

**STUDENT FINANCIAL AID GUIDELINES**

**HEALTH PROFESSIONS PROGRAMS**

**Primary Care Loan Program  
(PCL)**

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Health Resources and Services Administration  
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Division of Student Loans and Scholarships  
Campus Based Branch

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## **Chapter 1: INTRODUCTION**

The Public Health Service (PHS) Act, Title VII and VIII; as amended by the Health Professions Education Partnerships Act of 1998; contains authority for an array of programs, including student financial assistance, that are intended to attain two fundamental goals. First, Congress designed the programs to sustain and develop an adequate supply of health care providers to meet the needs of all Americans, in general, and underserved populations, in particular. Second, these funds were established to minimize barriers and enhance access to health professions education, especially for minorities and students from disadvantaged backgrounds.

The Health Professions Education Assistance Act of 1963; within Title VII of the Public Health Service Act; established the Health Professions Student Loan (HPSL) Program to provide long-term, low interest loans to students having need for financial assistance to undertake the course of study to become a physician, osteopathic physician, dentist, optometrist, pharmacist, podiatrist, or veterinarian. In recent years, Congress has used the HPSL program as a mechanism to meet certain policy goals. Specifically, variations on the HPSL program in the form of the Primary Care Loan (PCL) Program and the Loans for Disadvantaged Students (LDS) Program are intended to increase the number of primary health care providers and encourage greater participation of disadvantaged populations in the health professions, respectively.

The Health Professions Education Extension Amendments of 1992 (Public Law 102-408) established new requirements for use of Health Professions Student Loan funds specifically for allopathic and osteopathic medical schools. These changes created the Primary Care Loan Program, which became effective July 1, 1993 and consist of:

- requiring medical and osteopathic students who receive PCL funds (formally HPSL funds) to practice primary health care; and
- instituting a gradual redistribution of medical and osteopathic HPSL funds to PCL program schools that demonstrate a commitment to training primary health care physicians.

Aside from the criteria stated above, the PCL program is governed by the same requirements associated with the HPSL program. The changes do not affect other health professions disciplines. The remainder of the section describes the program requirements for PCL.

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## **Chapter 2: INSTITUTIONAL PARTICIPATION IN THE PCL PROGRAM**

This chapter offers readers an overview of the criteria for institutional participation, the mechanisms in place that the Department of Health and Human Services uses to award Federal dollars for the PCL program, and an introduction to the fund management requirements that schools must follow. Readers are directed to the Overview of Fiscal Management section below for details on institutional management of PCL funds.

### ***Section 1 ELIGIBILITY CRITERIA***

Institutions must meet certain criteria in order to be eligible to participate in the PCL program, which fall into the following categories:

- discipline and degree programs;
- accreditation;
- participation of graduates in primary health care residencies and practices;
- location of the institution;
- written agreement between the institution and the Secretary of Health and Human Services;
- default rate performance standard;
- non-discrimination requirements;
- non-delinquency of the institution on Federal debt;
- drug-free workplace, schools and campuses requirements;
- lobbying and disclosure of lobbying requirements; and
- debarment and suspension provisions.

## *DISCIPLINE AND DEGREE PROGRAMS*

Any public or other nonprofit institution that offers degrees to full-time students in disciplines as specified below may apply to participate in the PCL program:

- doctor of allopathic medicine; and
- doctor of osteopathic medicine.

*[Section 723(a)(1) of the Public Health Service Act]*

## *ACCREDITATION*

A health professions school that is interested in participating in the PCL program must be accredited by an appropriate accrediting body that is recognized by the Secretary of Education. If a new school has not been operating for a sufficient time to be accredited, the Department of Health and Human Services will consider the school accredited if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the specified accreditation standards prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or program.

The approved accrediting bodies for health professions schools include, but are not limited to:

- allopathic medicine:                   Liaison Committee on Medical Education, the  
  American Medical Association, and the  
  Association of American Medical Colleges
- osteopathic medicine:                American Osteopathic Association

*PARTICIPATION OF GRADUATES IN PRIMARY HEALTH CARE RESIDENCIES AND PRACTICES*

Beginning with the one-year period ending June 30, 1997, and for the one-year period ending on June 30 of each subsequent fiscal year, the school must meet at least one of the following conditions with respect to graduates of the school whose date of graduation from the school occurred approximately four years before the end of the one-year period:

- Not less than 50 percent of the school's designated graduates meet the criterion of either being in a primary health care residency training program, or being engaged in the practice of primary health care;

**OR**

- Not less than 25 percent of the school's designated graduates meet the above criterion, and this percentage is not less than 5 percentage points above the percentage of such graduates meeting such criterion for the preceding one-year period;

**OR**

- The school is in the top 25th percentile of participating PCL schools relative to the proportion of designated graduates who meet the above criterion.

*[Section 723(b) of the Public Health Service Act]*

*REPORTS FROM SCHOOLS ABOUT THE STATUS OF THEIR GRADUATES*

Each participating allopathic and osteopathic medical school must obtain and keep records and reports that contain statistics that describe the areas of training and practice in which graduates have been engaged during the 12-month period ending June 30th of each year. The statistics are based on the pool of graduates whose graduation date occurred approximately four years prior to June 30th of the year addressed in the report.

The Division of Student Loans and Scholarships reviews all Annual Operating Reports (AOR) submitted by schools participating in the PCL program. The review includes checking data on the number of PCL graduates reported on the AOR. Documentation of the school's "Total Graduates" and "Graduates in Primary Care Residencies & Practice" should be kept as records and reported on the AOR. Any discrepancies in graduate

numbers may require documented proof. Some examples of acceptable documents include:

- The Association of American Medical Colleges report provided to your school;
- Alumni lists/reports which shows the current activities of such students;
- Self-certification and/or deferment forms that indicate the activity of the student;
- Copy of web-based findings showing the practice discipline of the student; and or
- Any other documentation supporting the student's practice in primary care.

Students in Primary Care fellowships may be counted in the graduate totals and reported on the AOR. Documentation for each student's eligible residency/practice activity reported on the AOR must be kept and provided upon request. If no documentation is provided or incomplete documentation is given upon request to support AOR graduate numbers the school may be billed for 30% of its income from the program for the period ending June 30.

#### *NOTIFICATION OF COMPLIANCE FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES*

Within 90 days of each June 30, the Secretary of Health and Human Services determines whether schools are in compliance and schools are provided with written notification about their status.

*[723(b)(3) of the Public Health Service Act]*

#### *INSTITUTIONAL PENALTIES FOR NONCOMPLIANCE*

Schools that do not meet one of the criteria under Participation of Graduates in Primary Health Care Residencies and Practices are subject to certain penalties. The penalties require schools to return a portion of their PCL fund incomes, exclusive of any income derived from the Health Professions Student Loan and Loans for Disadvantaged Students programs, and are described below.

- For the one-year period ending June 30, 1997, schools that are not in compliance must return 10 percent of the income received during the same period.
- For the one-year period ending June 30, 1998, schools that are not in compliance must return 20 percent of the income received during the same period.
- For each one-year period ending June 30, 1999 and thereafter, schools that are not in compliance must return 30 percent of the income received during the same period.

Schools must pay the sums required within 90 days of receiving notification of non-compliance from the Secretary of Health and Human Services.

*[Section 723(b)(4) of the Public Health Service Act]*

For purposes of calculating the school penalty for noncompliance, income is defined in section 723(d)(4) of the PHS Act to mean payments of principal and interest on any loan made from the fund and any other earnings of the fund.

The law specifies that the amount of income *to be returned* must equal the specified percentage of income during that year. However, the school does have the option of withdrawing from the fund, in addition to the amount returned to the Department, the proportionate share of institutional matching funds that are associated with the amount of funds returned. For example, if fund income from July 1, 2010 through June 30, 2011 equals \$900,000, the school would be required to return 30 percent, or \$270,000, to the Department. A school that has matched with 1/9 institutional funds could then choose to withdraw an additional \$100,000 from the fund and return it to the institution, resulting in a total decrease in the fund of \$370,000. LDS funds are not subject to the primary care requirements and are not included when calculating the school penalty associated with the output of primary care practitioners.

*[Section 723(b) of the Public Health Service Act]*

*Note: Schools that have paid excess cash in an amount greater than the PCL Assessment amount may contact the Division to see if the penalty may be waived.*

## *REDISTRIBUTION OF RETURNED FUNDS*

The Secretary of Health and Human Services redistributes PCL funds that have been returned by allopathic and osteopathic medical schools as a result of not meeting the criteria described under Participation of Graduates in Primary Health Care Residencies and Practices above.

Returned funds received, including excess cash returned from program funds, will be reallocated to schools which met at least one of the criteria regarding the percentage of primary care graduates as of June 30 of the preceding year and demonstrate a need for further funding.

In re-awarding PCL funds to schools, the Department is required to give preference to schools of the same discipline that returned the funds (e.g., allopathic medical schools must receive preference in the re-awarding of funds returned by allopathic medical schools). To implement this statutory preference, the number of primary care graduates at allopathic medical schools will be doubled for purposes of awarding allopathic medical funds. Osteopathic medical schools will be eligible for some portion of these funds, but their number of primary care graduates will not be doubled in determining their share.

*[Section 723(b)(5) of the Public Health Service Act]*

## *WRITTEN AGREEMENT*

Health professions schools must enter into an agreement with the Secretary of Health and Human Services as a criterion for participation. The agreement requires that the institution:

- establish a fund for the PCL program;
- deposit in the fund Federal Capital Contribution (FCC), Institutional Capital Contribution (ICC), collections from loans in repayment, and any other earnings;
- provide an ICC of at least one-ninth of the FCC;
- permit the funds only to be used for student loans and the costs associated with collection;
- award funds only to students who are studying full-time in eligible discipline and degree programs;
- inform borrowers of the terms and conditions of the PCL program; and

- submit an annual operating report that describes the use of the fund.

*[Sections 721(a) and 721(b) of the Public Health Service Act]*

#### *DEFAULT RATE PERFORMANCE STANDARD*

Each June 30, a school must have a PCL default rate that does not exceed five percent. Schools that exceed the five percent performance standard are subject to probation, suspension or termination from program participation.

The regulations require a school to meet a performance standard for participation in the Primary Care FCC Loan Programs.

On June 30 each year a school must have a default rate of not more than five percent. The default rate is the ratio (stated as a percentage) that the defaulted principal amount outstanding of the school bears to the matured loans of the school. For this purpose:

- the term "defaulted principal amount outstanding" means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or cancelled) on loans in default for 120 days or more.
- the term "matured loans" means the total principal amount of all loans made by a school minus the total principal amount of loans made by the school to students who are enrolled in a full-time course of study at the school or are in their grace period.

The worksheet for calculating the default rate in the Primary Care FCC Loan Programs can be found on the internet. The address is: <http://bhpr.hrsa.gov/das/recalc/html>.

Any school that has a default rate greater than five percent on June 30 of any year will be required to:

- reduce its default rate by fifty percent (or a school with a default rate below 10 percent must reduce its rate to five percent) by the close of the following six-month period; and

- by the end of each succeeding six-month period, reduce its default rate to 50 percent of the required rate for the previous six-month period until it reaches five percent.

#### *FAILURE TO MEET THE PERFORMANCE STANDARD*

Any school which fails to comply with the requirements will receive no new Federal funds and will be required to:

- maintain the funds and all subsequent collections in an interest-bearing account;
- make no loan disbursements; and
- by the end of the succeeding six-month period, reduce its default rate to 50 percent of the rate it failed to achieve or five percent. A school that meets this requirement will be permitted to resume the use of its funds, but must continue to comply with the requirements of a 50 percent reduction of the required rate for the previous six-month period until it reaches five percent.

Any school which fails to comply with these requirements will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of this notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

- the request for a hearing is untimely (i.e., fails to meet the 30-day requirement);
- the school does not provide a statement of material, factual issues in dispute within the 90-day required period; or
- the statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the fund to the Department of Health and Human Services. A school terminated for failure to comply with the performance standard requirements must continue to pursue collections

and may reapply for participation in the program only when it has attained a default rate of five percent or less.

*[Section 721(c)(1) of the Public Health Service Act; 42 CFR Part 57.216 and Part 57.216a]*

#### *NON-DISCRIMINATION REQUIREMENTS*

Participating health professions institutions must adhere to statutes and regulations addressing non-discrimination. These include:

- Section 794 of the Public Health Service Act and its implementing regulations 45 CFR Part 83, which prohibit discrimination in the admissions process on the basis of sex;
- Title VI of the Civil Rights Act of 1964 and its implementing regulations 45 CFR Part 80, which prohibit discrimination in federally assisted programs on the basis of race, color or national origin;
- Title IX of the Education Amendments of 1972 and its implementing regulations 45 CFR Part 86, which prohibit discrimination in federally assisted education programs on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973 and its implementing regulation, 45CFR Part 84, which prohibit discrimination in federally assisted programs on the basis of handicap;
- Section 798(C) of the Public Health Service Act, which prohibits institutions from charging higher tuition to students that benefit from Federal financial aid funds; and
- 45 CFR Part 91, which prohibits discrimination on the basis of age.

In addition, institutions may not discriminate on the basis of religion in the admissions process.

*[42 CFR Part 57.216]*

#### *DRUG-FREE WORKPLACE, SCHOOLS AND CAMPUSES*

Participating schools must comply with the requirements in 45 CFR Part 76, Subpart F. This section of the regulations stipulates that institutions must certify that they will provide and maintain a drug-free workplace.

The Drug-Free Schools and Communities Act Amendments of 1989 and its implementing regulations 34 CFR Part 86 apply to any public or private institution of higher education (including independent hospitals conducting training programs for health care personnel), State educational agency, or local educational agency. As a condition of funding from Federal financial assistance programs, the statute requires these entities to certify to the Secretary of Education that they have adopted and implemented a drug prevention program. These provisions also apply to sub-grantees of Federal funds whether or not the primary grantee is an institution of higher education, a State educational agency, or a local educational agency.

