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FEDERAL UPDATES

Total and Permanent Disability Discharge Procedures

On May 29, 2002, ED published Dear Colleague Letter (DCL) GEN-02-03, addressing the total and permanent disability (TPD) discharge process. The changes in the TPD process accommodate the conditional discharge procedures for discharge requests processed on or after July 1, 2002.

This article provides a general summary of the new process, application information, NCHELP and TG triggering event recommendations, and a review of lender requirements.

General Process Overview

The following overview summarizes the FFELP TPD process on or after July 1, 2002. Changes to the process are noted.

1. The borrower or borrower’s representative completes and submits the Loan Discharge Application: Total and Permanent Disability to the holder(s) of the borrower’s loan(s).
2. The lender reviews the application and makes a preliminary determination of the borrower’s eligibility.
3. If the lender makes a preliminary determination that the borrower meets the eligibility criteria, it files a discharge claim with the guarantor.
4. (Change) Upon receipt of the claim, the guarantor also reviews the borrower’s application. If the guarantor’s preliminary determination of eligibility is consistent with the lender’s determination, the guarantor pays the lender’s claim and the loan(s) is permanently assigned to ED.

5. (Change) Upon assignment, ED reviews the borrower's eligibility for a conditional loan discharge and places eligible loan(s) into a conditional discharge status for a period of up to three years. (This is ED's "initial determination.")
6. (Change) During the conditional discharge period, ED assesses the borrower's continuing eligibility by monitoring receipt of new Title IV loans and work earnings, if any. If the borrower loses eligibility at any point during the conditional discharge period, the borrower resumes repayment.
7. (Change) At the end of the conditional discharge period, ED makes a final determination of borrower eligibility. If the borrower maintained eligibility, ED grants a final discharge. If the borrower did not maintain eligibility, the borrower resumes repayment.

Note: Lenders and guarantors make a *preliminary* determination that the borrower meets the eligibility criteria, but ED makes *initial* and *final* determinations of the borrower's eligibility.

Application

ED is in the final stages of approving a new disability discharge form for all three Title IV loan programs which addresses the July 1, 2002, TPD changes. The new form will be made available to TG's customers as soon as it is released and lenders are encouraged to start using it as soon as possible.

For TPD discharge requests processed by lenders on or after July 1, 2002, using the current form, lenders must inform the borrower in the preliminary determination letter that the regulations for TPD have changed and explain the new eligibility criteria and discharge process. To satisfy this requirement, lenders may use the form entitled Supplemental Information for the Total and Permanent Disability Cancellation Request, announced in *Shoptalk Online* Edition 158 and located at www.tgslc.org/tgslc/forms/discharge_supp.pdf.

Effective Date and Triggering Event

The DCL gives a July 1, 2002, effective date for the new regulations but is not specific with respect to a "triggering event."

Based on conversations with ED as well as consultations with numerous policy and operational representatives from various guarantors, lenders, and servicers, the following recommendations are being provided to the National Council of Higher Education Loan Programs (NCHELP) membership with respect to implementing the July 1, 2002, disability regulations. Adoption of these recommendations will provide a consistent approach within the FFELP for processing disability discharges, while allowing the maximum benefit to borrowers within the confines of the DCL provisions.

Recommendations for Implementation

To be eligible for an immediate final discharge due to total and permanent disability, the loan holder must make a determination of the borrower's eligibility prior to July 1, 2002. All disability determinations made by the loan holder on or after July 1, 2002, must conform to the new regulations, which provide for conditional loan discharge.

In the case of a loan held by a lender, effective immediately, the lender must appropriately document its preliminary determination date for disability requests. Due to the many variations in processes that exist among lenders and servicers, no single event will be defined industry-wide as being the preliminary determination date, but rather each lender must evaluate its own individual processes to define that date. The lender's preliminary determination date must then be clearly identified and noted on the disability form that is filed with the guarantor (e.g., Determination Date is 6/29/02, Date of Determination: 6/29/02, DOD = 6/29/02, etc.). The guarantor will then use the lender's preliminary

determination date, as noted on the disability form, to review the disability claim and process it appropriately under either the final or conditional discharge requirements.

Documentation of the determination date must be provided for all TPD claims filed by the lender through August 31, 2002. Beginning September 1, 2002, TG will assume all TPD determinations were made on or after July 1, 2002. Documentation of this date will not be required unless the claim is filed on or after September 1, 2002, and the TPD eligibility determination date is prior to July 1, 2002.

