

Common Manual Policy Proposal Batch 220 Transmittal**April 16, 2020**

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1331	Automatic Discharge for Disabled Veterans	13.8.G Total and Permanent Disability Revised policy incorporates the Department's regulatory change to §682.402(c)(9)(xiii), which states that the Department will consider a borrower for whom data is obtained from the Department of Veterans Affairs showing that the borrower is totally and permanently disabled, as defined in paragraph (2) of the definition of that term in §682.200(b)(2), to be eligible for discharge without any additional documentation. Revised policy also lists the automatic discharge process as the primary way for veterans with student loan debt to receive a total and permanent disability discharge but maintains the application process for borrowers not identified through the automatic process.	Federal	Automatic VA TPD discharge determinations made by the Department on or after November 26, 2019.

Batch 220 (Approved)

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 16, 2020

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	No Changes	04/16/2020

SUBJECT: Automatic Discharge for Disabled Veterans

AFFECTED SECTIONS: 13.8.G Total and Permanent Disability

POLICY INFORMATION: #1331/Batch 220

EFFECTIVE DATE/TRIGGER EVENT: Automatic VA TPD discharge determinations made by the Department on or after November 26, 2019.

BASIS:
Interim/Final Rule (84 FR 65000) published on November 26, 2019.

CURRENT POLICY:
Current policy does not include reference to the Department’s regulatory change to the VA TPD eligibility criteria in the Interim/Final Rule.

REVISED POLICY:
Revised policy incorporates the Department’s regulatory change to §682.402(c)(9)(xiii), which states that the Department will consider a borrower for whom data is obtained from the Department of Veterans Affairs showing that the borrower is totally and permanently disabled, as defined in paragraph (2) of the definition of that term in §682.200(b)(2), to be eligible for discharge without any additional documentation. Revised policy also lists the automatic discharge process as the primary way for veterans with student loan debt to receive a total and permanent disability discharge, but maintains the application process for borrowers not identified through the automatic process.

REASON FOR CHANGE:
Changes made by the Department to §682.402(c)(9)(xiii) in the Interim/Final Rule published on November 26, 2019.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 13.8.G, subheading Discharge Requests Based on VA Determinations, column 1, page 48.

Note: The language below includes changes made by proposal #1329/Batch 218, as approved by the *Common Manual* Governing Board on November 21, 2019.

Discharge Requests Based on VA Determinations

If any party to a loan claims to be totally and permanently disabled based on a determination by the Department of Veterans Affairs (VA), the lender must refer that party to the Department to ~~begin the process of applying~~ determine if an application for loan discharge is necessary. An eligible party includes any one of the following:

- A borrower.
- One of two comakers on a PLUS or Consolidation loan.

- An endorser, if the lender is pursuing collection activities against the endorser.

~~The borrower's, comaker's, or endorser's representative, when authorized to do so, may work with the Department to provide the loan discharge application and copy of the VA documentation.~~

~~A borrower is eligible for loan discharge due to total and permanent disability if the borrower provides documentation from the VA showing that the VA has determined the borrower to be unemployable due to a service-connected condition, and this documentation is acceptable to the U.S. Department of Education (the Department). The VA and the Department identify disabled veterans with student loan debt through a quarterly database match process. A borrower identified through this process as eligible for discharge is considered by the Department to meet the definition of "totally and permanently disabled," as defined in paragraph (2) of the definition of that term in §682.200(b)(2), and the Department will not require an application or additional documentation to discharge the borrower's loans. The borrower is not required to provide additional documentation to support the discharge; however, the borrower is required to complete Sections 1 and 3 of the Discharge Application: Total and Permanent Disability. The Department may automatically determine that a borrower is eligible for loan discharge due to total and permanent disability through its quarterly database match process with the VA that identifies totally and permanently disabled veterans with student loan debt. The~~ A borrower identified through this process may opt-out of the discharge by notifying the Department of the opt-out decision within 60 days of being notified of their eligibility.

A borrower not identified through the database match process with the VA may apply for discharge by completing Sections 1 and 3 of the Discharge Application: Total and Permanent Disability and providing documentation from the VA showing the VA has determined the borrower to be unemployable due to a service-connected condition. The application and VA documentation must be submitted to the Department for review. The borrower's, comaker's, or endorser's representative, when authorized to do so, may work with the Department to provide the loan discharge application and copy of the VA documentation.

~~If the Department approves the disability discharge based on a VA determination, or makes the automatic determination of eligibility through the VA database match process (and the borrower does not opt out), or approves the disability discharge application, it will notify the borrower's loan holder(s) of the discharge. The Department will notify each lender to file a claim with the guarantor. The borrower is not subject to the 3-year post-discharge monitoring period. The effective date of the discharge is the date of the VA determination that the borrower is unemployable due to a service-connected disability. [§682.402(c)(9); §685.213(c)(2); DCL GEN-09-07/FP-09-05; Discharge Application: Total and Permanent Disability; ED press release on Auto VA TPD dated August 21, 2019]~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Automatic VA TPD Determinations by the Department

The *Common Manual* has been updated to incorporate the regulatory change to the total and permanent disability eligibility criteria for veteran borrowers, published in the November 26, 2019 *Federal Register*. The regulation in §682.402(c)(9)(xiii) now states that the Department will consider a borrower for whom data is obtained from the Department of Veterans Affairs showing that the borrower is totally and permanently disabled, as defined in paragraph (2) of the definition of that term in §682.200(b)(2), to be eligible for discharge and will not require additional documentation to discharge the borrower's loans. The change is effective July 1, 2020, but the Department is using its authority to designate the change for early implementation, meaning it is effective on the date of publication in the *Federal Register*. The Manual was also revised to list the automatic discharge process as the primary way for veteran's with student loan debt to receive a total and permanent discharge, but maintains the application submission process for borrowers not identified through the automatic process.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: Veterans with student loan debt who are considered totally and permanently disabled by the Department of Veterans Affairs no longer have to provide documentation to be eligible for discharge.

School: None.

Lender/Servicer: Lenders could see an increased volume of VA TPD discharges.

Guarantor: Guarantors could see an increased volume of VA TPD discharges.

U.S. Department of Education: The Department could see an increased volume of borrowers eligible for VA TPD discharge.

To be completed by the Policy Development and Maintenance Contractor (PDMC)

POLICY CHANGE PROPOSED BY:

PDMC

DATE SUBMITTED TO POLICY DEVELOPMENT AND MAINTENANCE CONTRACTOR:

November 26, 2019

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 12, 2020

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

MDHEWD, NCHER, PHEAA, PPSV, UHEAA, VSAC

Responses to Comments

All commenters supported this proposal as written. We appreciate the commenters for their thorough review.