#### *NON-DELINQUENCY OF THE INSTITUTION ON FEDERAL DEBT*

Participating institutions must comply with non-delinquency on Federal debt requirements. Examples of Federal debt or possible sources include delinquent taxes, audit disallowances, FHA loans, and other unpaid administrative debts. Specific examples include:

- a scheduled payment on a direct loan that is more than 31 days past due;
- the unpaid disallowed amount in a "Notice of Grants Cost Disallowance" unless otherwise unresolved; and
- unpaid Social Security tax payment or other administrative payment owed to the Federal Government.

#### *LOBBYING AND DISCLOSURE OF LOBBYING*

Institutions must adhere to restrictions on lobbying and provide a disclosure statement about lobbying activities for each Federal award to the institution in excess of \$100,000. The Office of Management and Budget published guidance for restrictions on lobbying in the *Federal Register*.

#### *DEBARMENT AND SUSPENSION OF CAMPUSES*

According to regulations in 45 CFR Part 76, an institution must certify that neither it nor any of its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal dependent or agency. Subawardees (e.g., other corporations, partnerships, or other legal entities) also must provide the same certification to the institution.

## ***Section 2 FEDERAL CAPITAL CONTRIBUTIONS***

### ***SOURCES AND DISTRIBUTION OF FEDERAL CAPITAL CONTRIBUTION FUNDS***

Most of the money to finance Federal Capital Contributions (FCC) to the PCL program was initially provided through appropriations from Congress. Congress appropriated funds to capitalize the HPSL revolving fund through 1983. Congress did not provide any additional funds to the FCC after 1983.

In 1986, Congress gave the Secretary of Health and Human Services the authority to redistribute FCC funds returned from institutions to the Department. When redistributing funds, the law requires the Secretary to give preference to health professions schools of the same discipline as the schools returning funds. In addition, funds returned to the Secretary in any fiscal year must be obligated before the end of the succeeding fiscal year.

*[Section 735(e) of the Public Health Service Act]*

### ***INSTITUTIONAL APPLICATIONS FOR FEDERAL CAPITAL CONTRIBUTIONS***

#### ***Procedures***

Instructions for schools seeking to establish or maintain an FCC fund for the PCL program are available from the Division of Student Loans and Scholarships (DSL), Campus Based Branch (CBB), Room 9-105, 5600 Fishers Lane, Rockville, MD 20857.

The Division reviews the eligibility of the school and determines the reasonableness of the amount of Federal support an institution will receive. The Division may require the applicant to submit an application with additional data for these purposes.

Institutions must submit an Annual Operating Report (AOR) as required by the Secretary of Health and Human Services. The report establishes or maintains the institution's participation in the PCL program and its use of FCC.

*[Section 735(a) of the Public Health Service Act; 42 CFR Part 57.203]*

### ***Terms and Conditions***

A written agreement between the institution and the Secretary of Health and Human Services, specifies the terms and conditions for institutional participation. The agreement specifies:

- institutional eligibility criteria;
- how funds will be managed;
- how funds will be awarded to students;
- to whom the funds will be awarded;
- Federal non-discrimination and other requirements; and
- other provisions as necessary to protect the interests of the United States.

*[Section 721(b) of the Public Health Service Act]*

### ***Designation of Institutional Contact Person***

The program's project director is the individual who will be responsible for distributing DSLS program mailings to the appropriate offices and individuals within the institution and will be responsible for ensuring the return of material. The designated person will receive all mail (electronic and paper) from DSLS. This person must also be familiar with the institution's Annual Operating Report (AOR). Only the project director, who is the program's contact person of record, or an appropriate school official, can make changes to the Contact Person information.

## ***AWARDS TO INSTITUTIONS***

### ***Determination of Amounts***

The amount of PCL funds a school may receive must be the lesser of the amount requested by the school through a projection of needed funds or the amount determined by a statutory formula for allocating FCC for the PCL program that is based upon the ratio of:

- the number of full-time students estimated to be enrolled in each health professions school for the academic year for which funds will be awarded; and

- the total number of full-time students enrolled during the period in schools that have submitted approved AORs.

If sufficient funds are available, each school will receive the amount it requests. If the total amount requested by schools exceeds the amount of Federal funds available, the Department will determine each school's allotment of loan funds using the statutory formula described above. In no case will a school receive an award greater than the amount it has requested.

However, there is one exception for distributing newly authorized funds to allopathic and osteopathic medical schools. The law restricts these funds to schools:

- with at least 50 percent of their graduates entering primary health care;
- in the top 25 percent of schools with graduates entering primary health care; or
- with not less than 25% of the schools designated graduates entering primary care and this is not less than 5 percent points above the prior year percentage.

*Note: The Department of Health and Human Services will not allocate funds to schools that have not used prior year allocations nor have excess cash. Therefore, it is very important for the Financial Aid Office and Fiscal Office to work together in identifying eligible students and funding requests. For example, every school should calculate its need for PCL funds by determining all resources available to the school's eligible students. In addition, prior to requesting monies for an academic year, the school should carefully evaluate its cash needs by reviewing the cash balance (including monies drawn down from the prior year award) and projected collections and disbursements to determine the unmet need for the academic year. The Division of Student Loans and Scholarships will carefully review each institution's estimated need in conjunction with the projections given on its Annual Operating Report.*

*[Section 735(b) of the Public Health Service Act; 42 CFR Part 57.204]*

### ***Notification of Award***

The Department sends a Notice of Grant Award to the designated contact person notifying the school of the amount of Federal funds awarded for the PCL program.

## *OVERVIEW OF INSTITUTIONAL MANAGEMENT OF FUNDS*

This section offers a brief introduction to the institutional management of PCL funds. It is intended to give financial aid personnel a brief summary of responsibilities associated with administering the PCL program.

### ***Institutional Capital Contribution***

The school must maintain an institutional contribution in the PCL fund equal to at least one-ninth of the total Federal contribution to the FCC. The institution also has the option of contributing a larger share to the PCL fund. A school that matches more than one-ninth may withdraw any of the institutional contribution which exceeds its required one-ninth matching amount at any time. However, the school must maintain at least the one-ninth matching amount in the fund at all times.

*[Section 721(b)(2)(B) of the Public Health Service Act; 42 CFR Part 57.205]*

### ***Drawing Down The Federal Capital Contribution***

The Department of Health and Human Services makes payments of Federal funds to institutions through the Division of Payment Management. Institutions receive funds through electronic funds transfer into their Payment Management System (PMS) accounts.

Treasury Department Circular No. 1075 specifies the requirements for drawing down funds.

Schools are allowed to retain as a safety margin amounts equivalent to three years worth of loans made. This allows schools to retain the funds for a longer period instead of returning the funds due to excess cash.

*[Campus-Based Policy Memorandum 2003-1]*

### ***Cash Balances***

As long as a school continues to participate in the Primary Care Loan Program, collections of principal, interest, and penalty charges from borrowers in repayment status and other income may be kept in the programs FCC fund for making loans to other students. These collections need not be remitted to the Federal Government unless the school determines it has excess cash on hand.

A school must review the balance in its Primary Care Loan FCC fund on at least a semi-annual basis to determine whether the fund balance, compared with projected levels of expenditures and collections, exceeds its needs. The school's determination of excess cash is subject to review and approval by the Secretary.

When determining excess cash, school officials should consider the following:

- the amount of collections and expenditures during the past few years;
- changes in the level of funding available in other student aid programs;
- changes in the student budget; and
- any other factors that will affect the level of the awards.

In addition, schools should:

- estimate funds available by including all available resources (i.e., cash balance available, current year award, collections of principal, interest and penalty charges and investment income); and
- estimate expenditures based on total projected need.

Schools should not retain more funds than are needed. If any portion of the amount allowed for the safety margin is not needed, that amount should be considered excess cash.

Monies identified as in excess of the school's needs must be reported on the AOR, and the Federal share returned to the Federal Government by the due date of the required report which identifies excess monies. Active schools are required to remit their excess cash payments by the due date of the AOR. However, if a PCL school expects to receive a non-compliance assessment, it may delay its payment of excess cash until after receiving the amount of the non-compliance assessment. The amount of the assessment may be deducted from the excess cash, and the balance of excess cash should be remitted.

If the school determines it has excess cash, it must return the Federal share of the excess cash to the Division of Financial Operations. Make the check payable to "Public Health Service, HRSA" and include in a letter containing the following information:

- the name of the school.

- the type and purpose of program funds being remitted, for example, Federal Capital Contribution-Health Professions Student Loan Program, remittance of student loan collections.
- the school's OPSID No.
- the amount of principal, interest and other income, if any.

Send the remittance and letter to the following address:

Health Resources and Services Administration  
Division of Financial Operations  
Collection Officer  
Room 16A-12, Parklawn Building  
5600 Fishers Lane  
Rockville, MD 20857

If the amount determined to be excess cash is not intended to be returned to the Federal Government, the school must submit to the Division of Student Loans and Scholarships within 45 days of the end of the reporting period an explanation for retaining the funds, including specific details as to how the determination was made. The school's determination is subject to review and approval. Correspondence should be sent to the following address:

Health Resources and Services Administration  
Bureau of Health Professions  
Division of Student Loans and Scholarships  
Campus Based Branch  
5600 Fishers Lane, Room 9-105  
Rockville, MD 20857

*[42 CFR Part 57.205 and 42 CFR Part 57.305]*

***Borrower Service Obligation***

The regulations require schools to monitor a borrower's compliance with certain requirements under the following health professions student assistance programs.

### ***Primary Care Loans***

The Health Professions Education Extension Amendments of 1992 established new requirements for the use of Health Professions Student Loan funds for allopathic and osteopathic medical schools. With the exception of the borrower service obligation, this program is similar to the Health Professions Student Loan Program and the same due diligence requirements listed below apply.

A borrower, who received Primary Care Loan funds, agrees to:

- enter and complete a residency training program in primary health care not later than four years after the date on which the borrower graduates from the institution;
- practice primary health care through the date on which the loan is repaid in full; and
- to certify to the school on an annual basis that he or she is practicing primary health care. Primary health care is defined as family medicine, general internal medicine, general pediatrics, preventive medicine, or osteopathic general practice.

For PCL loans made on or after March 23, 2010, the service requirements are borrowers are to enter and complete residency training in primary health care and practice in primary health care for either 10 years (including the years spent in residency training) or through the date on which the loan is repaid in full, whichever occurs first.

*[Section 5201(a)(1)(B) of the Affordable Care Act]*

In the event a borrower fails to comply with the agreement, the school must:

- for loans made prior to November 13, 1998, immediately recompute the balance due on the loan from the date of issuance (*using the original principal*) at an interest rate of 12 percent per year, compounded annually. In accord with this provision, when a PCL recipient defaults on the service obligation, the school must recalculate the total amount owed on the debt by calculating interest at 12 percent per year, compounded annually, on the original principal amount of each disbursement, based on the date that each disbursement was made. If the recipient has already repaid a portion of the loan, these payments would be credited against the newly calculated indebtedness in accord with the time the payments were actually made.

- for loans made on or after November 13, 1998, statute requires that if a PCL borrower fails to comply with the primary care service requirement, the PCL will begin to accrue interest at a rate of 18 percent per year beginning on the date of noncompliance. The penalty is calculated on the outstanding balance of the PCL on the date of noncompliance.
- for loans made on or after March 23, 2010, PCL borrowers who fail to comply with the service requirements of the program will have their loans begin to accrue interest at an annual rate of 2 percent greater than the rate the student would pay if compliant.

*[Section 5201(a)(3) of the Affordable Care Act]*

The Secretary is authorized to provide for the waiver or suspension of the primary health care service obligation in the following circumstances:

- if the borrower terminates his or her studies before graduating from the school and does not later resume studies and graduate from the same or any other school of medicine or osteopathic medicine, the primary health care service obligation is waived.
- if the borrower terminates his or her studies before graduating from the school, but later resumes studies and graduates from the same or any other school of medicine or osteopathic medicine, the primary health care service obligation of the borrower is considered to have been suspended for the period during which the borrower was not in attendance.

This provision does not waive or suspend the borrower's obligation to repay the Primary Care Loan, but merely waives or suspends the primary health care service obligation and the associated penalties for non-compliance. Thus, any borrower who fails to graduate from a school of medicine or osteopathic medicine must still repay the Primary Care Loan in accordance with its normal terms (interest rate and repayment period). However, such a borrower is not subject to the penalty interest rate, which otherwise applies to a borrower who fails to comply with the primary health care service obligation.

***Write-Offs***

The write-off review process is a tool a school can use to reduce its accounts receivable and default rate for loans that have been determined uncollectible. The determination of uncollectibility should be made after the school has completed the required due diligence

procedures. Important items to remember when determining uncollectibility and submission are that the determination date must be documented as part of the student records, an authorized official must certify that the documentation provided is true, complete, and correct to the best of his/her knowledge, and submission must be within 60 days from either the determination date, the bankruptcy discharge notice receipt by the school or when repayment period has expired. Accounts that are close to the end of their repayment period should be reviewed and action should be taken to prepare the account for close-out (i.e., lump-sum final payment or submission for write-off).

### ***Write-Off Procedures***

Schools are reminded that when write-off approval is granted for a loan, the school still has the authority to collect the loan if it finds that collection is possible at a later time. The school is required to notify the DSLS, through the reporting process, of subsequent collections on loans approved for write-off.

### ***Policies***

Regulations governing write-offs of uncollectible loans require the following:

- a school must, on an annual basis, review and assess the collectability of any loan more than three years past due. (The annual review may be scheduled at a convenient time for the school and does not need to be documented.)
- if the school determines that the prospects of future collection are promising enough to justify periodic review of the debt and the 10-25 year repayment period has not expired, the school may retain the account for continued collections, provided that it makes an attempt at least semi-annually to collect from the borrower. The collection methods should be consistent with those normally used by the school and must be documented and become a part of the borrower's record.
- when the due diligence procedures required above have been exhausted, the school is responsible for determining the collection methods it will use for the semi-annual collection effort required on these loans.
- if the school determines that the prospects of future collection are not promising, or when the 10-25 year repayment period has expired, the loan must be considered

uncollectible, even if the borrower is making payments. If the borrower is making payments, the school is still required to submit the loan for write-off review or reimburse the fund for the uncollected loan balance and retain future collections.