No lender/guarantor determinations for final discharge may be made on or after July 1, 2002. This means that complete documentation must be received and reviewed by the loan holder prior to July 1, 2002. In cases where forms are incomplete or additional information is needed, and the required information is received on or after July 1, 2002, the loan will be subject to conditional discharge provisions.

During the transition period to the new regulations, lenders are encouraged to make a concerted effort to submit as quickly as possible all complete disability claims for TPD discharge requests that are subject to the final discharge provisions. To minimize returning claims, TG will attempt to resolve, to the extent practicable, any discrepancies on a claim that are not directly related to the determination of TPD. These actions will help facilitate the transition to the new regulations and will aid in minimizing the period of time during which lenders and guarantors are dealing with both the final and conditional discharge provisions.

Lender Requirements

Generally, the lender requirements in the new discharge process have not changed significantly. The exceptions are the lender notification(s) to the borrower and the information required in the notification(s) and the treatment of payments received by or on behalf of the borrower. These exceptions are discussed more fully below.

- **Lender Evaluation of Applications:** As in the current TPD process, lenders are expected to continue conducting rigorous evaluations of TPD discharge applications. Lenders should follow guidance provided in Dear Guaranty Agency Director Letter 99-G-324, dated November 1999. This guidance states that lenders are expected to:
 - Require additional documentation to support a borrower's application if the information provided by the borrower is not definitive, is illegible, or is incomplete, and
 - Require the physician to affirm certification of disability if the diagnosis does not appear to satisfy the standard for discharge. If it appears that the physician has used a less rigorous standard in certifying the borrower's disability, loan holders should clarify the definition of "total and permanent disability" with the physician.
- **Borrower Does Not Meet Criteria:** If the lender determines that the borrower does not meet the criteria for a discharge or does not receive the physician's certification, it must resume collection activities. Current forbearance provisions apply. TG encourages the lender to notify the borrower that the discharge request was denied and explain why.
- **Preliminary Determination that Borrower Does Meet Criteria:** If the lender makes a preliminary determination that the borrower meets the discharge criteria, it files a claim with the guarantor within 60 days after making the determination. In contrast to current procedures, lenders must not make adjustments to the principal balance on the Claim Form nor refund any payments to the borrower upon receipt of claim payment, if the TPD determination is made by the loan holder on or after July 1, 2002.

- **Borrower Notification Following Claim Payment:** If the guarantor pays the claim, the lender must notify the borrower that the guarantor has made a preliminary determination that the borrower meets the eligibility criteria for a disability discharge. The notification should inform the borrower that the loan will be assigned to ED for a review of the request and an initial determination of eligibility for the discharge.
- **Borrower Notification Following Claim Denial:** If the guarantor does not pay the claim, the lender must notify the borrower and explain why the claim has been denied. Additionally, the lender must inform the borrower that collection activities will resume and that it may capitalize interest that was not paid while collection efforts were suspended.
- **Loan Payments Following Claim Payment:** If a lender receives a loan payment after the guarantor pays the disability claim, the lender must forward the payment to the guarantor (which then forwards it to ED upon loan assignment). There is also a notification aspect to this procedural change. At the time the lender forwards the payment to the guarantor, the lender must notify the borrower or the party who sent the payment that there is no obligation to make further payments, unless ED directs the borrower otherwise.

School Issues

This DCL also addresses the discharge process for Perkins Loan holders. ED will issue a future DCL addressing the school process for determining loan eligibility for borrowers whose loans are discharged under the new conditional discharge process.

More Information

For more information about the total and permanent disability discharge process, contact TG Customer Assistance at (800) 845-6267. The DCL is located at www.ifap.ed.gov/dpceletters/GEN0203.html.

TRENDS AND ISSUES

JobGusher™ Hosting Hospitality and Service Job Fair

JobGusher.com (www.JobGusher.com) is currently hosting an Online Hospitality and Service Job Fair. The Job Fair, which continues through June 30, 2002, is bringing together employers and students seeking full-time and part-time positions in both of these industries.

By visiting www.JobGusher.com and clicking on the ticket in the upper right-hand corner, students can view all participating employers and their positions. At the Online Job Fair, job seekers can decide which positions to apply for on the spot and then apply electronically through the site.

