

Helping Older Borrowers Apply for Total and Permanent Disability (TPD) Discharge

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Logistics

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About NCLC

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S.

NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness.

Why Is TPD Discharge Important for Older Borrowers?

- TPD Discharge = Total and Permanent Disability Discharge
- Many older student loan borrowers are eligible for TPD discharge based on their SSA disability or retirement status. Additionally, many of these borrowers have medical conditions that qualify them for a TPD discharge.
 - Unfortunately, these borrowers are often unaware of their eligibility for a TPD discharge and are saddled with a debt they can no longer work to pay back because of their disability.

Why Is TPD Discharge Important for Older Borrowers? (cont.)

- Far too many older borrowers are in default for loans that would otherwise be discharged through the TPD program For these borrowers, the consequences of default are severe.
 - Although SSI is exempt from ever being offset by the federal government, the Department may offset Social Security Disability Insurance (SSDI) benefits and Social Security Retirement benefits if loans are in default.

What is TPD Discharge?

- A loan discharge program for borrowers who are disabled and unable to engage in substantially gainful employment activity as a result of a medically determined physical or mental disability.
 1. Borrower must be totally and permanently disabled.
 - Borrower must have a physical or mental disability/impairment.
 - Unable to do physically or mentally demanding work for pay or profit due to disability limitations.
 - Disability can be expected to result in death or has lasted continuously for at least 60 months (5 years), or can be expected to last for at least 60 months.
 2. Borrower must have eligible loans.

Loan Eligibility for a TPD Discharge

- Direct, Federal Family Education Loan (FFEL), and Perkins loans
 - Parent PLUS loans: For parents' disabilities, not those of their children.
- Loans must have outstanding balance

Who is Eligible for a TPD Discharge?

- Veterans
- Supplemental Security Income or Social Security Disability Insurance (SSI or SSDI) Beneficiaries
- Anyone with a total and permanent disability that qualify based on a certification from a medical professional.

Veteran Disability Status

- Requirements
 - Must have a service connected disability that is 100% disabling or be totally disabled based on individual employability rating.
 - VA documentation may state that the borrower has “entitlement to individual unemployability” or that a borrower is “permanently and totally disabled” or “unable to work and earn money.”
- What documents do you need to submit?
 - TPD for eligible veterans are usually granted automatically without application. However, the veteran may want to submit a completed discharge application if discharge has not been processed automatically or if they want expedited relief.
 - Attach VA disability determination document to completed application.

Social Security Disability Status

Borrowers may apply for TPD based on any of the following SSA categories:

- Medical onset date at least 5 years before application
 - Medical onset date is the date SSA determines an applicant is unable to work due to a disability.
 - Must have an established medical onset date for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) at least 5 years before the date of TPD application.
- Receiving SSDI or SSI at least 5 years before application
 - Must have been receiving SSDI or SSI based on disability for at least 5 years before the date of your application for TPD discharge.

Social Security Disability Status (cont.)

- Disability review date
 - SSA conducts disability review to verify a beneficiary is still disabled or if their condition has improved. Disability review is scheduled based on the likelihood of medical improvement.
 - To qualify for TPD, an applicant's next scheduled disability review must be at 3 years or between 5 to 7 years from the date of last disability determination.
- Compassionate Allowance
 - You qualify for SSDI or SSI based on a compassionate allowance; or
- SSA Retirement Benefits
 - You are currently receiving SSA retirement benefits, and immediately before you qualified for SSA retirement benefits, you met one of the requirements described in paragraphs above.

