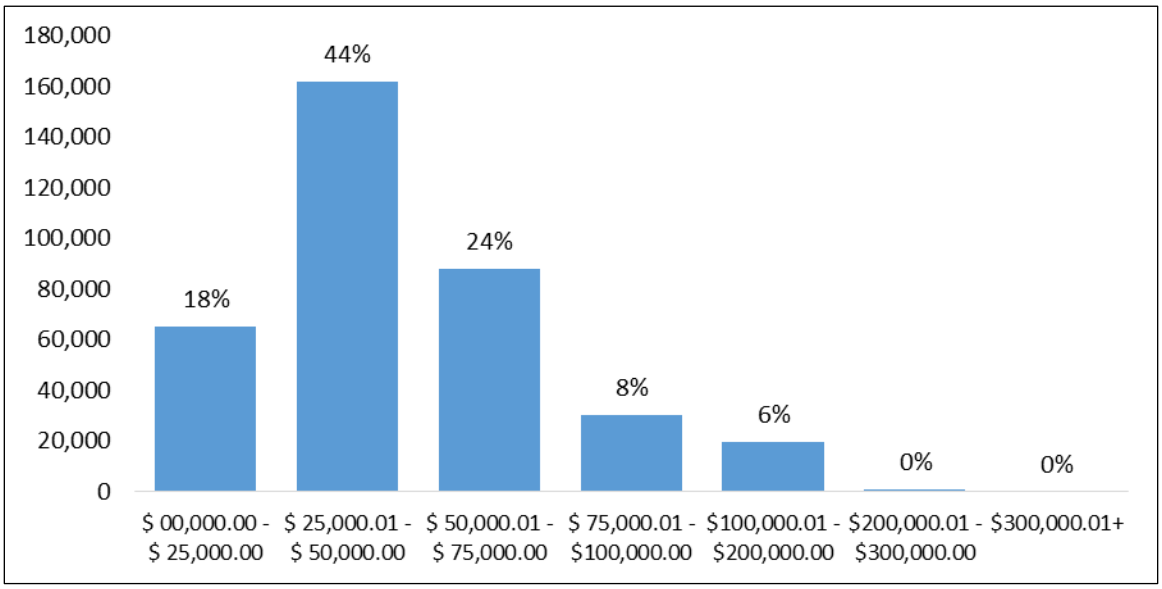
Source: U.S. Department of Education, "Public Service Loan Forgiveness Policy and Operations," 2016 FSA Training Conference for Financial Aid Professionals, November 2016, p. 28, http://fsaconferences.ed.gov/conferences/library/2016/2016FSAConfSession18.ppt.

Figure 2 depicts the annual AGI[153] of borrowers who have qualifying Direct Loans, have had at least one ECF approved, and are enrolled in an IDR plan. As described earlier in this report, to maximize forgiveness benefits under the PSLF program it may be most beneficial for borrowers to repay their Direct Loans according to one of the IDR plans. The information provided in **Figure 2** may be useful in conceptualizing potential program costs because qualifying PSLF monthly payments are most likely to be made under an IDR plan in order to maximize potential borrower benefits, and payments made under these plans are a function of a borrower's AGI.

[153] Borrowers' AGI amounts depicted in **Figure 2** represent the borrowers' current AGI in September 2016. The AGIs depicted would not reflect the borrowers' AGIs at the time such individuals may ultimately receive PSLF program forgiveness benefits.

Figure 2. Distribution of Individuals with Qualifying Direct Loans Who Have at Least One Approved ECF and Are Enrolled in an IDR Plan, by Annual Adjusted Gross Income

As of September 2016



Source: U.S. Department of Education, "Public Service Loan Forgiveness Policy and Operations," 2016 FSA Training Conference for Financial Aid Professionals, November 2016, p. 29, http://fsaconferences.ed.gov/conferences/library/2016/2016FSAConfSession18.ppt.

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