Participation in a JobGusher Online Job Fair is always free to job seekers. To participate, they simply need to visit www.JobGusher.com between Monday, June 17, and Sunday, June 30. After visiting the Online Job Fair, students are encouraged to return to the JobGusher home page, click on "Find a Job," and search for other opportunities in their area.

Employer participation in the Job Fair improves exposure and access to job seekers without the high costs usually associated with traditional job fairs. Employers wishing to participate must be registered JobGusher employers. For more information on exhibiting, contact customercare@jobgusher.com.

More Information

For more information on JobGusher, visit www.JobGusher.com or contact JobGusher at 1-866-JOB-GUSH.

JobGusher is a student-focused online job recruitment service dedicated to connecting students and recent graduates with full-time and part-time entry level positions, internships, seasonal employment, and other career opportunities. JobGusher is a service of Education Assistance Services, Inc., a subsidiary of Texas Guaranteed (TG).

TG SOLUTIONS AND TOOLS

TG's EFT Offers New Method for Origination Fee Payments

When a school that participates in TG's Electronic Funds Transfer (EFT) partners with an EFT lender that pays origination fees, that partnership benefits everyone involved, especially the borrower. By combining EFT with lender payment of origination fees, more money ends up in the hands of the borrower, on time and up front, with less paper work for everyone.

As of May 25, 2002, TG's EFT process now offers a second option for origination fee payment. In addition to the CommonLine (CL) disbursement roster process for origination fee payment that became available in December 2001, lenders can now choose to use TG's proprietary process, which involves an origination fee profile setup. Either way, borrowers receive their total student loan disbursement up front, with any adjustment to the origination fees already processed and without having to wait for the lender to issue a separate check for the origination fees.

Electronic Fee Payment Options

Lenders should keep in mind some differences between the two methods of origination fee payment.

Here's how the CL process works:

- Lenders initiate the payment of origination fees by forwarding a CL disbursement roster to TG requesting movement of funds for specific disbursements.
- In the CL disbursement roster, the lender indicates a dollar amount that it is paying on behalf of the borrower.
- Lenders choose the borrowers for which they want to pay origination fees and the specific amount of the origination fee they want to pay for each disbursement.
- Lenders are able to offer this borrower benefit to specific borrower populations at specific institutions.

Here's how TG's proprietary process works:

- TG modifies existing lender profiles to reflect a set percentage of the origination fee that will be paid on behalf of the borrower.
- The profile set up is an across the board change and reflects a set percentage that will be paid by the lender for all loans guaranteed for that lender ID for *all* borrowers at *all* schools, for *all* loan types as of the origination fee payment effective date.

Questions

For questions about either of these processes, contact your TG Consultant at (800) 252-9743 or Product Support at (800) 332-1455, or send an e-mail message to product.support@tgscl.org.

LEGISLATIVE UPDATE

TG's June 10 *Legislative Report* includes information about a bill introduced to improve student access to higher education by repealing unnecessary statutory provisions and extending others—a result of the FED UP initiative. Additional articles concern recent meetings of the Texas Senate Workforce Development Subcommittee and the Senate Subcommittee on the Tax System. You can read the entire report at www.tgslc.org/tgslc/publications/lege_report/2002/lr_020610.htm.

THIS, THAT, AND THE OTHER

If your financial aid awareness information is only in English, you may be communicating with only part of your prospective students and parents.

TG offers many of its awareness resources, in addition to other resources, in Spanish. For example, *Adventures In Education* (www.AdventuresInEducation.org), a comprehensive web site that assists students in preparing for and transitioning to higher education, is bilingual.

TG also provides the following awareness, loan repayment, and default prevention publications in Spanish:

- “Your Future” (“Tu Futuro” at www.tgslc.org/tgslc/publications/Your_Future/tu_futuro.htm)
- “Federal Family Education Loan Program” (“Programa de Préstamos Federales para la Educación de la Familia” at www.tgslc.org/tgslc/publications/brochures/2ffelp-es.htm)
- “Default Prevention FAQs” (“Preguntas Frecuentes Acerca de Cómo Reembolsar los Préstamos Estudiantiles” at www.tgslc.org/tgslc/students/defprev_span.htm)
- “Managing Repayment of Your Student Loans” (“Cómo Adminstrar el Pago de Préstamos Estudiantiles” at www.tgslc.org/tgslc/students/dp_repay_span.htm)

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To ask questions about the articles in *Shoptalk Online*, subscribe or order additional copies, please contact Communications at (800) 252-9743, ext. 2878 or communications@tgslc.org.

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