

EXECUTIVE SUMMARY

The United States government has responded to growing levels of student loan debt by creating an array of borrower assistance programs. Getting this relief, however, is rarely easy. Government programs are unnecessarily complex and borrowers too often confront an impenetrable bureaucracy that prevents them from accessing their rights. To compound these problems, there are few reliable resources borrowers can turn to if they need help.

A new "student loan debt relief" industry has sprung up in response to the demand for borrower assistance and the dearth of reliable resources. Most of these companies are for-profit, although there are issues with a growing number of nonprofit organizations as well. This National Consumer Law Center (NCLC) report investigates this growing industry.

Our investigation consisted of ten secret shopper calls, an analysis of the web sites of the ten companies to which we made secret shopper calls plus ten others, review of actual contracts and online complaints, and discussions with other advocates and state and federal regulators.

Our findings highlight numerous problems with this new industry, including:

- **Student loan debt relief companies mischaracterizing government programs as their own.**
- **Charging High Fees for Programs that are Available for Free**

This practice is not inherently abusive, but it raises a number of warning signs. At a minimum, it is deceptive that most of the companies fail to prominently disclose that "their" programs are actually federal government programs that an individual can access on her own at no cost.

None of the companies in our secret shopper calls or web reviews disclosed the fees online. Moreover, most companies would not initially specify the exact cost of their services by phone.

Lack of transparency is not the only problem. Another key concern is the amount of fees charged and whether these are reasonable. Our investigation found a range of fees charged, including initial fees up to \$1600 in some cases and monthly fees for ongoing services of \$20-50.

The monthly fees are particularly suspect since it is unclear what services, if any, the consumer is buying on a monthly basis.

- **Selling a One-Size-Fits-All Approach**

Despite claims of broad services, most of the representatives we spoke with acknowledged that they offered only loan consolidation.

There are numerous problems with this approach including that consolidation is not an appropriate product for all borrowers and may not even be available to all

borrowers. In addition, there is only one federal student loan consolidation program. Even companies that admit that they sell only consolidation cannot possibly be tailoring the product to individual needs or searching among multiple products. Why? Because there is only one student loan consolidation option.

- **Providing Inaccurate Information**

The report highlights a shocking number of inaccuracies about consolidation, garnishment, rehabilitation, bankruptcy, and other critical topics.

These inaccuracies are in stark contrast to the ubiquitous claims of sophisticated student loan expertise. Not only is much of the information inaccurate, but in one instance, a company took information from NCLC's Student Loan Borrower Assistance web site, copying nearly all of the borrower questions and answers from the site.

- **Improperly Claiming Government Affiliations**

For example, one of the companies we contacted told our shopper that it is an "approved servicer" with the U.S. Department of Education. This is inaccurate.

- **Discouraging Borrowers from Handling Their Own Cases**

The debt relief companies seize on federal government incompetence in selling their services. This may be an appealing selling point, but it is deceptive if the companies go too far in implying or in some cases stating explicitly that a borrower cannot get relief on her own.

- **Focusing on Sales, Not Counseling**

Despite the company's descriptions of its staff as experts, in some cases touting years of experience counseling borrowers, it appears that many advertise jobs as sales positions. This is a troubling trend if these "counselors" are paid by commission.

- **Limiting Remedies and Access to Justice**

We found widespread use of mandatory arbitration clauses (which require consumers to waive their right to use the court system and instead limit consumers to resolving their disputes through a binding arbitration process) and waivers of jury trials in consumer contracts.

- **Numerous potential legal violations of consumer protection laws, including the federal Credit Repair Organizations Act (CROA), Federal Trade Commission (FTC) Telemarketing Sales Rule, state debt settlement and debt management laws, and unauthorized practice of law provisions.**

Abuses in the debt relief industry are not new. The abuses grew so severe in the credit card counseling, foreclosure rescue, and debt settlement industries in recent years that the federal government and many states passed laws to crack down on abuses. Most of these laws should apply to student loan debt relief companies. Many of these companies appear to be routinely violating all or some of these laws intended to protect consumers.

For example, under the CROA, a consumer has the right to cancel any contract with a credit repair organization within three business days. The contract must include a conspicuous, bold disclosure of this three-day right to cancel. A contract that does not meet these requirements should be treated as void and unenforceable. Of the contracts we reviewed, only one included a three-day cancellation right. This one provision did not, however, comply with the CROA requirements.

All of the companies required some sort of payment before initiating services. This practice violates federal and state laws that require debt relief companies to complete services before charging consumers. Our investigation also highlights instances of false and deceptive advertising.

Some companies may claim that they are compliant with all state and federal laws. One company, for example, describes its services as “FTC Compliant.” A statement of compliance, however, is not the same as actual compliance.

Despite these problems, none of the regulators we contacted had focused on student loan debt relief companies. It appears that this issue has not hit the federal or state regulatory radar yet.

- **Requiring Powers of Attorney**

This is extraordinary power that consumers are giving to questionable companies.

- **Safeguarding Consumer Privacy**

A number of the representatives we spoke with said that our shopper had to reveal her federal student loan PIN number in order to move forward with the service. These practices raise serious privacy concerns and violate U.S. Department of Education guidance.

Our investigation shows that student loan debt relief companies can easily cross over into practices that violate key consumer laws, provide inaccurate and misleading information, and take student loan debtors’ money without providing valuable services. Given the many misrepresentations we uncovered, it is unlikely that these companies are providing quality services in return for the money they are charging. Such practices severely compound the pain of vulnerable consumers seeking to find resolutions to difficult student debt problems.

Recommendations

The following recommendations are intended to help ensure that only borrowers that truly want these services and know what they are getting buy them.

- **Improve Government Bureaucracy and Simplify Student Loan Relief Programs**

- **Require Fair and Reasonable Fees**

- ✓ All companies must disclose fees online and in all calls with consumers.
- ✓ The companies must not charge advance fees in violation of federal law before services are completed.
- ✓ Companies should charge only fees that are bona fide and reasonable.

- **Prohibit Misleading Advertisements or Representations**

- ✓ Companies must not engage in false, deceptive, or misleading advertising, including improperly stating or implying affiliations or connections with government agencies.
- ✓ Companies must prominently disclose if their programs are government programs and if so that these programs are available at no cost through the government.
- ✓ Claims about performance must be transparent and verifiable.
- ✓ Claims about borrower rights and the requirements of student loan programs must be accurate and up to date.

- **Safeguard Consumer Privacy**

- ✓ Companies must not request or require borrowers to provide PIN numbers for the National Student Loan Data System (NSLDS).
- ✓ Companies must provide information about the potential dangers of signing power of attorney documents and comply with all applicable laws regarding such documents.

- **Refunds**

Refunds should not be as much of a concern if companies comply with applicable laws and do not charge any fees until services are completed. However, the companies must, at a minimum, refund any funds received if the consumer does not qualify for a program or otherwise has grounds for refund.

- **Other Consumer Protections**

- ✓ Commissions should not be allowed based on numbers of borrowers enrolled in particular programs.
- ✓ Transparency is critical. The companies must not only disclose all fees online and in response to requests for information, but also provide sample contracts upon request and verification of performance information.
- ✓ Comply with all applicable consumer laws, state and federal, including cancellation rights.
- ✓ Companies must comply with unauthorized practice of law provisions.
- ✓ Mandatory arbitration and other contract provisions limiting consumer access to justice should be banned.

- **Enforcement**

Federal and state regulators must step up to investigate these companies and enforce consumer protection laws.

- **Expand Reliable Assistance Resources**

Schools, loan holders, and credit counselors can and should do more to assist borrowers, with possible public funding or support from higher education institutions.