Congress of the United States
Washington, DC 20515

September 7, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Cardona:

On July 14, 2023, the Department of Education (Department) announced its plans to discharge $39 billion dollars in student loans for 804,000 individuals through so-called "fixes"[1] to Income Driven Repayment (IDR) plans via a press release, without explaining its methodology or statutory authority for doing so.[2] One month later, on August 14, 2023, the Department announced that it had begun discharging those loans.[3] The Department has not shared what statutory authority it is using either to justify this expenditure of taxpayer dollars or the expansive interpretation of the law that led to the fixes.[4]

IDR plans permit borrowers to pay back their loans based on a percentage of their income for a pre-determined amount of time. Thereafter, the balance of the loan is forgiven. A recent Government Accountability Office (GAO) report[5] raised questions about the Department's inability to track properly the payments made by borrowers enrolled in IDR.[6] After analyzing the Department's own National Student Loan Data System for loans and borrowers on IDR plans that had been in repayment long enough to be potentially eligible for IDR forgiveness, GAO found there were 7,700 loans held by 3,000 borrowers ($49 million in loans) enrolled in such IDR plans.[7] Those loans had been in repayment status for 20 to 25 years without a clear explanation of the number of qualifying payments made as of September 1, 2020.[8] The report also identified 62,600 loans that had been in repayment long enough to be potentially eligible for IDR forgiveness, but the loans were ineligible because of insufficient qualifying payments.[9] The numbers identified in the GAO report could not account for the $39 billion in loan discharges for 804,000 individuals the Department touted in July.

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[1] https://www.ed.gov/news/press-releases/biden-harris-administration-provide-804000-borrowers-39-billion-automatic-loan-forgiveness-result-fixes-income-driven-repayment-plans?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

[2] *Id.*

[3] https://www.ed.gov/news/press-releases/biden-harris-administration-begins-discharges-804000-borrowers-39-billion-automatic-loan-forgiveness-result-fixes-income-driven-repayment-plans.

[4] *See supra* notes 1 and 3.

[5] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-22-103720, FEDERAL STUDENT AID: EDUCATION NEEDS TO TAKE STEPS TO ENSURE ELIGIBLE LOANS RECEIVE INCOME-DRIVEN REPAYMENT FORGIVENESS (2022).

[6] *Id.*

[7] *Id.* at 10-12.

[8] *Id.*

[9] *Id.* at 10.

Accordingly, we write to understand what legal authority the Department used to carry out the “fixes” and to understand the process it underwent to identify the 804,000 individuals whose loans were discharged.

Please respond to the following no later than September 31, 2023.

- What statutory authority does the Department rely upon for the discharge?
- In the July 14, 2023 press release, the Department indicated credit will be provided for “[a]ny month in which a borrower was in a repayment status, regardless of whether payments were partial or late, the type of loan, or the repayment plan.” Further, in the August 14, 2023 press release, the Department indicated, “[b]orrowers are eligible for forgiveness if they have accumulated the equivalent of 20 or 25 qualifying months.”
    - In the methodology used to select the 804,000 borrowers, what type of status counted as a qualifying month for the purposes of this discharge (e.g., full-payment, partial payment, late payment, delinquent, default, forbearance)?
        - Specifically, for partial or late payments, delinquent months, and months in default was a borrower required to make up any payments to have a month count toward forgiveness?
    - In the methodology used to select the 804,000 borrowers, what status did not count as a qualifying month?
    - In the methodology, how many of the 804,000 borrowers had been in an IDR plan?
        - Never in an IDR plan?
        - 0-5 years?
        - 5-10 years?
        - 10-15 years?
        - 15-20 years?
        - 20-25 years?
    - How many additional borrowers does the Department expect to receive a “fix” between July 2023 and July 2024?
- What will be the total balance of the additional borrowers’ loans that the Department expects to discharge in the future as a result of this policy? How does the Department explain the extreme discrepancy in loan numbers between the discharge provided on August 14, 2023, and the numbers in the GAO report?
- What is the total dollar amount of loans you expect to discharge in the future from this policy, and what years of originated loans will this affect?
    - What process is used to ensure that participation is limited to eligible borrowers only – those who made payments in an IDR plan?
    - Describe the process and the metrics used.
    - What controls are in place to guide this process?
    - What industry standards were used to validate the controls?
    - Provide documentation of the process, metrics, controls, and industry standards.
- How many borrowers with direct loans and Department-held Federal Family Education Loan (FFEL) program loans over the 25 years remain?

- How many borrowers with direct loans and Department-held FFEL program loans over the 20 years remain?
- What volume in dollars of direct loans and Department-held FFEL program loans over the 25 years remain?
- What volume in dollars of direct loans and Department-held FFEL program loans over the 20 years remain?
- Please provide an account of how many borrowers discharged by the Department's action held graduate PLUS loans or Parent PLUS loans.

We look forward to hearing from you.

Sincerely,

Bill Cassidy, M.D.

Bill Cassidy, M.D.
Ranking Member
U.S. Senate Committee on Health, Education, Labor and Pensions

Virginia Foxx

Virginia Foxx
Chairwoman
U.S. House Committee on Education and the Workforce