- loans discharged in bankruptcy are deemed uncollectible on the date the school receives the discharge notice.
- a school may determine a loan to be uncollectible sooner than three years past due when it has evidence that the loans cannot be collected, but in no case should a school consider a loan as uncollectible if it has not been in default for at least 120 days.

*[42 CFR Part 57210 and 42 CFR Part 57310]*

The regulations define default as the failure of a borrower to make an installment payment when due, or comply with any other terms of the promissory note, except that a loan shall not be considered to be in default if the loan is discharged in bankruptcy, the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule, or the loan is in forbearance.

### ***Submission Procedures***

When a loan has been determined to be uncollectible, the school must document the date of final determination as part of the borrower's record. Final determination is made when a loan is considered uncollectible based on the earliest of the following: (1) when due diligence has been completed and the prospects of future collections are not promising or (2) when the repayment period has expired. If the school determines the loan should be written off, it must either submit it for write off review or follow the procedures outlined under Alternate Uncollectible Loan Audit below when a borrower's balance exceeds \$3000 (principal, interest, and penalty charges). See Exceptions to the Policies below for account balances less than \$3000. The fund must be reimbursed for uncollectible loans not written off. Submission procedures are subject to the following requirements:

- a school must request permission to write off an uncollectible loan within 30 days of the determination that it is uncollectible or reimburse the fund in the full amount of the loan.
- the 30-day period for submitting the loan for write-off review begins on the date that the determination of uncollectibility is made, in accordance with Section 1

above. Please provide your E-Mail address with write-off submissions. (If you have not heard from us in 60 days, contact us for follow-up.)

- If the school does not request permission to write off an uncollectible loan within the required timeframe, it must reimburse the fund for the full amount of principal, interest, and penalty charges that remains uncollectible on the loan. This reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will the school be required to reimburse the fund in less than 30 days following its determination that the loan is uncollectible.

*[42 CFR Part 57210 and 42 CFR Part 573101]*

### ***Write-Off Review***

A school must comply with the following requirements for loans submitted for write-off review:

- if the Secretary determines that a school has exercised due diligence in the collection of the loan in accordance with the requirements, the school will be permitted to reduce its accounts receivable for the fund by the full amount of principal, interest, and penalty charges that remains uncollected on the loans and will not be required to return the Federal share of the loss to the Secretary.
- in any instance where the Secretary determines that a school has failed to exercise due diligence in the collection of a loan, in accordance with the requirements, the school will be required to place in the fund the full amount of principal, interest, and penalty charges that remains uncollected on the loan. Reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will the school be required to reimburse the fund in less than 30 days following the Secretary's disapproval of the request for write-off approval.

*[42 CFR Part 5 7 21 0 and 42 CFR Part 5 7 31 0]*

### ***Documentation Required***

When requesting write-off review, an authorized official must certify, for each loan submitted, that the documentation provided is true, complete, and correct to the best of

his or her knowledge. Any person who knowingly makes a false statement or misrepresentation in the documentation is subject to penalties which may include fines and imprisonment under Federal statute.

Prior to submitting loans for write-off, the school should ensure the documentation shows timely attention to the collection of the debt and that all due diligence steps have been documented. In addition, the school should clearly define its billing and collection procedures and identify any changes as they apply to each borrower account. Explanations of the billing system codes and collection agent codes, etc., should be included.

Schools are strongly encouraged to use the check list below for submitting loans for write-off review or, at a minimum, follow its format. If you do not use the check list when submitting documentation for write-off review, then your package must contain written certification, signed by an authorized official, guaranteeing all submitted documentation is true, complete, and correct.

Schools should also review the due diligence requirements to ensure they are submitting documentation to evidence compliance. Although there is no required format for submission of loans for write-off, copies of the following list of documentation should be included for each loan:

- the promissory notes(s);
- repayment schedule(s);
- entrance and exit interview documentation;
- approved deferment and/or cancellation forms;
- grace period and/or deferment contacts;
- billing and follow-up on past due accounts;
- attempts to locate the borrower;
- copy of the service agreement showing the outside collection agent perform skiptracing as part of the contracted services with the school (if applicable);
- copy of the school's in-house skiptracing procedures;
- evidence the borrower was referred to an outside collection agent (dated placement form), results of placement, and the date(s) the account was returned (close-out statement);
- copy of the service agreement with the collection agent and the collection agent's procedures;

- copy of the school's in-house collection procedures as evidence that the school's procedures are as effective as those which would be performed by an outside collection agent;
- evidence of litigation and the judgment obtained or a current third party statement (attorney or collection agent) of why litigation was not pursued (i.e., not cost-effective);
- date and supporting evidence the borrower was referred to a credit bureau(s). (Also, a copy of the service agreement with the outside billing or collection agent which states they report borrowers to the credit bureau(s) as part of the contracted services with the school and documentation evidencing the borrower was reported by the agent should be submitted, if applicable);
- Notice of Creditors, Proof of Claim and Final Discharge for loans discharged in bankruptcy; and
- evidence of semi-annual collection efforts.

Documentation to evidence grace period, deferment contacts, billing and follow-up, etc. can be in the form of electronic records. Once the school submits documentation on its billing and collection procedures, the information will be retained for future write-off reviews. Subsequent submissions need only reference the procedures that are on file.

### ***Submission Of Additional Documentation***

If the Division of Student Loans and Scholarships determines due diligence is still not evident to support write-off approval, the school will be given an opportunity to submit further documentation or to appeal the decision. Additional documentation or reason(s) for an appeal must be postmarked within 60 days of the date of the Division's letter (no extensions will be granted) or the school must reimburse the fund by the full amount of principal, interest, and penalty charges that remains uncollected on the loan, in accordance with the timeframe in Section A1 above.

### ***Alternate Uncollectible Loan Audit***

For those schools that have exercised due diligence in the collection of loans in accordance with the requirements, the school may use the Alternate Uncollectible Loan Audit in lieu of the procedures described above, if it complies with the following requirements:

- ensures strict adherence to the audit requirements defined in Fiscal Management, Audits.
- ensures that documentation to evidence due diligence compliance exists.

Once the requirements listed above have been met, the school may elect to use the Alternate Uncollectible Loan Audit process to write-off uncollectible loans. For loans written off under this process, the school will be permitted to reduce its accounts receivable for the fund by the full amount of principal, interest, and penalty charges that remain uncollected and will not be required to return the Federal share of the loss to HHS.

***Alternate Uncollectible Audit Process***

A school must comply with the following requirements for loans written off under the Alternate Uncollectible Loan Audit process:

- notify the Secretary on the Annual Operating Report of the amount of the principal, interest, and penalty charges written off.
- notify the Secretary on the Annual Operating Report as to how the collections were applied to principal, interest, and penalty charges if subsequent collections are received on the loan.
- submit the Alternate Uncollectible Loan Audit document biennially, as defined in Fiscal Management, Audits, Chapter 3, Section 2I5, for all loans written off under the this process.

All loans written off must be reviewed during the school's biennial audit. In addition, the Department will periodically conduct its own review to confirm that the school exercised due diligence in its collection efforts. If the findings of the above reviews indicate that due diligence was not followed, the write-off will be disallowed and the school must immediately reimburse the fund for the full amount of the unpaid balance, including principal, interest, and penalty charges that would have accrued up to the date that reimbursement actually occurs. Failure to comply with the requirements established for the Alternate Uncollectible Loan Audit process may subject the school to the noncompliance provisions of the loan program.

### ***Exceptions to The Policies***

A school is not subject to the write-off policies and procedures listed in Sections 1 and 1A above for:

- Health Professions Student Loans that became uncollectible, as determined by the school, before August 1, 1985; or
- Nursing Student Loans that became uncollectible, as determined by the school, before January 1, 1983.

The loans are governed by the provisions of Public Law 100-607 and are not subject to any dollar amount.

In these cases, the school will be permitted to reduce its accounts receivable for the fund by the full amount of principal, interest, and penalty charges that remains uncollected on the loan and will not be required to return the Federal share of the loss to the Department. The school should also remove these loans from its default category and place them in the fully retired category when calculating its default rate.

In making uncollectible loan determinations, a school should consider as uncollectible only loans on which payments were two years or more past due as of the specified date. Where a loan was less than two years past due as of the specified date, the school should consider it uncollectible only when the school has evidence to support this determination. The recommended two-year standard is based on the criteria used by the Department's Office of the Inspector General in conducting cash management audits at participating schools.

To be considered as uncollectible, the loan, at a minimum must have been in default for at least 120 days, in accordance with the default formulas in Section 721(c)(3) and Section 835(c)(3) of the Public Health Service Act on which schools' participation in the programs is based.

Schools' determinations of uncollectible loans will be reviewed during the biennial audit and Departmental reviews.

There is nothing to prevent a school from further pursuing the collection of a loan that has been determined to be uncollectible in accordance with the guidelines above, when the school has knowledge of changes in a borrower's situation. Any such amounts recovered must be deposited in the program fund and reflected in subsequent reports (Annual Operating Reports).

*[42 CFR Part 57210 and 42 CFR Part 57310]*

Effective September 30, 1997, a school may also write-off a borrower's balance that does not exceed \$3,000 (principal, interest, and penalty charges) without requesting write-off review, provided the school has exercised due diligence, in accordance with the requirements in Fiscal Management, Collections, Chapter 2 in its attempts to collect the loan. For loans written off under this provision, the school must:

- notify the Secretary on the Annual Operating Report of the amount of the principal, interest, and penalty charges written off; and
- if subsequent collections are received on the loan, notify the Secretary on the Annual Operating Report as to how the collections were applied to principal, interest, and penalty charges.

Loans written off by a school under this provision will be reviewed during the school's biennial audit and Department program reviews. In addition, the Department of Health and Human Services will periodically require that the due diligence documentation for randomly selected loans be submitted for review to verify that the school exercised due diligence in its collection efforts. If the findings of the above reviews indicate that due diligence was not followed, the write-off will be disallowed and the school will be required to reimburse the fund for the full amount of the unpaid loan balance, including principal, interest, and penalty charges that would have accrued up to the date that reimbursement actually occurs.

Finally, schools are allowed to adjust the balance of a loan (principal, interest, and penalty charges) for both overpayment and underpayment of \$10.00 or less. Report these adjustments as Other Costs on the Annual Operating Report.

#### *INSTITUTIONAL TERMINATION AND WITHDRAWAL*

Institutions must return the Federal share of PCL funds upon termination or withdrawal from the program. Upon withdrawal or termination of institutional participation in the program, the ending balance in the FCC fund will be distributed between the Department of Health and Human Services and the school in proportion to the amounts contributed by each. The school will then be required to submit reports to the Department of Health and Human Services and to remit the Federal Government's proportionate share of amounts received thereafter in payment of loan collections and any other earnings. Checks must be made payable to the Public Health Service, HRSA. At the time of each quarterly

remittance, the school should withdraw its proportionate share of the quarterly cash accumulation from the fund.

Schools phasing out of the PCL Program (i.e., in closing status) who have little or no collections activity should request a liability statement. When a school finalizes its agreement with the Federal Government, it is no longer required to submit an Annual Operating Report. Requests for liability statements should be directed to:

Health Resources and Services Administration  
Division of Financial Operations  
Debt Management Branch  
Student Assistance Section  
Room 8B-45, Parklawn Building  
5600 Fishers Lane  
Rockville, MD 20857

*[Section 728 of the Public Health Service Act]*

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## **Chapter 3 STUDENT AWARDS**

### ***Section 1 STUDENT ELIGIBILITY CRITERIA***

Institutions must make sure that students meet the eligibility criteria for receipt of PCL funds. In addition, schools must take certain other administrative steps such as:

- verifying the accuracy of applicant information;
- assessing that information in order to determine individual awards;
- responding to changes in students' financial circumstances;
- disbursing funds; and
- maintaining student records.

Institutions must be sure that students who receive PCL funds meet the set eligibility requirements specified in statute and in regulations that follow.

### *CITIZENSHIP STATUS*

A student applicant must be a citizen or national of the United States, or a lawful permanent resident of the United States, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa or the Trust Territory of the Pacific. A student who remains in this country on a student or visitor's visa is not eligible.

*[42 CFR Part 57.206]*

### *ACADEMIC STATUS*

The student must be enrolled or accepted for enrollment as a full-time student in a health professions school participating in the PCL program. The student must be in good standing, as defined by the school, and capable in the opinion of the school of maintaining good standing in the course of study. Schools may choose to apply the satisfactory academic progress guidelines for programs under Title IV of the Higher Education Act, as amended, although statute and regulations specific to the PCL program do not require it.

Should a PCL recipient cease to be a student in good standing because of academic failure, then the school is obligated to discontinue disbursement of PCL funds to the student.

*[Section 722 of the Public Health Service Act; 42 CFR Part 57.206]*

### *ENROLLMENT STATUS*

Students must be enrolled full-time in programs leading to the following degrees in order to be eligible for PCL funds:

- doctor of allopathic medicine; or
- doctor of osteopathic medicine.

## *FINANCIAL NEED*

The student must be in need of financial assistance in order to pursue the full-time course of study at the health professions school in which he or she is enrolled or accepted for enrollment. In determining financial need, the school must take into consideration the:

- financial resources available to the student; and
- costs reasonably necessary for the student's attendance at the school.

*[Section 722 of the Public Health Service Act; 42 CFR Part 57.206]*

### ***General Requirements***

All schools participating in the PCL program must:

- use the expected family contribution calculated from the need analysis formulas legislated under the Higher Education Act of 1965, as amended;
- collect and assess parents' financial information even if the student is considered independent according to the definitions under Title IV of the Higher Education Act; and
- consider estimated resources and other financial aid before awarding PCL.

*[42 CFR Part 57.206]*

### ***Parents' Financial Information***

Institutions must take parents' information into account for the purpose of awarding PCL funds to its dependent students. This requirement cannot be waived. Parental income is used to determine the student's overall need and if the student comes from "economically disadvantaged" backgrounds. For determining "economically disadvantaged" background the parental income must be used, not the student's income. In cases where the parents refuse to provide income information, an affidavit documenting such a refusal cannot be accepted in lieu of the required information. ***Unless the parents are deceased, a student who does not provide parental income information may not be considered for PCL funds.***

The amount of PCL funds awarded to a student plus the amount of the student's expected family contribution--including parents' contribution--may not exceed the student's cost of attendance.

