Talking Points for AACS' White House Meeting

Tuesday, August 19, 2014

AACS remains deeply concerned and frustrated with the Department's lack of response to our repeated requests for the release of complete and comprehensive data for all programs subject to the regulation.

As detailed in our official NPRM response, AACS requests that before any final regulations are promulgated, the Department and the Administration should first:

- Provide the public with complete and comprehensive data for each program subject to the regulations – which at a minimum would include:
  - Debt-to-Earnings (D/E) data for both two-year and four-year cohort periods;
  - D/E data indicating the effects of the showing of mitigating circumstances provision on the eligibility of programs broken down by institutional type and program length;
  - All relevant pCDR data; and
  - Specific, detailed information explaining why data is unavailable for any program in which either of the two D/E or pCDR metrics are not available;
- Review and revise the procedures and calculation methodology used to establish the aggregate mean and median rates, including revisions to take into account:
  - Explanation and revision to current data calculations which present "false positive" results under the dD/E metric;
  - The misrepresentation of specific IRS filers in the determination of earnings; and
  - Flaws, acknowledged by the IRS and the Department for accurately and appropriately accounting for income in service related industries – and ways in which these procedures and calculations should be modified in order to provide more accurate results and calculations; and most importantly
- Undertake a more expansive analysis of the effects of the regulations on students – especially the differential impact of the proposed regulations on independent vs. dependent student populations.

Background:

Incomplete Data

The Department's data for 2012 is incomplete providing only 58% of the data for the D/E metrics for cosmetology related disciplines and only 72% of the pCDR data (see chart below). As was the case previously. the Department failed to include data for both of the applicable cohort periods the Department is proposing as the basis for eligibility determinations (two-year period and four-year period).

Program	Missing or Unavailable Data	Missing or Unavailable Data
Cosmetology	31%	25%
Barbering	49%	42%
Esthetician	30%	12%
Nail Technician	57%	33%
Median % of Missing or Unavailable Data	**42%**	**28%**

Potentially Flawed & Misrepresented Data

Furthermore, AACS is still awaiting answers from the Department regarding questions which have plagued our community since the release of the first set of incomplete data and remain with the release of the subsequent data.

Chief among them is a request for the Department to explain how such an overwhelming proportion of the programs within the cosmetology disciplines – as well as other disciplines - can have Debt-to-Discretionary Earnings percentages at or above 100%.

Conversations AACS has had with several statisticians suggest that this result is a "false positive", which we understand to mean a calculation which is flawed and therefore invalid without modification.

On several occasions we have brought this to the attention of the Department, but have yet to receive any response as to how or why the calculation of this particular metric results in a percentage at or above 100% and falls well outside any of the proposed thresholds (passing, zone, or failing).

AACS believes that one potential source of the problem may well be the Department and Social Security Administration's (SSA) earnings calculation and the inclusion in the aggregate data of individuals who are defaulted to $0 earnings.

It is our understanding that individuals who fall into this category of "$0 earnings" include not only the absence of earnings presented by the filer (potentially self-employed individuals either filing under a different category other than one of our CIP code disciplines), but also individuals who do file, but are not required to report their income because it is below IRS established norms which default in the system to "$0 earnings."

AACS, and other organizations who have sought clarification and guidance from the Department and SSA regarding this concern but have yet to receive clear guidance on how these cases are handled within the SSA's process. But it seems clear based upon the calculations and the produced outcomes that our institutions our unjustly penalized.

The SSA has acknowledged their inability to capture all self-employment earnings under the Master Earnings File, and that these limitations and complexities are an issue. However, they have not offered any remedies to address these concerns.

AACS believes that this and potentially other issues related to the SSA's processes and procedures are producing flawed and inaccurate aggregate earnings data, data which when used to determine the D/E ratios becomes even more flawed and problematic.

At a minimum, AACS urges the Department and the SSA to work with us to consider alternative means of addressing "$0 earnings" in the development of the aggregate earnings calculations.

<u>Accounting for Student Demographics</u>

Throughout the negotiations AACS' representative and other non-federal negotiators repeatedly attempted to bring to the Department's attention the fact that the proposed regulation is heavily weighted against those institutions who chose to enroll lower socioeconomic, more at-risk student populations – including but not limited to single parents, working adults, and minority students.

Clear, unambiguous examples of how two identical programs, offering the same curriculum, providing the same level of student support services, and leading to the same industry recognized credential, could end up with drastically different D/E and pCDR metrics based on nothing more than the students enrolled (e.g. dependent vs. independent) were presented.

In light of these conversations, AACS specifically requested that the Department conduct an analysis of this concern during the negotiations. The Department stated that while they were unlikely to be able to complete a study and analysis during the negotiations, they did acknowledge the point, and said that they would be willing to consider alternative approaches as necessary depending upon the outcome of the negotiations and corresponding regulations.

Given the proposals contained in the NPRM, AACS is not only requesting that the Department complete the aforementioned analysis, we are proposing revisions to the regulations specifically designed to address our concerns.