

Common Manual Policy Proposal Batch 209 Transmittal

February 16, 2017

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1320	Loan Rehabilitation and Interest Capitalization <i>[Deferred for additional review and consideration.]</i>	<p>10.10 Capitalizing Accrued Interest 13.7 Rehabilitation of Defaulted FFELP Loans</p> <p>This change conforms common policy to regulations published in the November 1, 2016 <i>Federal Register</i> (81 FR 75926), which prohibit capitalizing outstanding accrued interest when a lender purchases a rehabilitated loan and establishes the borrower's repayment schedule.</p>	Federal	For rehabilitated loans purchased on or after July 1, 2017.
1321	Death Discharge	<p>11.21.F Death 11.23.A Death 13.1.D Claim File Documentation 13.1.E Missing Claim File Documentation 13.8.C Death Figure 13-4 Timely Filing Deadlines for Claims and Discharges</p> <p>Allows two additional types of documentation for a death discharge. Those are an accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or by facsimile transmission or verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.</p>	Federal	For death discharge applications and claims received on or after July 1, 2017.

Batch 209 (Approved)

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 16, 2017

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	No changes	02/16/17

SUBJECT: Death Discharge

AFFECTED SECTIONS: 11.21.F Death
11.23.A Death
13.1.D Claim File Documentation
13.1.E Missing Claim File Documentation
13.8.C Death
Figure 13-4 Timely Filing Deadlines for Claims and Discharges

POLICY INFORMATION: 1321/Batch 209

EFFECTIVE DATE/TRIGGER EVENT: For death discharge applications and claims received on or after July 1, 2017.

BASIS:
Final Rule published in November 1, 2016 *Federal Register* (81 FR 75926); §682.402(b).

CURRENT POLICY:
Current policy requires that documentation for a death discharge must include either an original or certified copy or an accurate and complete photocopy of the original or certified copy, of the death certificate. The use of a fax or electronic version of the death certificate is not permitted.

REVISED POLICY:
Revised policy allows two additional types of documentation for a death discharge. Those are an accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or by facsimile transmission or verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

REASON FOR CHANGE:
These changes conform common policy to final regulations published in the November 1, 2016 *Federal Register*, (81 FR 75926), which revised the required documentation acceptable for a death discharge.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 11.21.F, page 35, column 2, paragraph 2, as follows:

Death

If a lender receives reliable but unofficial notification of a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or a Consolidation loan that paid in full a PLUS loan, the lender must suspend collection activity on the loan for a period of up to 60 days, until the lender receives documentation of the death or verifies the death through an authoritative Federal or State database approved for use by the Department. If the lender needs time in addition to the initial 60-day mandatory administrative forbearance period to obtain documentation of the death, the lender may grant an administrative forbearance on the loan for up to an additional 60 days, for a total suspension of collection activity of up to 120 days. This forbearance does not require a written request but the lender must send a notice to the borrower's or endorser's address stating that such a forbearance was granted.

Revise Subsection 11.23.A, page 41, column 1, paragraph 2, as follows:

Death

The lender must grant a mandatory administrative forbearance after receiving reliable but unofficial notification that the borrower died, or in the case of a parent PLUS loan or a Consolidation loan that

paid in full a parent PLUS loan, the student for whom a parent PLUS loan was made died. This mandatory administrative forbearance ends when the lender receives documentation of the death or verifies the death through an authoritative Federal or State database approved for use by the Department, but in no case can it exceed 60 days. This type of forbearance does not require a request nor is the lender required to notify the borrower or endorser that such a forbearance was granted.

Revise Subsection 13.1.D, page 6, column 1, paragraph 2, as follows:

Death Claims

For a death claim, the lender must submit—in addition to the preceding items 1 through 7—one of the following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate (see Subsection 13.8.C). The use of a fax or electronic version of the death certificate is not permitted.~~

In the event of an exceptional circumstance and on a case-by-case basis, the lender must submit other reliable documentation approved by the guarantor's CEO. (See Subsection 13.8.C)
[§682.402(b)(2);§682.402(g)(1)(iii); §685.212(a)(1)]

Revise Subsection 13.1.E, page 6 column 2, paragraph 2, as follows:

To expedite the claim filing process and avoid the return of claim files to the lender, the guarantor may use a fax machine to request and receive missing information from lenders. The types of documentation that may be transmitted and received by fax include, but are not limited to, the application, promissory note, promissory note assignment, specialty claim documentation, payment history information, deferment or forbearance documentation, and missing collection history. In the case of documentation where an original or true and exact copy, or an accurate and complete photocopy of the original or certified copy, may be required (such as the promissory note ~~and death certificate~~), the lender may fax a copy of the document so that the guarantor can continue processing the claim. However, the lender must, within the time frame established by the guarantor, forward the original document—or a copy certified as true and exact, or an accurate and complete photocopy of the original or certified copy—to the guarantor to avoid a future claim return.