*[42 CFR Part 57.206]*

Although the requirement to collect parental information cannot be waived, schools may use their professional judgment to adjust the amount of either the student's or the parent's contribution to more accurately reflect their actual situation. The school may want to collect additional information, such as the parent's home equity, to determine how best to allocate PCL money.

*[Campus-Based Policy Memorandum 2002-2]*

The Department will allow PCL schools to comply with the requirement to collect parents' financial information, for the purposes of determining student need, without requiring a parent signature. This allowance is to accommodate the Department of Education's financial aid renewal application process that generally does not require the collection of a parent signature from students. Please note, however, that parent information must still be collected in accordance with existing requirements; the only change is that a parent signature is not required. Schools may still require a parent signature if they so choose.

*[Campus-Based Policy Memorandum 2001-1]*

Although HPSL, LDS and NSL require parental financial information, the Affordable Care Act changed the parental financial information requirement for independent students who want PCLs. As of March 23, 2010, the requirement for independent students to provide parental financial information to determine financial need is eliminated. However, at its discretion, a school may still want to require parental financial information for independent students seeking a PCL. For this program, an independent student is defined as a student who is at least 24 years of age and can prove that he or she has been independent for a minimum of 3 years.

*[Section 5201(b) of the Affordable Care Act]*

### ***Cost of Attendance***

Developing student budgets requires careful identification of reasonable costs necessary

for the student's attendance at the school, including any special needs or obligations of each student or costs common to particular groups of students. The school must develop student budgets which treat students within groups consistently, but are sensitive to individual circumstances. Schools must be able to document the various student budgets used in determining financial need. Using the Title IV requirements for developing costs of attendance is an appropriate approach for administering PCL funds.

The Department of Health and Human Services recognizes that from time to time an individual student's budget may deviate from the standard cost of attendance because of unusual circumstances. Financial aid administrators should use their authority to make changes to the standard student budget judiciously. Further, the school must carefully document all such changes.

*[42 CFR Part 57.206]*

#### *SELECTIVE SERVICE REGISTRATION*

Schools may not provide PCL funds to students who are not in compliance with requirements to register for the draft if required to do so under section 3 of the Military Selective Service Act.

*[Section 722(b)(3) of the Public Health Service Act; 42 CFR Part 57.206]*

#### *FINANCIAL AID TRANSCRIPTS*

Students must provide health professions schools with financial aid transcripts from any other previously attended institution of higher education. The financial aid transcript must include:

- student's name and social security number;
- amounts and sources of loans and grants previously received by the student for study at that institution;
- whether or not the student is in default on any loans, or owes a refund on any grants; and
- a statement--if applicable--that the student received no financial aid.

The financial aid transcript must be signed by an authorized official of the institution preparing the document.

*[42 CFR Part 57.206]*

DHHS information on PCL student borrowers is not currently available through the National Student Loan Data System (NSLDS). In order for the schools to comply with the requirements for financial aid transcripts, schools may either:

- query the NSLDS only (which would mean the school would have Department of Education data, but not have DHHS data); or
- query the NSLDS (to obtain Department of Education data) and request a paper transcript to obtain information on DHHS programs.

It is the school's responsibility to determine, based on its particular need for, and uses of the DHHS program financial aid transcript information, whether or not to collect DHHS information on paper. Schools may also choose to establish policies which involve a combination of the above. For example, a school may choose to request paper transcripts (in order to obtain DHHS program data) only for transfer students, or to request paper transcripts only from students who indicate that they have previously received DHHS funds. Although schools are not required to request paper financial aid transcripts, any school participating in DHHS programs which receives a request for a DHHS financial aid transcript must respond to the inquiry in a timely manner.

*[Campus-Based Policy Memorandum 2001-1]*

### ***Default on Other Federal Loans***

The PCL program does not prohibit awarding PCL funds to students who are in default on other student loans. However, good practice suggests that the school may choose to establish an institutional policy which would prevent students who are in default on other student loans from receiving PCLs. If the school does not have such a policy in place, it should carefully consider awarding PCL funds to any student who has failed to honor a previous loan commitment by discerning:

- the reason for default; and
- the likelihood that the student will be a "collection problem" with regard to the PCL funds.

## ***Section 2 PRIMARY HEALTH CARE SERVICE OBLIGATION***

In addition to the HPSL requirements, PCL recipients also must:

- enter and complete a residency training program in primary health care not later than four years after the date on which the borrower graduates from the institution; and
- practice primary health care through the date on which the loan is repaid in full, and to certify to the school on an annual basis that he or she is practicing primary health care.
- for PCL loans made on or after March 23, 2010, the service requirements are borrowers are to enter and complete residency training in primary health care and practice in primary health care for either 10 years (including the years spent in residency training) or through the date on which the loan is repaid in full, whichever occurs first. Certification on an annual basis that he or she is practicing primary health care is still required.

*[ Section 5201(a)(1)(B) of the Affordable Care Act ]*

Primary health care is defined as family medicine, general internal medicine, general pediatrics, preventative medicine, or osteopathic general practice.

### ***ACCEPTABLE RESIDENCY TRAINING***

**Medicine/Osteopathic Medicine:** Approved 3-year residencies:

- family medicine
- internal medicine
- pediatrics
- combined medicine/pediatrics
- preventive medicine
- general practice

*ACCEPTABLE PRACTICE ACTIVITIES*

**Medicine/Osteopathic Medicine:**

- Primary Care Clinical Practice
- Clinical Preventive Medicine
- Occupational Medicine
- Public Health
- Senior/Chief Resident in primary care residency program
- Faculty, Administrators, or Policy Makers certified in one of the primary health care disciplines
- Geriatrics
- Adolescent Medicine
- Adolescent Pediatrics
- Urgent Care [*Campus Based Policy Memorandum 2003-1*]
- Sports Medicine
- Training for Primary Care Faculty Career
- Training for Public Policy Career
- Masters in Public Health
- Public Policy Fellowship
- Faculty Development Training
- Primary Care Fellowship
- Hospitalist

*UNACCEPTABLE RESIDENCY/PRACTICE ACTIVITIES*

**Medicine/Osteopathic Medicine:**

- Cardiology
- Gastroenterology
- Obstetrics/Gynecology
- Surgery
- Dermatology
- Radiology

- Rehabilitation Medicine
- Physical Medicine
- Emergency Medicine
- Other Subspecialty Training or Certification

The law requires that PCL recipients practice in primary care, but does not specify that the practice be full-time or that it involve a minimum number of hours per week. Even though part-time practice is acceptable, the recipient would be in breach of the service obligation if he or she were to obtain any type of subspecialty training that would allow him or her to sub-specialize during his or her remaining service.

#### *SELF-CERTIFICATION OF COMPLIANCE WITH THE SERVICE OBLIGATION*

The recipient is required to submit *self-certification* of compliance with the service obligation on an annual basis in a format determined by the school. Each school has discretion in determining how it can most easily obtain the primary care practice certification for its PCL recipients. At a minimum, the certification must state that the recipient is practicing primary care in accordance with the terms of the PCL promissory note and must be signed and dated by the recipient. The Department has modified the HPSL deferment form to include a section for PCL recipients to complete to certify that they are in an eligible residency program. This form is sufficient for documenting compliance with the agreement to enter primary care during residency training. Upon completing residency and entering primary care practice, the recipient can begin using the form described above or the school can develop its own form or documentation procedures for its recipients to use.

#### *LOCALE FOR FULFILLING SERVICE OBLIGATION*

To assure that the PCL program is most effective in helping to achieve the national goal of making primary care more widely available, and in contributing to the success of health care reform, the Department requires that PCL recipients fulfill their primary care service obligation in the United States or one of its territories. Service outside of the United States is only permitted if the borrower is in military service and is assigned to serve at a location outside of the United States.

A service obligation with the military or a service obligation with PCL does not have precedence over the other. Both must be fulfilled in accord with the terms of the promissory note and may be fulfilled concurrently. For example, a student who has taken PCL and has a military service obligation would be required to practice primary care in accord with the PCL agreement and would also be required to comply with the military obligation.

*[Sections 723(a) and 723(d) of the Public Health Service Act]*

### *PENALTIES FOR NOT FULFILLING THE PRIMARY HEALTH CARE SERVICE OBLIGATION*

PCL borrowers are subject to penalty when he/she either

- Enters subspecialty training; or
- Fails to be able to complete a primary care residency within 4 years of graduation; or
- Fails to practice primary care in accordance with the terms of the PCL promissory note; or
- Fails to provide the school with documentation of either residency status or primary care practice.

The first documentation of the recipient's annual activities is due at the time of graduation. Information on where graduates have matched would be sufficient to satisfy this documentation requirement for the first year and recipients are required to self-certify activities annually thereafter. The school may allow the recipient to submit the required documentation up to 120 days after the due date without placing the recipient in default. If the required documentation is NOT submitted within 120 days of the due date, the school must place the recipient in default using the original due date.

The school has discretion in deciding whether to reverse the default status of a PCL recipient in cases where the recipient was placed in default for failing to provide certification of his or her practice activities, but later demonstrates that he or she has been in compliance with the service obligation.

***Defaulted borrowers who reside or work in designated disaster areas:***

The Department can authorize schools, without a request from the borrower, to discontinue collections activities for a specified period (usually six months) for defaulted PCL borrowers who reside, or if known, work in an affected community and have been adversely impacted by an area disaster; such as wild-fire, hurricane, earthquake or flood. Defaulted PCL borrowers, who must assist a relative that was adversely affected by an area disaster, may also have collections activities suspended for a time period set at the discretion of the school. The request need not be in writing, but the reasons for discontinuing collection activities should be documented in the defaulted borrower's loan records.

*[Campus-Based Policy Memorandum 2005-3]*

***Penalty Calculation***

The PCL promissory note states in section 3 that if the borrower fails to comply with the service obligation, "...the balance due on the loan involved will be immediately recomputed from the date of issuance (*using the original principal*) at an interest rate of 12 percent per year, compounded annually" **for loans made prior to November 13, 1998**. In accord with this provision, when a PCL recipient default on the service obligation, the school must recalculate the total amount owed on the debt by calculating interest at 12 percent per year, compounded annually, on the original principal amount of each disbursement, based on the date that each disbursement was made. If the recipient has already repaid a portion of the loan, these payments would be credited against the newly calculated indebtedness in accord with the time the payments were actually made.

For loans made on or after November 13, 1998, statute requires that if a PCL borrower fails to comply with the primary care service requirement, the PCL will begin to accrue interest at a rate of 18 percent per year beginning **on the date of noncompliance**. The penalty is calculated on the outstanding balance of the PCL on the date of noncompliance.

*[Sections 723(a)(1) and 723(a)(3) of the Public Health Service Act]*

For loans made on or after March 23, 2010, PCL borrowers who fail to comply with the service requirements of the program will have their loans begin to accrue interest at an **annual rate** of 2 percent greater than the rate the student would pay if compliant.

*[Section 5201(a)(3) of the Affordable Care Act]*

### ***Break In Service***

A PCL recipient must complete residency training within 4 years of graduation. Upon completion of residency training, the recipient must enter and remain in primary care practice unless: (1) he or she is in an allowable deferment; or (2) there are extenuating circumstances for which the school determines that a break in service is appropriate, such as extended illness, maternity/family leave, or time to establish a practice or secure employment.

The school must obtain documentation which supports the recipient's request for a break in service (e.g., a signed statement from the recipient stating the reason for the break in service). The school has discretion to approve a break in service that does not exceed 12 months. Any break in service exceeding 12 months must be approved by the Department. Requests for approval of such must be submitted to:

DHHS/HRSA/BHP  
Division of Student Loans and Scholarships  
Campus Based Branch  
5600 Fishers Lane, Room 9-105  
Rockville, MD 20857.

For PCL, a break in service is not a deferment, but merely allows the borrower to avoid default on the service obligation in the event of extenuating circumstances approved by the school or the Department. The repayment period continues to run, interest continues to accrue, and payments continue to come due during this time. If forbearance is also granted during a break in service, payments would be adjusted accordingly.

### ***Deferment***

If the borrower is in a deferrable activity, as identified in the statute and the promissory note, payments on the loan would be deferred and interest would not accrue. If the activity does not qualify for deferment under the terms of the promissory note, the borrower's grace and/or repayment period would begin and, during periods of repayment, interest would accrue.

If the related educational activities interrupt the course of study, this would not reduce the 4-year period provided for completing residency training. The 4-year period for completing residency training begins upon graduation from medical school. The PCL statute requires that the primary care residency training must be completed within 4 years of graduation from medical school and deferment cannot interrupt that period. A deferment form is provided as Exhibit C.

#### *EXCEPTION TO THE PRIMARY HEALTH CARE SERVICE OBLIGATION*

The primary health care obligation *does not* apply to allopathic and osteopathic medical students who obtained HPSLs prior to July 1, 1993. New borrowers would include students who received an HPSL for the first time on or after July 1, 1993. Any student who has received an HPSL previously, as evidenced by a promissory note signed and dated prior to July 1, 1993, may continue to receive HPSLs under the same terms as their previous loans until completion of professional training. The law gives the school discretion in determining whether to continue to fund prior HPSL recipients who are not committed to primary health care. However, consistent with the program's intent of targeting funds to prospective primary health care practitioners, schools are strongly encouraged to use other sources of financial aid for previous HPSL recipients who do not have a commitment to primary health care.

*[Section 723(a) of the Public Health Service Act]*

#### *WAIVER OR SUSPENSION OF THE PRIMARY HEALTH CARE SERVICE OBLIGATION*

The Secretary of Health and Human Services has the authority to waive or suspend the primary health care service obligation under two circumstances. These circumstances are described below:

- The Secretary can waive a PCL borrower's primary health care service obligation if the borrower terminates studies before graduating from the allopathic or osteopathic medical school and does not later resume studies at the same school or at another medical school.

- The Secretary can suspend a PCL borrower's primary health care obligation for the period when a borrower is not enrolled because he or she has terminated studies before graduating from the allopathic or osteopathic medical school; the obligation is resumed when the borrower returns to the same school or to another medical school to complete his or her studies.

