Student Loan Sidebar

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I'm writing this as the U.S. Supreme Court is hearing oral arguments as to whether the Biden administration's student loan forgiveness program is overturned. Student loan payments are now set to resume 60 days after the debt cancellation program is implemented, 60 days after the lawsuits are resolved, or 60 days after June 30, if litigation fails.

The vast majority of the 25 million applications filed to date are for loan balances between $20,000 and $39,999. The second largest category is for those with loan balances of $40,000 – $59,999. What this tells us is that even if the 10k forgiveness, or 20k for a Pell Grant recipient, is upheld, most borrowers will continue to have a balance remaining.

Other programs now exist or have been modified over the past couple of years to drastically reduce student loan debt. Let's go over some of the most significant recent updates:

> *Does Your Client Still Have Exorbitant Student Loan Debt? Not Any More if One or More of the New Programs Fit.*

New DOJ guidance for federal student loan discharge: allows for an attestation process to accompany an adversary proceeding wherein the Department will recommend a partial or full discharge of federal student loan debt in a manner designed to reduce litigation time and expense. You still need to file an adversary complaint but the intent is to allow for a much quicker discharge with less litigation. Send the attestation form to your local AUSA ASAP after filing the complaint and move to stay the litigation while that is being reviewed. The ABI has a webinar recorded on February 28 with forms available for the complaint, attestation, motion to stay and order approving settlement.

The IDR Waiver program: There is a May 1, 2023 deadline to consolidate any older FFEL Loan(s) to the newer Direct Loans. This will then allow an automatic one-time account adjustment to give IDR forgiveness credit for all forms of payment and even extended forbearances. Repayment histories (including extended forbearances) will allow for forgiveness to occur immediately for undergrad loans after 20 years of payments (or graduate school loans after 25 years of payments).

Repaye revisions: This is in a comment period right now, but the final rule is expected to lower IDR payments by more than half when the payment pause ends. The new calculations will allow for an IDR payment of 5% of discretionary income for undergrad loans and 10% for grad loans. A higher percentage of 225% of the poverty level will be used to calculate expenses. Finally, the pending new rule will allow a spouse to file a separate tax return to avoid having to count a high wage earner non-borrower spouse. This was NOT a term of Repaye earlier and was a very sticky problem that may now have a solution for married borrowers.

Joint Spousal Loans: The Act allowing for these loans to be split has passed in October 2022. The rollout has been delayed because the application is not expected to come out until late March 2023. But this split will mean the world for borrowers who are divorced and still bound together by federal student loans.

TPD income monitoring waived: Starting in July 2023, there will be no post-discharge income monitoring. Since the pause is in effect until at least August, no one will be required to certify or update their income going forward.

BDTR stay lifted: The Court denied the motion to stay in the **Sweet v. Cardona** case in late February, so approvals of Borrower Defense applications filed before June 22, 2022 involving over 100 schools are granting forgiveness now. We've already seen the first forgiveness letter for one of our clients! It's unknown how long the refunds will take. Creditors are also required to take steps to delete the credit report tradeline associated with the discharged loans.

The information provided in this Sidebar does not, and is not intended to, constitute legal advice. For a 1-on-1 consultation, please email info@christiearkovich.com.