Revise Figure 13-4 (see attached document).

Revise Subsection 13.8.C, page 29 column 1, paragraph 1 & 2, as follows:

Suspending Collection

If a lender receives reliable but unofficial notification of a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or Consolidation loan that paid in full a PLUS loan, the lender must suspend collection activity on the loan for up to 60 days and diligently attempt to obtain the required documentation. ~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate.~~ Required documentation includes one of the following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.

- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation of the borrower's or student's death. If additional time is needed to obtain this documentation, collection activity may be suspended for up to an additional 60 days, for a total suspension of up to 120 days. If documentation is not received, the lender should treat the period of suspension as though a forbearance had been granted. A signed forbearance agreement is not required for this period. The delinquency status, if any, that existed on the loan before the lender suspended its collection activity remains. The lender must resume collection activity immediately at the level of delinquency at which it was suspended.
[§682.402(b)(2) and (3)]

After receiving the required documentation ~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy,~~ of the borrower's or student's death, as stated above, certificate or notification of discharge approval from the guarantor, the lender may not attempt to collect on a loan or the discharged portion of a loan from the borrower, the borrower's estate, or any endorser.
[§682.402(b)(4)]

Revise Subsection 13.8.C, page 29 column 2, paragraph 1, as follows:

Timely Filing Deadline for Death Claims

A lender must file a death claim within 60 days of receiving one of the following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate.~~ If a lender discovers that it has on file a photocopy, an electronic copy, or a facsimile copy of a death certificate for an account that was never submitted as a death claim or was denied as a death claim (because at the time of original receipt, copies and facsimiles were not acceptable proof of the borrower's death), the lender must file the death claim within 60 days of that discovery. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation.
[§682.402(b)(2) and (g)(2)(i)]

PROPOSED LANGUAGE - COMMON BULLETIN:

The *Common Manual* is being revised to include regulatory changes made to acceptable documentation for loan discharge due to a borrower's or student's death as outlined in the November 1, 2016 *Federal Register*. Effective July 1, 2017, a death claim can be submitted based on one of following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: Borrowers or their families may now provide lenders copies of death certificates electronically or via facsimile transmission.

School: Schools may now provide lenders copies of death certificates electronically or via facsimile transmission.

Lender/Service: Lenders/Service must accept copies of death certificates electronically or via facsimile transmission. If and when the Department approves the use of an authoritative Federal or State database to document death, the lenders/service must comply.

Guarantor: Guarantors must accept the additional forms of documentation now acceptable for a death discharge for death claim processing, and must also revise their program review procedures accordingly.

U.S. Department of Education: None.

To be completed by the Policy Development Maintenance Contractor

POLICY CHANGE PROPOSED BY:

Policy Development Maintenance Contractor

DATE SUBMITTED TO CM POLICY DEVELOPMENT MAINTENANCE CONTRACTOR:

November 17, 2016

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 9, 2017

PROPOSAL DISTRIBUTED TO:

CM Governing Board Chair
CM Guarantor Designees
Interested Industry Groups and Others

Comments Received from:

MDHE, NASFAA, NCHER, PPSVC, TG, UHEAA

Responses to Comments

Most commenters supported this proposal as written. We thank all commenters for their thorough review.

COMMENT: One commenter suggested adding language to Subsection 11.21.F, Death, to include the verification of a borrower's death from an authoritative Federal or State electronic database as follows:

If a lender receives reliable but unofficial notification of a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or a Consolidation loan that paid in full a PLUS loan, the lender must suspend collection activity on the loan for a period of up to 60 days, until the lender receives documentation of the death or verifies the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

Response:

The PDMC agrees.

Change:

The suggested language was added to Subsection 11.21.F, Death, with a minor modification.

COMMENT: One commenter suggested adding language to Subsection 11.23.A, Death, to include the verification of a borrower's death from an authoritative Federal or State electronic database as follows:

The lender must grant a mandatory administrative forbearance after receiving reliable but unofficial notification that the borrower died, or in the case of a parent PLUS loan or a Consolidation loan that paid in full a parent PLUS loan, the student for whom a parent PLUS loan was made died. This mandatory administrative forbearance ends when the lender receives documentation of the death or verifies the

borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department, but in no case can it exceed 60 days. This type of forbearance does not require a request nor is the lender required to notify the borrower or endorser that such forbearance was granted.

Response:

The PDMC agrees.

Change:

The suggested language was added to Subsection 11.23.A, Death, with a minor modification.