Waiver of the service obligation will be determined by the Secretary on a case-by-case basis.

These provisions do not waive or suspend the borrower's obligation to repay the PCL. Any borrower who does not graduate from an allopathic or osteopathic medical school must still repay the PCL in accordance with its normal terms--that is, at five percent interest over a 10 to 25-year repayment period. This should be determined by the school on a case-by-case basis. The waiver and suspension absolves borrowers in certain circumstances from having to fulfill the primary health care service obligation and protects these borrowers from being subject to the financial penalties described under Penalties for Not Fulfilling the Primary Health Care Service Obligation.

*[Section 723(a)(4) of the Public Health Service Act]*

### ***Section 3 VERIFICATION OF STUDENT INFORMATION***

PCL regulations require verification of student information. Methods for verification are suggested--not mandated--and include:

- Federal income tax returns; and
- other documentation that the school deems necessary.

Institutions may wish to consider using the Department of Education verification requirements for the PCL program. Note that the Department of Education does not use its verification edits on parental information for applicants who are independent according to the definition in the Higher Education Act, as amended. As a result, schools may use their own criteria for selecting PCL applicants for verification in conjunction with applying Department of Education verification procedures.

*[42 CFR Part 57.206]*

## ***Section 4 THE APPLICATION AND AWARD PROCESS***

### ***APPLICATIONS***

Schools are responsible for making a PCL financial aid application form available to students. The application for PCL funds does not need to be separate or a different form from the one used for other financial aid programs administered by the institution. However, it must be able to collect the information necessary for the school to determine whether the student meets the eligibility criteria described on the previous pages. The school also must request information helpful in the collections process after the student leaves the school, such as names and addresses of parents, relatives or other individuals who are likely to know the whereabouts of PCL borrowers after they leave school.

### ***AWARDING POLICIES***

In awarding PCLs, the school must coordinate available funds with the demonstrated financial need of student applicants. Awarding PCL funds should be governed by written policies and procedures that have been adopted by the school to:

- lend equity, consistency and objectivity to the awarding process; and
- comply with statutory and regulatory requirements.

### ***AWARD LETTERS***

After the school has determined individual PCL awards, it should prepare an award letter to be forwarded directly to each applicant. The award letter should provide a space for the student to accept or reject the PCL award. Duplicate copies should be provided so that the student can retain one copy and return the original copy to the school.

### ***Section 5 CHANGES IN STUDENT FINANCIAL NEED***

The student has an obligation to report changes in financial circumstances, including receipt of additional funds. Based upon information received by the institution, the student's award should be adjusted to reflect the change as follows:

- increases of awards will be limited to the amount of PCL funds available to the institution and statutory maximum for individual awards; and
- if the change in the student's situation results in resources exceeding expenses, the institution must adjust the budget or the financial aid package to assure that there is no over-award.

Adjustments are determined by the financial aid administrator based on the facts available about the student's situation and the judgment of the financial aid administrator. All adjustments must be adequately documented. In addition, the institution should have a written refund policy that fairly allocates refunds to financial aid programs authorized under Titles VII and VIII of the Public Health Service Act.

### ***Section 6 DISBURSEMENT OF FUNDS TO STUDENTS***

#### ***THE MASTER PROMISSORY NOTE***

The Master Promissory Note (MPN) replaces the annual promissory note. It allows the school to enter into one note with a student for his/her health professions academic studies at the school. The MPN should be used for awards made after July 1, 2004. The MPN is not an OMB approved form.

If the school chooses to use the MPN as a single award-year promissory note, the borrower must sign an MPN for each award year.

If the school chooses to use the MPN as a multi-year promissory note, the school is granted authority to remove the entire "Schedule of Advances" section. The following portion of the first paragraph should also be removed: "and endorsed in the Schedule of Advances below." The MPN may be reformatted to meet the school's need; however,

any changes to the prescribed language/text of the MPN must be reviewed and approved by the Department.

Please note that schools are not required to use the Schedule of Advance feature of the MPN. A school may decide if it wants all or some of its borrowers to continue to complete and sign the Schedule of Advances. Included on the MPN form are entries for “School Entrance Date” and “School Exit Date”. The exit date is a reasonable estimate of the borrower’s completion date and when an exit interview is expected.

No subsequent loans may be made under a MPN after the earliest of the following dates:

- The date the school receives the borrower’s written notice that no further loans may be made under the MPN; or
- The date of withdrawal from the school by the borrower.

Also, individual borrowers always have the option of accepting loans advanced from the MPN. The borrower must notify the school in writing of their intention to no longer have loans made under the MPN.

Confirmation of the MPN is extremely important. The school must develop and document a confirmation process to ensure that the borrower wants subsequent loans. The confirmation may be part of the required notices and disclosures that already exist or a separate step. Schools may use the MPN as part of their local E-signature program.

*[Campus Based Policy Memorandum 2004-2]*

Because the MPN is the legal document which binds the student to his/her repayment obligations, and thus represents a major asset of the school's loan fund, it must be properly completed and adequately safeguarded against fire, theft, and tampering. The particular method of insuring this protection is the school's responsibility.

Each MPN must:

- state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the loan is required, at the current percentage rate per year; and
- contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

The MPN must be signed by the borrower prior to disbursement of funds. It is not necessary to have a separate promissory note signed each time a student receives an advance of funds. A copy of the note must be supplied by the school to the student borrower.

Any change in the Act or regulations which affects the terms of the MPN requires that a new MPN be signed for future loans. The Department will provide the new text if changes should arise. Changes to an executed MPN should be avoided. However, if a change must be made to the MPN, minimal strike-outs are allowed accompanied by the borrower's signature. White-outs are prohibited.

A PCL shall be made without collateral or co-signature unless the borrower is a minor and the MPN signed by the student borrower would not, under the State law, create a binding obligation. In addition, PCL Master Promissory Notes or any other evidence of a Health Professions Student Loan may not be sold by the school, unless the borrower transfers to another institution participating in the PCL program. In this case, the school from which the borrower originally obtained a PCL may sell that loan to the school the borrower is now attending. However, PCLs are not transferable from one borrower to another borrower.

*[Section 722 of the Public Health Service Act; 42 CFR Part 57.208]*

Standards have been established for the use of electronic signatures and implementation of certain provisions of the Electronic Signatures in Global and National Commerce Act (E-sign Act) as they apply to electronic transactions conducted by schools and borrowers of PCL. The passage of the E-sign Act (Public Law 106-229, § 1, June 30, 2000, 114 Stat. 464, codified at 15 U.S.C. §§ 7001- 7006) makes it possible for schools to use electronic signatures and promissory notes in place of paper records and handwritten signatures to carry out these requirements. These standards are based on the guidance used by the U.S. Department of Education for the Federal Family Education Loan and the Federal Perkins Loan Programs.

A school will not be subject to any liabilities or be required to reimburse its FCC revolving fund if the loan is determined to be legally unenforceable by a court based solely on the processes used for electronic signature or related records, provided the processes for electronic signatures and related electronic records satisfy the above mentioned standards. On the other hand, if the school's electronic processes for a loan do not satisfy these standards and the loan is held by a court to be unenforceable based solely on the school's processes for an electronic signature or related records, the

Department will determine on a case-by-case basis whether the school will be held responsible for the loss of the loan amount.

*[Campus-Based Policy Memorandum 2003-3]*

### *DISCLOSURE REQUIREMENTS*

Schools are required to disclose certain information to students at the time the MPN is signed or during the entrance interview if it occurs prior to the student signing the note. Some of the information that schools must disclose to students appears on the promissory note. Other information does not appear on the MPN, and so it must be provided on a separate document. The disclosure requirements are listed below.

- The yearly and cumulative maximum amounts that may be borrowed by the student. This information is not in the PCL Master Promissory Note and, therefore, must be provided elsewhere. It is recommended that schools include it in (or as an attachment to) the statement of rights and responsibilities which the borrower must review and sign as part of the entrance interview.
- The terms of the loan when repayment will begin. This information is in the PCL Master Promissory Note.
- The maximum number of years in which the loan must be repaid. This information is in the PCL Master Promissory Note.
- The interest rate that will be paid by the borrower and the minimum amount of the required monthly payment. This information is in the PCL Master Promissory Note.
- The amount of any other fees charged to the borrower by the lender. This information is in the PCL Master Promissory Note.
- Any options the borrower may have for deferral, cancellation, prepayment, consolidation or refinancing of the loan. This information, where applicable to the PCL program, is in the PCL Master Promissory Note.
- A definition of default on the loan and a specification of the consequences which will result if the borrower defaults, including that the loan will be reported to

credit bureau organizations. This information is in the PCL Master Promissory Note.

- To the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance. Under the PCL program statute and regulations, accepting a PCL does not affect the borrower's eligibility for other forms of student assistance--except that the student's total aid package may not exceed the student's unmet need, as determined by the school. Therefore, an institution does not have to provide the borrower with any additional information under this requirement unless the school is aware of provisions of other programs which would make an PCL borrower ineligible for other forms of aid.
- A description of the actions that may be taken by the Federal Government to collect the loan, including a description of the type of information concerning the borrower that the Federal Government may disclose to officers, employees or agents of the Department of Health and Human Services; officers, employees or agents of schools with which the Secretary has an agreement under the loan program regulations; or any other person involved in the collection of a loan under the regulations. Complete information to satisfy this requirement is not in the PCL Master Promissory Note and, therefore, must be provided elsewhere. It is recommended that schools include it in (or as an attachment to) the statement of rights and responsibilities which the borrower can review and sign as part of the entrance interview.

For any PCL, the regulations require a school, prior to the borrower's completion or termination of studies at the school, to provide the following loan information to the student:

- each amount borrowed by the student under the loan program regulations;
- the total amount borrowed by the student under the loan program regulations; and
- a schedule for repayment of the amounts borrowed under the loan program regulations, including the number, amount, and frequency of payments to be made.

In addition to the requirements set forth above, the school must comply with the applicable requirements of Truth-in-Lending Regulation Z, which consist of the following:

- the identity of the institution making the disclosures;
- the "amount financed" (using that term, which is equal to the total principal loaned) and a brief description such as "the amount of PCL funds provided to you or on your behalf";
- a separate written itemization of the amount financed, including PCL funds disbursed directly to the borrower, and PCL funds credited to the borrower's account, or a statement that the borrower has the right to receive a written itemization of the amount financed, together with a space for the borrower to indicate whether it is desired;
- the "finance charge" (using that term) and a brief description such as "the dollar amount the PCL funds will cost you";
- the "annual percentage rate" (using that term) and a brief description such as "the cost of your credit as a yearly rate";
- the number, amounts, and timing of payments scheduled to repay the obligation--the institution may comply with this requirement by disclosing the dollar amounts of the largest and smallest payments in the series and a reference to the variations in the other payments in the series;
- the "total of payments" (using that term) and a descriptive explanation such as "the amount you will have paid when you have made all scheduled payments";
- a statement indicating that a penalty may not be imposed if the borrower chooses to prepay any or all of the loan obligation;
- the penalty charge that may be imposed due to a late payment; and
- a statement that the borrower should refer to the promissory note for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment.

Schools are urged to consult with institutional legal counsel to determine the actual format and wording appropriate to the school's particular situation. Although the Department of Health and Human Services can provide general guidance relative to the Truth-in-Lending requirements, responsibility for compliance with the law rests with the school. Inquiries regarding compliance with Truth-in-Lending should be directed to the Federal Reserve Board or the Federal Trade Commission.

*[Section 726 of the Public Health Service Act; 42 CFR Part 57.208]*

***ON AUGUST 14, 2009, THE FEDERAL RESERVE PUBLISHED A FINAL RULE AMENDING REGULATION Z (12 C.F.R. PART 226), WHICH IMPLEMENTS THE TRUTH IN LENDING ACT (TILA), FOLLOWING THE PASSAGE OF THE HIGHER EDUCATION OPPORTUNITY ACT (HEOA). TITLE X OF THE HEOA AMENDED TILA BY ADDING, IN ADDITION TO OTHER REQUIREMENTS, DISCLOSURE AND TIMING REQUIREMENTS THAT APPLY TO CREDITORS MAKING PRIVATE EDUCATION LOANS, WHICH ARE DEFINED AS LOANS MADE FOR POSTSECONDARY EDUCATIONAL EXPENSES. COMPLIANCE WITH THE FINAL RULE IS MANDATORY BEGINNING FEBRUARY 14, 2010.***

***THE FEDERAL RESERVE'S AUGUST 14, 2009 FINAL RULE APPLIES TO SCHOOLS THAT MEET REGULATION Z'S DEFINITION OF "CREDITOR" AND EXTEND "PRIVATE EDUCATION LOANS" TO THEIR STUDENTS. LOANS MADE, INSURED, OR GUARANTEED BY THE FEDERAL GOVERNMENT UNDER TITLE IV OF THE HIGHER EDUCATION ACT OF 1965 ARE SPECIFICALLY EXEMPT FROM THE TILA AND THE DEFINITION OF "PRIVATE EDUCATION LOAN." HOWEVER, LOANS MADE UNDER TITLES VII AND VIII OF THE PUBLIC HEALTH SERVICE (PHS) ACT ARE NOT EXEMPT FROM THE TILA OR THE DEFINITION OF "PRIVATE EDUCATION LOAN." SEE 15 U.S.C. § 1650(A)(7) AND 12 C.F.R. § 226.46(B)(5).***

***ACCORDINGLY, WHETHER THE NEW TILA REQUIREMENTS FOR CREDITORS MAKING PRIVATE EDUCATION LOANS APPLY TO SCHOOLS THAT MAKE LOANS UNDER TITLE VII AND VIII OF THE PHS ACT DEPENDS ON WHETHER A SCHOOL MEETS THE DEFINITION OF "CREDITOR" PROVIDED BY REGULATION Z. A "CREDITOR" IS DEFINED UNDER REGULATION Z AS "A PERSON (A) WHO REGULARLY EXTENDS CONSUMER CREDIT THAT IS SUBJECT TO A FINANCE CHARGE OR IS PAYABLE BY WRITTEN AGREEMENT IN MORE THAN 4 INSTALLMENTS (NOT INCLUDING***