Sample Benefits Planning Query (BPQY)

EXAMPLE OF BPQY STATEMENT

Benefits Planning Query (BPQY) Confidential Social Security Data

Name:		SSN:	
	Social Security Disability Insurance (SSDI)	Supplemental Security Income (SSI)	
RECORD			
<u>CASH</u>			
Type of Benefit			
Current Status			
Statutory Blindness			
Date of Disability Onset			
Date of Entitlement			
Full Amount			
Net Amount			
Others Paid On This Record			
Total Family Cash Benefit			
Overpayment Balance			
Monthly Amount Withheld			
<u>MEDICAL REVIEWS</u>			
Next Medical Review			
Medical Re-exam Cycle			
<u>REPRESENTATION</u>			
Representative Payee			
Authorized Representative			

Social Security Disability Status: Applying for TPD

- Automatic Loan Discharge
 - Typically no application required for borrowers with disability review scheduled between 5 to 7 years. Their loans are discharged automatically through the Department's data matching program with SSA.
- Other borrowers must attach a copy of SSA notice of award (if it includes statement regarding medical review period), BPQY or other documents to a completed application.
- Borrowers can download some documents from their account at SSA.gov.
 - They can request their BPQY in writing, but this takes time. It is often easiest to obtain BPQY in person.

Automatic Discharge Process

- Matches data from SSA or VA to student loan borrower data to determine some eligible borrowers and automatically discharge their loans
 - Receive a notice and have 60 days to opt out
 - Avoids default and bad consequences for these borrowers
 - A borrower who wants to continue their education may want to consider opting out

Medical Professional Certification

- A disabled borrower may also qualify based on a certification from any of the following medical professionals:
 - Physician
 - Osteopath
 - Nurse Practitioner**
 - Physician Assistant**
 - Psychologist**

Medical Professional Certification Form

Applicant Name _____ Applicant SSN _____

SECTION 4: AUTHORIZED MEDICAL PROFESSIONAL CERTIFICATION

Print legibly and initial any changes. Return the form to the applicant or representative.

Applicant Identification

1. Provide the below information regarding the individual for whom you are completing this Section:

Name _____

Date of Birth _____

Medically Determinable Physical or Mental Impairment

2. Does the applicant have a medically determinable physical or mental impairment that prevents the applicant from engaging in any substantial gainful activity? **Substantial gainful activity** means a level of work performed for pay or profit that involves doing significant physical or mental activities or a combination of both. If the applicant is able to engage in any substantial gainful activity in any field of work, you must answer "No".

- Yes - Continue to Item 3.
- No - **Do not complete this application.**

Severity/Duration of Physical or Mental Impairment

3. Is the applicant's impairment expected to result in death?

- Yes - Skip to Item 5.
- No - Continue to Item 4.

4. Has the applicant's impairment lasted or is it expected to last for a continuous period of at least 60 months?

- Yes - Continue to Item 5.
- No - **Do not complete this application.**

Disabling Condition

Do not use insurance codes or abbreviations.

5. Provide your diagnosis of the applicant's impairment:

6. Describe the severity of the applicant's impairment, including, if applicable, the phase of the impairment:

Limitations

Explain how the condition prevents the applicant from engaging in any substantial gainful activity in any field of work. Attach additional pages if needed. Enter "N/A" if not applicable. You may include additional information you believe is helpful in understanding the applicant's condition, such as medications or procedures used to treat the condition.

7. Limitations on sitting, standing, walking, or lifting:

8. Limitations on activities of daily living:

9. Residual functionality:

10. Social/behavioral limitations (if any):

11. Global Assessment Function Score (for psychiatric conditions):

Authorized Medical Professional's Certification

I **certify** that, in my best professional judgment, the applicant identified in Item 1 has a medically determinable physical or mental impairment consistent with my responses in Items 2 through 10. I **understand** that an applicant who is currently able to engage in any substantial gainful activity in any field of work does not have a total and permanent disability as defined on this form. I am a:

- doctor of medicine legally authorized to practice in a state
- doctor of osteopathy/osteopathic medicine legally authorized to practice in a state
- nurse practitioner licensed by a state
- physician assistant licensed by a state
- certified psychologist at the independent practice level licensed to practice in the United States

State Where Legally Authorized to Practice or Licensed*

Professional License Number (subject to verification; stamp is acceptable)

*If you are licensed to practice in American Samoa, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, the Marshall Islands, Micronesia, or Palau, attach a copy of your professional license that clearly shows the expiration date.

Signature (a stamp is not acceptable)

Date (mm-dd-yyyy)

Name (First, Middle, Last)

Address (a stamp is acceptable)

Email

Telephone

Fax

How to Apply

- Borrower must submit application along with required documentation (either BPQY/SSA documentation OR medical professional certification); and
- If borrower is represented by an attorney, submit a signed Representative Designation form.