COMMENT: One commenter suggested adding language to Subsections 13.1.D, Death Claims, and in two areas in Subsection 13.8.C – Suspending Collections and Timely Filing Deadline for Death Claims, as to what constitutes verification of a borrower's death from an authoritative Federal or State electronic database. For example, the commenter suggested the following be added to Subsection 13.1.D.

For a death claim, the lender must submit—in addition to the preceding items 1 through 7—one of the following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Documentation (such as copy of servicing history) reflecting request for the death discharge from a family member or other representative of the deceased individual and a copy of the screen shot obtained from the electronic database which provided verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

Response:

The PDMC does not oppose the idea of including acceptable documentation from an authoritative Federal or State electronic database in these subsections, but that will have to be handled through a Guarantor Policy Proposal, not a Federal Policy Proposal. In addition, we believe that until the Department approves a database, we cannot specify the documentation that would be acceptable for death claim submissions. We will add the item to our policy log for future development.

Change:

None.

COMMENT: One commenter suggested adding language to the Death Discharge section of Figure 13-4 to include the change in the regulation, as follows:

Death Discharge (Subsection 13.8.C)

Within 60 days of receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate or accurate death certificate that is scanned and submitted electronically or sent by facsimile transmission; or documentation such as a copy of the screen or document obtained from the electronic database which provided verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department. Within 60 days of redetermining that a lender had a photocopy of a death certificate in the borrower's file for an account that was never submitted as a death claim or was denied as a death claim because, at the time, copies were not acceptable proof of the borrower's death.

Response:

The PDMC agrees.

Change:

Figure 13-4 is updated to reflect the new regulatory language, but we did not add the specifics about what is appropriate documentation at this time. When the Department approves a database, we will issue a Guarantor Policy Proposal to address the appropriate documentation for a death claim submission.

Timely Filing Deadlines for Claims and Discharges*

Figure 13-4

Default Claim (Subsection 13.6.A)**Loans with monthly installments:**

- On or after the 271st day of delinquency but no later than the 360th day of delinquency.

Loans with installments less frequent than monthly:

- On or after the 331st day of delinquency but no later than the 420th day of delinquency.

Ineligible Borrower Claim (Subsection 13.6.B)

On or after the 31st day and no later than the 120th day after the date on which the final demand letter is mailed to the borrower.

Bankruptcy Discharge (Subsection 13.8.A)

- For filing a bankruptcy claim and proof of claim, the earlier of:
 - Within 30 days after the lender's receipt of Notice of the First Meeting of Creditors, or other confirmation issued by the debtor's attorney or the bankruptcy court.
 - Within 30 days after receiving the guarantor's instruction to file a bankruptcy claim.
- In response to a borrower's filing of an undue hardship petition (adversary complaint), the earlier of:
 - Within 15 days of receiving the petition.
 - Within 15 days of the date on which the guarantor instructs the lender to file a bankruptcy claim.
- In response to the lender's receipt of an extension from the bankruptcy court regarding the undue hardship petition (adversary complaint), the later of:
 - 25 days before the expiration of any extension received.
 - Within 15 days of the date that the guarantor instructs the lender to file a bankruptcy claim.
- If a borrower defaults and then files a bankruptcy petition, the earlier of:
 - Within 90 days of receiving notification of the bankruptcy's conclusion or reversal.
 - The 360th day of delinquency.

Closed School or False Certification Discharge (Subsections 13.8.B and 13.8.D)

- Within 60 days of receiving a completed request from the borrower, or
- If the guarantor receives a request directly from the borrower, within 60 days of the guarantor's instruction to file a claim.

Death Discharge (Subsection 13.8.C)Within 60 days of receiving:

- An original or certified copy of the death certificate;
- An accurate and complete photocopy of the original or certified copy of the death certificate;
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission; or
- Verification of the death through an authoritative Federal or State electronic database approved for use by the Department.

~~Within 60 days of receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate.~~

Within 60 days of redetermining that a lender had a photocopy of a death certificate in the borrower's file for an account that was never submitted as a death claim or was denied as a death claim because, at the time, copies were not acceptable proof of the borrower's death.

Spouses and Parents of Victims of September 11, 2001 (Subsection 13.8.F)

Within 60 days of the lender's determination that the borrower qualifies for discharge.

Total and Permanent Disability Discharge (Subsection 13.8.G)

Within 60 days of receiving a complete loan discharge application or other form(s) approved by the Department.

Unpaid Refund Discharge (Subsection 13.8.H)

Once the lender determines that the borrower's discharge request is complete, it must send the completed request and other required information to the guarantor.

* See each referenced subsection for the comprehensive requirements applicable to each type of claim or discharge.