**A DOWN PAYMENT), AND (B) TO WHOM THE OBLIGATION IS INITIALLY PAYABLE, EITHER ON THE FACE OF THE NOTE OR CONTRACT, OR BY AGREEMENT WHEN THERE IS NO NOTE OR CONTRACT." A PERSON "REGULARLY EXTENDS CONSUMER CREDIT" IF IT EXTENDED CREDIT MORE THAN 25 TIMES (OR MORE THAN 5 TIMES FOR TRANSACTIONS SECURED BY A DWELLING) IN THE PRECEDING CALENDAR YEAR. 12 C.F.R. § 226.2(A)(17)(I).**

**AMONG OTHER REQUIREMENTS, THE AMENDMENTS TO TILA, AS IMPLEMENTED BY REGULATION Z, REQUIRE THAT CREDITORS MAKING PRIVATE EDUCATION LOANS:**

**\* PROVIDE A NUMBER OF NEW DISCLOSURES TO BORROWERS, WHICH MUST BE GIVEN AT SEVERAL DIFFERENT TIMES IN THE LOAN ORIGINATION PROCESS;**

**\* PERMIT THE BORROWER THE RIGHT TO ACCEPT THE LOAN AT ANY TIME WITHIN THIRTY DAYS AFTER RECEIVING THE APPROVAL DISCLOSURES;**

**\* ALLOW THE BORROWER THE RIGHT TO CANCEL THE LOAN WITHOUT PENALTY FOR THREE BUSINESS DAYS AFTER RECEIVING THE FINAL DISCLOSURES; AND**

**\* OBTAIN A SIGNED "SELF-CERTIFICATION FORM" FROM THE BORROWER BEFORE CONSUMMATING THE LOAN.**

**[FEDERAL RESERVE SYSTEM 12 CFR PART 226, REGULATION Z: DOCKET NO. R-1353]**

**ENTRANCE INTERVIEWS**

***Timing***

Regulations require schools to conduct entrance interviews with its PCL borrowers. The school must conduct and document an entrance interview for each academic year during which the student receives PCL funds. The school also must obtain entrance interview documentation before it disburses loan funds to a borrower in any academic year.

The regulations do not require the school to conduct an entrance interview each time it makes a disbursement within a single academic year; however, many schools have indicated it is beneficial to the collections process to require a borrower to complete a new "borrower information" form at the time of each disbursement.

*[42 CFR Part 57.210]*

### ***Content***

No matter what format or method a school uses to conduct an entrance interview, it must obtain documentation which includes the following:

- Evidence that the borrower is aware of the rights and responsibilities associated with the loan. This documentation can be any format the school chooses. For example, the school can use a:
  - separate statement listing the borrower's rights and responsibilities, which the borrower must sign and date to acknowledge that he or she has been provided with the information; or
  - statement of the borrower's rights and responsibilities that are incorporated into a disclosure document.

For a borrower who receives loan funds in more than one academic year, the school may use a separate form or statement for each year during which funds are disbursed. As an alternative, the school may permit the borrower to sign and date the original rights and responsibilities form or statement for each academic year in which he or she obtains additional PCL funds. In this case, the information on the original document must continue to be applicable to the additional loan funds.

- The school must collect a document on which the borrower provides personal information to assist in skip tracing should this be necessary during the collection process. The borrower must sign and date the document to show when the information was provided or updated.

Personal borrower information can change between the time of application and loan disbursement; therefore, it must be collected during the entrance interview even if the borrower provided similar information on the financial aid application. A school may use any format it finds most effective to collect this information.

For a borrower who receives loan funds in more than one academic year, the school must require the borrower to:

- provide this information anew each year before funds are disbursed; or
- review and update the original entrance interview information each year before funds are disbursed, and sign and date again the information to state when the personal borrower information was updated.

*[42 CFR Part 57.210]*

### ***Format***

A school must complete the entrance interview requirement by conducting an individual or group meeting with the borrower, through an exchange of mail if a face-to-face meeting is not practical, or through on-line interviews. Each school has latitude in deciding how to conduct the entrance interview. However, schools are strongly encouraged to make individual or group entrance interviews a priority in the financial aid awarding process, as this will help prevent problems in the collections process. The school also has discretion in determining the specific format of the entrance interview, and may use innovative methods such as films or computer software programs that "test" the borrower's understanding of his/her rights and responsibilities. Finally, the school has discretion in deciding which office(s) (e.g., financial aid, fiscal, loan collection, dean's) will be responsible for entrance interviews.

*[42 CFR Part 57.210]*

### ***Documentation***

The regulations require a school to conduct and document an entrance interview for each academic year during which the student receives loan funds and must obtain entrance interview documentation before it disburses loan funds to a borrower in any academic

year. The regulations do not require the school to conduct an entrance interview each time it makes a disbursement within a single academic year; however, it may be beneficial to the collection process to require a borrower to complete a new "borrower information" form at the time of each disbursement. Regardless of how the school conducts the entrance interview, it must obtain documentation which includes the following:

- evidence that the borrower is aware of the rights and responsibilities associated with the loan. This documentation can be in whatever format the school chooses, such as a statement listing the borrower's rights and responsibilities which is signed and dated by the borrower, or a statement signed and dated by the borrower acknowledging that he or she has been provided with information which explains the rights and responsibilities of the loan. The truth-in-lending statement can also satisfy this requirement provided that it includes additional information which further explains to a borrower the rights and responsibilities of the loan funds. For a borrower who receives loan funds in more than one academic year, the school may use a separate form or statement for each year in which funds are disbursed, or may have the borrower re-sign and date the original form or statement for each additional year (provided that the information in the original form/statement continues to be applicable to the additional loan funds).
- personal borrower information (dated by the borrower to indicate when he or she provided the info and/or the update) which will assist in skip tracing should this be necessary during the collection process. This must be collected as part of the entrance interview process even if a borrower has provided similar information on the financial aid application, since the information may change between the time the borrower applies for and is awarded funds. A school may use whatever format it finds most effective to collect this information. For a borrower who receives loan funds in more than one academic year, the school must require the borrower to:
  - provide this information anew each year before funds are disbursed; or
  - review and update the original entrance interview information each year before funds are disbursed and re-sign and date the information to indicate when the update occurred.

*[42 CFR Part 57.210 and 42 CFR Part 57.310]*

## *PAYMENTS TO STUDENTS*

Institutions determine the amount of installments paid to the student. However, installments may not exceed what the institution determines is necessary for the student to pay for any installment period (e.g., semester, term, quarter). Note that students enrolled less than full-time or are no longer in good standing are not eligible to receive PCL proceeds.

The school may advance payments directly to the student or it may credit the disbursement to the student's tuition account. In either case, payments must be clearly documented.

*[42 CFR Part 57.209]*

## ***Section 7 STUDENT RECORDS***

The school must maintain an individual file for each student applying for financial aid and maintain these records for at least five years after the borrower ceases to be a full-time student. This file should contain clear evidence of how the school evaluated each application for financial assistance. Even if no funds were awarded, documentation of rejection, cancellation, or declination must be retained and safeguarded against fire, theft and tampering.

The student file should contain documents relating to each academic year application so that each application cycle is complete and auditable. The contents of the file must include:

- approved student applications for PCLs;
- documentation of the financial need of applicants; and
- financial aid transcripts.

The types of documents that support this information include:

- copy of the need analysis document;
- copy of the student budget used to determine need;

- complete written documentation of assessment of resources and need;
- award letter--institutional copy;
- record of advances (i.e., receipts or vouchers);
- copy of signed Master Promissory Note;
- signed disclosure (i.e., truth-in-lending statement includes borrower's rights and responsibilities); and
- financial aid transcript, if applicable.

The Department of Health and Human Services permits institutions to maintain their records in a variety of formats at the option of the school. Record keeping formats include:

- computer;
- electronic;
- microfiche;
- microfilm; or
- paper.

Student records which must be retained by the school for five years after the individual student ceases to be a student are:

- approved student applications for financial aid;
- documentation of the financial need of applicants;
- financial aid transcript(s); and
- any other records the Secretary may require.

These records may be destroyed at the end of the five-year period except when questions have been raised as a result of a Federal audit. In such cases, records should be retained until the questions have been resolved and the audit closed.

*[42 CFR Part 57.215 and 42 CFR Part 57.315]*

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## **Chapter 4 TERMS AND CONDITIONS OF THE PCL PROGRAM**

This chapter reviews the characteristics of the PCL program such as maximum amounts that students may borrow, interest rates, deferment options, repayment requirements, cancellation provisions, and loan consolidation.

### ***Section 1 LOAN AMOUNTS***

Loans made on or after November 13, 1998, may be made in amounts that do not exceed the cost attendance (including tuition, other reasonable educational expenses, and reasonable living expenses). Previously the maximum loan amount was tuition plus \$2,500. Before making decisions about how much an individual student receives in PCL funds, schools must be sure that students meet the statutory and regulatory eligibility criteria described in Chapter 3, Section 1, Student Eligibility Criteria above.

*[Section 722(a) of the Public Health Service Act]*

### ***EXCEPTION TO LOAN AMOUNTS FOR THIRD- AND FOURTH-YEAR MEDICAL STUDENTS***

Allopathic and osteopathic medical schools have the authority to increase awards from PCL, beyond the cost of attendance annual maximum limit. However, amounts beyond the annual maximum limit are only available to third- and fourth-year students. In addition, the funds must be used to repay outstanding balances on loans taken out while the borrower was in attendance at that school. Funds may not be used to repay previous HPSLs, LDS and PCLs.

This authority allows allopathic and osteopathic medical schools to help students reduce the level of their indebtedness from loans with less favorable terms, such as loans with

higher interest rates or loans that compound interest. For example, a school of medicine could provide a third-year student with an HPSL, LDS, or PCL that would not only cover a portion of the student's cost of attendance, but would also repay--in part or in total--the student's Health Education Assistance Loan debt assumed during the first or second year in medical school.

Schools are responsible for implementing this provision and assuring that the loans funds are used appropriately. The school and the student must agree that amounts received in HPSL, LDS, or PCL above the legal annual maximum will be applied solely to the repayment of other educational loans. Further, the school must make checks co-payable to the student and the school. The purpose of making checks co-payable is to assure that the funds are actually used to repay designated prior loans.

*[Section 722(a) of the Public Health Service Act]*

## ***Section 2 INTEREST RATES***

A uniform interest rate of five percent per year applies to all loans made on or after November 4, 1988. Interest is computed on the unpaid principal balance and begins to accrue upon expiration of the grace period unless a borrower is eligible for deferment status.

*[Section 722(e) of the Public Health Service Act; 42 CFR Part 57.208]*

## ***Section 3 INSURANCE PREMIUM***

Statute and regulations permit schools to charge an insurance premium to cover loss of the institutional share of a PCL in cases of death and disability cancellations. Schools that choose to charge an insurance premium must determine the rate each year based on their cancellation experience. However, the rate may not exceed 0.6 percent of the loan amount disbursed to the student. Proceeds collected from PCL disbursements as insurance premiums:

- may only be used to reimburse the school for the institutional share of losses for loans made on or after October 22, 1985; and

- must be placed in interest-bearing accounts from which earnings must be credited to the insurance fund.

Regulations state that the school is required to maintain separate accountability for the insurance premium fund even though the school does not have to establish a separate account.

*[Section 722(h) of the Public Health Service Act; 42 CFR Part 57.213a]*

#### ***Section 4 GRACE PERIOD***

The grace period for a PCL is one year long during which repayment of principal is not required and interest does not accrue. The grace period immediately follows completion or termination of full-time student status and cannot be postponed to follow any deferments for which the borrower may be eligible. The following example illustrates.

##### ***Example:***

*A student who borrowed from the PCL program graduates from medical school.*

*She is going directly into a three-year residency for which she can obtain deferment on the payment of her PCLs. Because the grace period begins as soon as she graduates, she must use her grace period for the first year of her residency and then apply for deferments for the last two years of her residency. She is not allowed to obtain deferments for all three years of residency and then use the grace period after her residency training is completed.*

Borrowers who have not graduated do not lose the grace period or any portion of it unless they are out of school for the full year. This means that a borrower who reenters the same or another health professions school within the one-year period maintains the entire grace period. The following examples illustrate.

##### ***Example:***

*A student in a podiatric medicine program borrowed a PCL for his first year of school. He went home during the three-month summer break between his first and second year of*

*the program to work. Because he was out of school for less than one year, he still has not lost the one-year grace period on his PCL.*

***Example:***

*A student withdraws from a dental school. After being out of dental school for seven months, she enrolls in a school of veterinary medicine. Because her enrollment at the second institution began before the grace period was over, she still has the full year of grace remaining once she graduates or terminates attendance at the school of veterinary medicine.*

Similarly, a borrower who has graduated from a health professions school retains the full grace period if enrollment in another health profession school begins before the grace period expires.

The regulations require a school to contact borrowers in writing twice during the grace period. Since the regulations do not state specific intervals at which the contacts must occur, each school has discretion in developing reasonable intervals for the two contacts (e.g., 90 and 180 days into the grace period). To comply with this requirement, a school can use whatever form of written notification it finds most effective, including lettergrams, letters, or a message on a billing statement (with the billing portion indicating that no payment is yet due). Mailed exit interview information may not take the place of one of the two grace period contacts. However, if the school mails the first bill during the grace period, and includes a message section which provides the borrower with appropriate information, the school can consider this one of the two grace period contacts.

*[42 CFR Part 57.210 and 42 CFR Part 57.310]*

The regulations do not specify information which must be included in the grace period contacts, but instead leaves this at the discretion of the school. A school should use these notices as opportunities to remind the borrower of information that is pertinent to assure timely repayment, including:

- the fact that the loan must be repaid in a timely manner as required in the signed repayment schedule;
- the fact that the borrower must inform the school of any changes of name and address;
- the full amount of the loan including the interest rate;

- the date and amount of the first payment;
- the borrower's responsibility to contact the school prior to the due date of any installment if payment cannot be made for any reason;
- the borrower's rights to deferment, postponement, and/or cancellation, as well as the need for timely submission of such forms;
- the borrower's right to accelerate loan repayments without penalty; and
- any other items such as the school's right to withhold all services (transcripts, letters of recommendations, alumni materials, placement information, etc.) until the borrower's obligations have been met.