Consequences of TPD Discharge

- Complete Discharge
 - All eligible loans are discharged in full. However, negative credit reporting history is not deleted from borrower's credit report. Loans will not be reported as paid off until after 3-year post discharge period.
 - Make sure to review initial discharge notice to confirm all loans are included in discharge.
 - Check National Student Loans Database (NSLDS) to verify loan record.

Consequences of TPD Discharge (cont.)

- Refund
 - Discharge approved based on medical professional's certification or an SSA determination
 - Department will refund any payments made after the date the medical professional certified the borrower's disability or the date the Department received the SSA documentation of the borrower's qualifying disability status.
 - Borrowers approved based on VA disability status are eligible for a refund of any payments made from the effective date of the VA disability determination.

Reinstatement (SSA & Medical Certification Only)

- No income monitoring
- Discharged loans will be reinstated if borrower obtains new federal loans within 3 years after discharge.
- No reinstatement based on SSI/SSDI benefits changes
- Borrowers can obtain new loans after expiration of the 3 years post discharge period, but they must
 1. Obtain certification from a physician that they are able to engage in substantial gainful activity; and
 2. Sign a statement acknowledging that the loans they receive cannot be discharged in the future on the basis of a disability that exists at the time the new loans are issued, unless that impairment substantially deteriorates.
- Current notices may not accurately reflect new reinstatement rules

Taxability of Discharge

- **Federal Taxation**

- TPD discharges received from January 1, 2018, through December 31, 2025, are excluded from taxable income.
- When is the loan considered legally discharged for tax purposes? Easy answer for loans discharged through VA disability route, but more complicated for SSA & Medical Professional routes due to reinstatement period.
- Individuals are being told that their discharge is not considered legally discharged for tax purposes until the end of the 3-year period. People should consult with tax expert for discharges with 3-year monitoring period that ends after Dec. 31, 2025.

- **State Taxation**

- Varies depending on state law. Currently, California exempts disability discharges for same dates as federal law.

Common Problems (and Solutions)

- Medical Professional won't sign
- Denial without reason
- Medical Professional makes a mistake
- Form gets lost
- Collection continues (REFER THESE CASES TO LEGAL AID)

Case Study & Poll 1

- David, a 70-year-old retired truck driver with \$50,000 in student debt, lost his mobility due to a stroke last summer. His application for SSA disability benefits is pending but has not yet been approved. He cannot engage in any employment due to his limited mobility. Is he eligible for a TPD discharge?
 - A. Yes, based on his pending SSA disability application
 - B. No, his disability onset date is less than 5 years
 - C. Yes, if a medical professional can certify that he is totally and permanently disabled and his disability is expected to result in death or is expected to last for at least 60 months

Case Study & Poll 2

- In 2018, Sue, a retired social worker, took out \$25,000 in a Parent PLUS loan to help her granddaughter pay for college. Immediately before transitioning to SSA retirement benefits, Sue was receiving SSA disability benefits with a medical review within 5 to 7 years. Can Sue discharge the Parent PLUS loan through the TPD program?
 - A. Yes, because she was on SSA disability before transitioning to retirement benefits
 - B. No, because her granddaughter can work to help pay off the Parent PLUS loan

TPD Form

- New form available on a temporary basis
- Available in the [StudentAid.gov Forms Library](#)
- No TPD resources or form in Spanish, but we have been told that ED will accept old TPD Spanish-language discharge form.
- TPD Applicant Representative Designation form is available in Spanish

Where to Send Completed TPD Form

- Mail:
 - U.S. Department of Education -TPD Servicing
 - P.O. Box 87130 Lincoln, NE 68501-7130
- FAX:
 - 303-696-5250
- Email:
 - Disabilityinformation@nelnet.net (BUT DO NOT SEND NON-PASSWORD PROTECTED APPLICATION BY EMAIL BECAUSE IT INCLUDES SSN)
- Call 1-888-303-7818 to request stop collection pending submission of completed application.

Questions?

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Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.