The school must document the grace period contacts by keeping a copy of each contact sent to each borrower, or by maintaining samples of the grace period contacts and documenting for each borrower the month when each contact was mailed. If any grace period contact is returned due to an incorrect address, the school must record the date the contact was returned or retain the returned envelope. The school must then initiate an address search and, if successful, must keep a copy of the contact mailed to the correct address or record the date this contact was mailed.

If an updated address is not located until after one of the next regularly scheduled contacts should have been mailed, documentation of the date the address was obtained and the school's schedule for sending grace period contacts would determine whether any grace period notices must be sent or regular billing initiated immediately. For example:

- if a borrower's first grace period contact is returned, and a correct address is not located until after the second grace period contact has been mailed to other borrowers, the school is not required to send this borrower the first grace period contact, but must send the second grace period contact; or
- if a borrower's first grace period contact is returned, and a correct address is not located until after the repayment period has begun, no grace period contacts would be required for this borrower.

*[Section 722(c) of the Public Health Service Act; 42 CFR 57.210]*

## ***Section 5 DEFERMENT PROVISIONS***

A deferment period on a PCL means that interest does not accrue and the borrower does not have to make payments on the loan. The following three statements describe the general mechanics of PCL deferments:

- Deferments are only available for participation in certain activities prescribed in statute and regulations.
- Deferment periods do not count against the borrower's right to repay the loan within 10 years. For example, a borrower who has used three years of deferments still has a total of 10 years--not seven years--to repay the PCL.
- Borrowers are allowed to move in and out of deferment and repayment. For example, a borrower may be in repayment, then participate in an activity for which deferments are available, go back into repayment, and then begin another deferrable activity.

Although borrowers engaged in specific activities are entitled to deferments on their PCLs, the deferments are not automatic. Borrowers must request deferments at least 30 days before the beginning of:

- an activity that makes the borrower eligible for deferment; or
- the repayment period (i.e., the due date of the first payment) if the borrower is beginning the activity during the grace period.

Borrowers then must file deferment forms annually for each additional year of deferment. A copy of a PCL deferment form appears below. For the institution to acknowledge that the borrower is in deferment, the borrower must provide evidence that the:

- activity is one for which deferments are permissible; and
- borrower is actually participating in that activity.

The evidence must include certification by a program official or other authorized official that the borrower's activity meets the deferment requirements. The borrower is also responsible for providing any other information necessary for the school to process an

acknowledgment. The responsibility for granting a deferment is the institutions and cannot be transferred to a third party, such as a billing agent. In addition to being responsible for requesting deferments and submitting the necessary documentation, the borrower also must contact the institution when he/she has completed or terminated the deferrable activity.

The regulations require a school to contact a borrower one to three months prior to the completion of an approved deferment period. The school must make this contact for any borrower in deferment when the approved deferment period is due to expire and an extension has not been requested by the borrower (by submission of a new deferment form) at the time the deferment contact is to be mailed.

*[42 CFR Part 57.210 and 42 CFR Part 57.310]*

The deferment contact is not required if a borrower in deferment extends his or her deferment period by submitting a properly completed deferment form prior to the time that the deferment contract is scheduled to be mailed. For example, a deferment contact is scheduled to be mailed 60 days before the end of an approved deferment period and the borrower submits a deferment form extending the deferment period 75 days before the end of the approved period. In this case, a deferment contact would not be needed until one to three months prior to the completion of the newly approved deferment period. The date that the deferment form extending the period of deferment was approved by the school, which would be prior to the date the deferment contact was to occur, would document that a deferment contact was unnecessary at the time.

To comply with this requirement, a school can use whatever form of written notification it finds most effective, including lettergrams, letters, or a message on a billing statement (with the billing portion indicating that no payment is yet due, but also indicating when the approved period of deferment ends and/or when the next payment will be due).

The regulations do not specify information which must be included in the deferment period contact, but instead leaves this at the discretion of the school. The school should use this contact as an opportunity to remind the borrower of information that is pertinent to assure timely repayment, such as that listed for grace period contacts. If a school expects the borrower's deferment status to continue, it is suggested that the school include with this notification a blank deferment form for the borrower to complete and return prior to the time his or her repayment period would otherwise resume.

The school must document the deferment contact(s) by keeping a copy of each contact sent to each borrower, or by maintaining samples of the deferment contacts and documenting for each borrower the month when each contact was mailed. If any deferment contact is returned due to an incorrect address, the school must record the date the contact was returned or retain the returned envelope. The school must then initiate an address search and, if successful, must keep a copy of the contact mailed to the correct address or record the date this contact was mailed. If an updated address is not located until after billing should have begun or resumed, this deferment contact would not be required for this borrower.

The Department will grant schools the option to use information from the National Student Clearinghouse in lieu of a student's deferment request. The Clearinghouse does not indicate the type of educational institution a borrower is attending; however, if the school chooses to use this mechanism, the school is responsible for verifying and documenting that the student is in a deferrable activity according to program regulations.

*[Campus-Based Policy Memorandum 2001-1]*

**ELIGIBLE ACTIVITIES**

Borrowers may obtain deferments if they participate in certain activities. The chart below briefly identifies those activities and the corresponding maximum period of time for which the borrower can be in deferment.

<b>Type of Activity</b>	<b>Maximum Number of Years for Deferment</b>
Active duty in the uniformed services	Up to three years
Peace Corps volunteer	Up to three years
Advanced professional training	Unlimited
Leave of absence to pursue related educational activity	Up to two years
Training fellowship, training programs and related educational activities for graduates	Up to two years

of health professions schools	
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Further descriptions of the allowable deferment activities appear below.

*[Section 722(C) of the Public Health Service Act; 42 CFR Part 57.210]*

### *UNIFORMED SERVICES*

Borrowers who perform active duty as a member of a uniformed service (Army, Navy, Marine Corps, Air Force, Coast Guard, the National Oceanic and Atmospheric Administration Corps, or the U.S. Public Health Service Commissioned Corps) are eligible for deferment for up to three years. Such service performed during the grace period does not count as part of the maximum deferment period for which the borrower is eligible, nor does it entitle the borrower to a grace period after the deferment period ends. This deferment provision is specifically limited by statute to borrowers on active duty who are members of a uniformed service and does not apply to borrowers who are employed by one of the uniformed services in a civilian capacity. For example, a borrower who is working for the Public Health Service (PHS) and who is not a member of the Commissioned Corps would not qualify for deferment.

If a borrower encounters an extraordinary circumstance as military mobilization in a war forbearance may be granted. Forbearance has the effect of temporarily suspending payment of principal; however, interest continues to accrue. Based upon the request of the affected borrower, the borrower's family or another reliable source, forbearance can be granted temporarily without supporting documentation and without written forbearance agreement. The request for forbearance need not be in writing but the reasons for granting forbearance should be documented in the borrower's loan records. The institution must obtain documentation at least annually that supports the borrower's request for forbearance.

Under the Soldiers' and Sailors' Civil Relief Act of 1940 as applied to Educational Loans and Obligations, borrowers who are paying the penalty interest rate of 18% may request to have their student loan interest rate decrease to 6% while on active duty. The debtor must request the 6% cap by sending the school a letter and a copy of his/her military orders. Since the cap on interest begins upon receipt of the service member's orders, the

school must calculate the revised payment rate retroactively. The penalty rates resume upon completion of active duty service.

A borrower who is fulfilling an NHSC scholarship obligation through the "private practice option" or through the "private placement option" rather than as a PHS commissioned officer would not be eligible for deferment. Institutions should be certain that borrowers understand this provision prior to graduation to avoid subsequent problems in administering deferments based on participation in the uniformed services.

*[Section 722(c)(1)(A) of the Public Health Service Act; 42 CFR Part 57.210]*

### *PEACE CORPS*

Borrowers who volunteer under the Peace Corps Act are eligible for deferment for up to three years. Such service performed during the grace period does not count as part of the maximum deferment period for which the borrower is eligible, nor does it entitle the borrower to a grace period after the deferment period ends.

Service in VISTA (Volunteers in Service to America) does not qualify for deferment.

*NOTE: The total period of deferment for uniformed service and service as a Peace Corps volunteer may not exceed three years for each activity, or a total of six years.*

*[Section 722(c)(1)(B) of the Public Health Service Act; 42 CFR Part 57.210]*

### *ADVANCED PROFESSIONAL TRAINING*

Borrowers can qualify for deferment on the basis of advanced professional training for the duration of that training if it is:

- intended to further the borrower's knowledge and skills in the health professions discipline for which the loan was received;
- a prerequisite for professional practice; and

- an internship or residency program or other full-time training beyond the first professional degree.

A borrower who completes advanced professional training at an institution in a foreign country may be eligible for deferment, provided that the borrower will receive credit towards his or her board certification. It is the school's responsibility to make the final determination in this case.

*[Section 722(c)(1)(C) of the Public Health Service Act; 42 CFR Part 57.210]*

#### *LEAVE OF ABSENCE TO PURSUE RELATED EDUCATIONAL ACTIVITY*

A PCL borrower, who is still a full-time student in a health professions school, may obtain deferments for a leave of absence to pursue full-time educational activities that are directly related to the health profession for which the borrower is preparing. The borrower must be taking the leave of absence with the intent of returning to the original school as a full-time student. The deferment is limited to two years.

The related educational activity must meet the following criteria for the borrower to obtain a deferment:

- The activity must be part of a joint-degree program or a formal program of joint study that is offered in conjunction with the health professions program for which the borrower is preparing;

**OR**

- The activity must enhance the borrower's knowledge and skills in the health profession for which the borrower is preparing as determined by the school.

The borrower must request this deferment at least 60 days before beginning the related educational activity. The institution must determine whether it will grant the deferment at least 30 days before the borrower plans to begin the activity in question.

A borrower who qualifies for this type of deferment receives the grace period upon completion or termination of his/her studies leading to the first professional degree. If the borrower does not return to the original school, then the school must begin the borrower's

grace period retroactively from the beginning of the "leave of absence" when the borrower terminated study at that institution. The repayment period must then begin after the grace period has expired.

*[Section 722(c)(2)(A) of the Public Health Service Act; 42 CFR Part 57.210]*

### ***FELLOWSHIP TRAINING PROGRAMS AND RELATED EDUCATIONAL ACTIVITIES FOR GRADUATES OF HEALTH PROFESSION SCHOOLS***

#### ***Fellowship Training Programs***

Graduates of health professions schools who borrowed PCL funds are eligible for deferments if they participate in certain fellowship training programs. The fellowship training must be directly related to the health profession for which the borrower obtained the PCL. In addition, the borrower must enter into the fellowship either prior to the end of his/her advanced professional training or no later than 12 months after the borrower completed participation in that advanced professional training. The fellowship training itself must meet certain criteria in order for the borrower to obtain the deferment. Specifically, the fellowship training must be a:

- full-time activity in research, research training or health care policy; and
- formally established fellowship program which was not created solely for the borrower.

Fellowship training in a subspecialty is allowed as long as the borrower does not use the training to apply/receive board certification/license under the subspecialty. If certification or a license is obtained from the training the borrower is in violation of the primary care service obligation and deferment is not granted.

*[Section 722(c)(2)(B) of the Public Health Service Act; 42 CFR Part 57.210]*

#### ***Related Educational Activities for Graduates of Health Profession Schools***

Graduates of health professions schools who borrowed PCL funds are also eligible for deferments if they participate in certain educational activities. The educational activity must be directly related to the health profession for which the borrower obtained the PCL. In addition, the borrower must enter into the activity either prior to the end of

his/her advanced professional training or no later than 12 months after the borrower completed participation in that advanced professional training.

The related educational activity must meet the following criteria for the borrower to obtain a deferment:

- The activity must be part of a joint-degree program in conjunction with the health professions program for which the borrower received the PCL;

**OR**

- The activity is required for licensure, registration or certification in the health profession for which the borrower received the PCL;

**OR**

- The activity is a full-time educational program in public health, health administration, or a health care discipline directly related to the health profession for which the borrower received the PCL.

*[Section 722(c)(2)(B) of the Public Health Service Act; 42 CFR Part 57.210]*

## ***Section 5 REPAYMENT PROVISIONS***

### ***REPAYMENT SCHEDULES***

Installment payments must be made during the repayment period immediately following the expiration of the grace period and excluding any allowable periods of deferment. Installment payments must be made no less often than quarterly, in equal or graduated installments, in accordance with the terms of the schedule provided by the school and agreed to by the borrower at the time of the exit interview. Under no circumstances may a school agree to a payment schedule which does not require at least a quarterly payment of principal and accrued interest. A borrower who is more than 60 days past due in the repayment of an PCL must be placed on a monthly repayment schedule, regardless of when he or she entered repayment status.

*[Section 722(C) of the Public Health Service Act; 42 CFR Part 57.210]*

### *MINIMUM REPAYMENTS*

Institutions may require borrowers to repay PCLs at a rate that is not less than \$40 per month.

*[Section 722(j) of the Public Health Service Act; 42 CFR Part 57.210]*

### *LENGTH OF REPAYMENT*

The borrower's repayment of the principal, together with accrued interest, can be made over a period of not less than 10 years or more than 25 years, at the discretion of the institution. The Senate Report accompanying P.L. 105-392 directs that this revision to the repayment period be available for any borrowers who have not yet completed repayment of their loans.

The Department intends that school officials use their professional judgment to determine on a case-by-case basis which borrowers need an extended time period to repay their loans, based on factors such as the amount of the borrower's indebtedness and projected income. Although this provision provides flexibility in determining the length of repayment, school officials should be guided by the need to collect these funds in a manner that maximizes the amount of revolving funds available annually for loaning to current students. The Department cautions schools not to grant extended repayment periods except as needed to assure manageable repayment and avoid default, since longer repayment periods will reduce the amount of loan funds available annually for making loans to current students. Schools should also be aware that any extension of the repayment period beyond 10 years will extend the PCL borrower's service obligation as well, since the statute continues to require that PCL borrowers practice in primary care until the loan is paid in full.

The school may reduce the repayment period without the borrower's consent when the total payments at the minimum monthly rate would require less than the required amount of years to repay.

*[Section 722(C) of the Public Health Service Act; 42 CFR Part 57.210]*

### *PREPAYMENT*

The borrower may, at his or her option and without penalty, prepay all or any part of the outstanding principal and accrued interest at any time. If an accelerated payment is made, that prepayment must first be applied to accrued interest and penalties, if any, and then to the principal balance.

*[Section 722(C) of the Public Health Service Act; 42 CFR Part 57.210]*

### *PENALTY CHARGES*

Borrowers must be charged a late fee for installment payments on PCLs that are more than 60 days past due. The late fee cannot exceed six percent of the installment payment.

This provision is intended to assist schools in collecting PCL funds by providing delinquent borrowers with an incentive to remit their payments on a timely basis to avoid any additional costly charges. Accordingly, each school is encouraged to implement the provision at an amount and frequency that will be of greatest benefit for improving its ability to collect from its borrowers.

*[Section 722(I) of the Public Health Service Act; 42 CFR Part 57.210]*

### *REFUNDS*

Refunds to borrowers for errors made by the school must come from institutional funds not the PCL Federal Capital Contribution fund.

### *CHANGE OF ADDRESS*

The borrower is required to inform the school of any change of address after ceasing to be a student at the school.

## *REPAYMENT OPTIONS*

### ***Combining PCLs***

When a borrower has more than one PCL outstanding, the sum of the amounts loaned may be combined for repayment purposes. However, separate accounts must be kept when a borrower has loans made under different statutory provisions, so that the appropriate benefits may be applied to the proportionate amount of indebtedness. It is also necessary to keep separate repayment schedules whenever a borrower has loans made at different grace periods and interest rates.

### ***Loan Consolidation***

PCLs are not eligible for Federal Loan Consolidation.

### ***Forbearance and Renegotiation***

Forbearance and renegotiation are two separate methods for dealing with a borrower who is unable to make payments as required by his or her existing repayment schedule. Periods of forbearance and of renegotiation are similar, because both must be counted as part of the 10-year repayment period. However, forbearance differs from renegotiation, because:

- payments towards principal are temporarily suspended due to extraordinary circumstances; and, therefore,
- these accounts are excluded from the delinquency rate calculation (i.e., they are neither current nor delinquent).

Unlike forbearance, renegotiated loans do not have payments towards principal temporarily suspended. As a result, renegotiated loans are included in the delinquency rate calculation as:

- current accounts, if the borrower adheres to the renegotiated repayment schedule;  
or
- delinquent accounts, if the borrower does not adhere to the renegotiated repayment schedule.

### ***Forbearance***

Due to a borrower's extraordinary circumstances, and at the discretion of the institution, the borrower may be placed in forbearance. This has the effect of temporarily suspending payment of principal; however, interest continues to accrue. Extraordinary circumstances include unemployment, poor health or other personal problems that have a short-term impact on the borrower's ability to make payments on PCLs as scheduled.

During periods of forbearance, interest continues to accrue on the unpaid principal balance of the loan. Further, a minimum payment must be made on all accrued interest during the period in which the borrower is in forbearance (e.g., six months, one year). Schools are urged to make every effort to keep forbearance periods to a minimum, because the borrower may be faced with unmanageable payments as a result of the reduced period of time for making repayments.

Note that penalties are not charged to borrowers with loans in forbearance--provided that the borrower is complying with the terms of forbearance agreed upon by the borrower and the school--since a loan in forbearance is not considered to be past due.

The school is responsible for determining whether there are "extraordinary circumstances" which warrant granting forbearance, based on a borrower's financial situation and other pertinent information. Examples of extraordinary circumstances which might place an undue hardship on the borrower and prevent him or her from making scheduled payments include the following:

- A borrower changes his or her health professions program by graduating from a PCL program and going into a different eligible PCL program after the grace period has expired.
- A borrower temporarily changes his or her health professions program by transferring from a discipline covered by the PCL program to a discipline not covered by the PCL program.
- A borrower temporarily changes his or her health professions discipline to a non-health discipline.
- A borrower suffers a drastic change in his or her financial situation which makes it impossible to repay the PCL according to schedule. Events that can have such an effect on an individual's financial circumstances include prolonged illness, unemployment, or a natural disaster (e.g., hurricane, fire, flood).

The institution must obtain documentation at least annually that supports the borrower's request for forbearance. This means that the borrower's institutional file should contain some combination of the following documents:

- verification from the school in which the student is now enrolled regarding his or her full-time status and evidence of continuing financial need.
- copies of medical bills and correspondence from the attending physician pertaining to the financial burden of prolonged illness;
- unemployment records and correspondence; and
- correspondence from reputable individual(s) or agencies verifying the hardship or disaster.

The institution must notify the borrower in writing of its approval or disapproval to grant forbearance. The basis for that decision must be thoroughly documented in the borrower's file. Institutions are accountable for limiting the use of forbearance to situations in which the borrower clearly intends to repay the PCL obligation, but is unable to comply with the existing repayment schedule.

*[42 CFR Part 57.210]*

***Forbearance for borrowers who reside or work in designated disaster areas:***

The Department of Health and Human Services can authorize schools to grant forbearance to PCL borrowers who reside or, if known, work in an affected community and have been adversely impacted by an area disaster; such as wild-fire, hurricane, earthquake or flood.

Due to the unusual circumstances, the granting of forbearance to these borrowers will not require either a request or documentation from the borrower. The period of forbearance is set at the discretion of the school (usually six months). Adversely impacted borrowers must be notified by the school that the forbearance has been granted to them. These borrowers may request a resumption of normal billing and repayment before the end of the forbearance period.

Borrowers who do not reside or work in a designated disaster area but are needed to assist relatives who are adversely affected by a disaster may also be granted forbearance.

*[Campus-Based Policy Memorandum 2005-3]*

### ***Renegotiation***

A school should use renegotiation when a borrower is able to make payments on a regular basis, but is unable to pay the amount required to keep the account current according to the existing repayment schedule. To renegotiate the repayment schedule:

- the school must be satisfied that the borrower's financial situation precludes compliance with the existing schedule; and
- the school and the borrower must mutually agree to replace the existing schedule with a revised one.

The school must maintain documentation of the agreement in the borrower's file.

A borrower with a renegotiated loan is considered to be current with the repayment schedule as long as the borrower complies with the terms of the renegotiation, because the renegotiated schedule supersedes the previous repayment schedule. As a result, the new schedule is used to determine whether a borrower is current or past due. Penalties are not charged to borrowers with renegotiated loans--provided that the borrower is complying with the terms of the renegotiation agreed upon by the borrower and the school--since a renegotiated loan is not considered to be past due.

Note that borrowers with renegotiated PCLs must still repay their obligations within the 25-year limitation. Institutions are accountable for limiting the use of renegotiation to situations in which the borrower clearly intends to repay the PCL obligation but is unable to comply with the existing repayment schedule.

### ***Cancellation***

PCLs may be canceled because of the death of the borrower, or because the borrower has become permanently and totally disabled. Schools are permitted to charge an insurance premium to cover loss of institutional share of funds.

Loan accounts for which a partial cancellation has been granted in lieu of repayment will be examined to determine whether:

- the unpaid balance of the loan was canceled because of the borrower's death and is documented by a death certificate or other evidence of death;
- the unpaid balance of the loan was canceled because of the borrower's permanent and total disability approved by the Department and is documented; and

- the unpaid balance of the loan was canceled because of the borrower's relief under Federal bankruptcy and is documented.

### ***Death***

Upon the death of a borrower, the unpaid balance of the loan and accrued interest will be canceled. To grant cancellation, the school must obtain a death certificate or other official proof of death. The school retains the document in the borrower's file for audit purposes. The amount canceled must be reported on the Annual Operating Report.

*[Section 722(d) of the Public Health Service Act; 42 CFR Part 57.211]*

### ***Eligibility for death cancellation in the event of an area designated disaster:***

The Department can authorize schools to use reliable documentation of a PCL borrower's death due to an area disaster such as a wild-fire, hurricane, earthquake or flood. The school may suspend collections activities, without contacting the borrower's family, during the period necessary to process a death cancellation. Reliable documentation may include, but is not limited to, obituary notices and/or published listings of the dead provided by a Federal, State, or local government entity. Schools are encouraged, at a later date, to obtain a certified copy of the death certificate if one is available through alternative sources without contacting the borrower's family.

*[Campus-Based Policy Memorandum 2005-3]*

### ***Permanent and Total Disability***

A borrower is entitled to cancellation of PCLs in the event of permanent and total disability. Permanent and total disability is defined as being unable to engage in gainful employment of any kind because of a medically determinable impairment which is expected to continue for a long and indefinite period of time or to result in death. The review and final determination shall be made by the Secretary on the recommendation of the school, supported by required medical certification relating to the borrower's disability.

To claim cancellation for disability, a borrower should submit a formal request to the school that awarded the loan along with the following documentation:

- date entered and date graduated or date studies terminated;

- total amount of loans obtained;
- amount of unpaid balance;
- nature and date of onset of the disability;
- employment history prior to disability;
- statement of financial support; and
- current medical examination and/or treatment.

The medical report must be sufficiently detailed to provide for a comprehensive review to determine the nature, duration, and extent of the impairment and prognosis. Supporting documentation should include history of illness, medical examination(s), inpatient and outpatient treatments, and current medications. Include copies of all pertinent past medical records and a prognosis and rehabilitation plan. The medical documentation must be accompanied by a signed and dated statement from the borrower's physician documenting permanent and total disability according to the definition above.

The school should obtain from the borrower consent for release of information allowing the release of any required information on the disability to the Department. The medical release form is required. This signed consent will permit HHS to contact the borrower's physician directly for additional, pertinent information that will enable the Department to perform a more complete review in a timely manner.

*[Campus-Based Policy Memorandum 2003-4]*

The school will be formally notified of the Secretary's and/or designee's decision and must retain the written notification of the decision on file for audit and other review purposes. The school must report the amount of the loan canceled on its Annual Operating Report.

Documentation must be submitted to the Division of Student Loans and Scholarships, Parklawn Building, Room 9-105, 5600 Fishers Lane, Rockville, Maryland 20857.

**NOTE: SCHOOLS/LENDERS DO NOT HAVE THE AUTHORITY TO CANCEL LOANS BASED ON PERMANENT AND TOTAL DISABILITY. THIS AUTHORITY REMAINS WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

*[Section 722(d) of the Public Health Service Act; 42 CFR Part 57.211]*

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## **Chapter 5 INSTITUTIONAL RESPONSIBILITIES IN THE REPAYMENT PROCESS**

Institutional responsibilities in the PCL repayment process are considerable. These responsibilities are often shared between the school's financial aid administrator and the fiscal officer. The exit interview is a primary example of shared responsibilities and, Chapter 5 discusses this topic. Readers are also urged to review Fiscal Management for information on accounting requirements, debt collection requirements (e.g., due diligence), cash management requirements, program monitoring and audits.

### ***Section 1 EXIT INTERVIEW***

The regulations require a school to conduct and document an exit interview with its borrowers (individually or in groups). The school has the discretion in deciding which office(s) (e.g., financial aid, fiscal, loan collection, dean's) will be responsible for the exit interview, and for determining the specific format of the exit interview, including on-line interviews, as long as the following documentation is obtained:

- The terms of repayment agreed upon by the borrower and the school must be signed and dated by the borrower indicating acceptance.
- Evidence that the borrower was reminded of his or her rights and responsibilities. This can be documented by having the borrower sign and date a form or statement similar to that used in the entrance interview, or a separate form or statement which provides, or indicates the borrower has received additional information that is not addressed during the entrance interview.
- Update personal information provided by the borrower during the exit interview. This can be documented by having the borrower complete and date a personal information form similar to that used in the entrance interview, or a separate form which collects additional types of information that is not requested during the entrance interview (e.g., future employment plans).

If a borrower fails to appear for an exit interview, the school must attempt to conduct the exit interview by mailing the exit interview information to the borrower and requesting that a copy of the repayment terms and the rights and responsibilities form or statement be signed and dated, the personal information form be completed and dated, and these items be returned to the school. If the borrower returns the information as requested, this will document that the exit interview was conducted.

If the borrower fails to return the information, the school must maintain in the borrower's file a copy of the repayment terms sent to the borrower and the date the exit interview information was mailed as documentation of the contact. Further attempts to obtain the exit interview information are not required to comply with the regulations, except that if the information is returned to the school due to an incorrect address, the school must record the date the information was returned or retain the returned envelope. The school must then initiate an address search and, if successful, must record the date the information was mailed to the borrower's correct address.

Although not required, schools are strongly encouraged to make a second contact, by mail or telephone, with any borrower who fails to return the exit interview information within a reasonable time. Schools are also strongly encouraged to encumber the records of students who fail to return the exit interview information (and notify students of this action), unless State law prohibits such action.

*[42 CFR Part 57.210 and 42 CFR Part 57.310]*

Standards have been established for the use of electronic signatures and implementation of certain provisions of the Electronic Signatures in Global and National Commerce Act (E-sign Act) as they apply to electronic transactions conducted by schools and borrowers of PCL. The passage of the E-sign Act (Public Law 106-229, § 1, June 30, 2000, 114 Stat. 464, codified at 15 U.S.C. §§ 7001- 7006) makes it possible for schools to use electronic signatures and promissory notes in place of paper records and handwritten signatures to carry out these requirements. These standards are based on the guidance used by the U.S. Department of Education for the Federal Family Education Loan and the Federal Perkins Loan Programs.

A school will not be subject to any liabilities or be required to reimburse its FCC revolving fund if the loan is determined to be legally unenforceable by a court based solely on the processes used for electronic signature or related records, provided the processes for electronic signatures and related electronic records satisfy the above

mentioned standards. On the other hand, if the school's electronic processes for a loan do not satisfy these standards and the loan is held by a court to be unenforceable based solely on the school's processes for an electronic signature or related records, the Department will determine on a case-by-case basis whether the school will be held responsible for the loss of the loan amount.

*[Campus-Based Policy Memorandum 2003-3]*