Discharge Application: Total and Permanent Disability (OMB No. 1845-0065)

U.S. Department of Education's Responses to November 7, 2011 Comments from the National Consumer Law Center

December 9, 2011

Comment:

1. "Ability to Engage in Substantially Gainful Activity"

Advocates across the county report that the numerous discharge applications are denied because of confusion caused by the first question in Section 4 of the discharge form, the physician's certification section. The question heading reads: "Ability to Engage in Substantial Gainful Employment." This heading suggests that the purpose of this section is to determine whether the applicant can engage in substantial gainful employment. However, the question following the heading actually asks whether the borrower has a medical condition which prevents the ability to engage in substantial gainful employment. The difference between the focus of the heading and focus of the question is conceptually confusing. Based upon this section heading, many doctors completing this form answer "no" because the applicant cannot engage in substantially gainful activity. Busy physicians often do not read the question carefully enough to realize that the answer should be "yes" – that the applicant has a disabling condition – and those applicants are denied.

We urge the Department to revise the form in order to make the heading and the question consistent. We believe that this will prevent unnecessary reevaluation of qualified borrowers and allow for a quicker and more efficient process for both borrower and the Department.

To that end, we recommend that question 1 of Section 4 of the Discharge Application be amended to read:

1. Medically Determinable Physical or Mental Impairment. Does the applicant have a medically determinable physical or mental impairment (as explained in Item 2 below) that (a) prevents the applicant from engaging in any substantial gainful activity, in any field of work, and (b) can be expected to result in death, or has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months? Yes No

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."*

If the answer to Question 1 is No, do not complete this application.

Response:

We have made the recommended change. In Item 1 of Section 4, the words "Ability to Engage in Substantial Gainful Activity" have been replaced with "Medically Determinable Physical or Mental Impairment." Hopefully this change will result in fewer incorrect responses of "No" by physicians who may not have carefully read the entire question.

Comment:

2. Physician's Certification Signature Block.

Doctors' failure to properly complete the signature block section is another common mistake that causes otherwise qualified applications to be rejected. In the current form, doctors are required to complete a sentence regarding the state that he or she practices in, and his or her license number. In our experience, many doctors fail to complete this sentence correctly. Rather, many doctors utilize stamps that include the doctor's state of practice and license number or place the information directly after his or her name. The doctors either do not believe that they need to include the information on the form twice, or do not read the form carefully enough to realize the information is required.

We urge the Department to accept stamped information in this part of the form (except for the physician's signature). Also, we urge the Department to revise the form to more efficiently retrieve the relevant information. For that purpose, we recommend the relevant part of the Physician's Certification be amended to read:

I am a doctor of (check one) medicine osteopathy/osteopathic medicine.				
Physician's Signature (a signa	is not acceptable)	Date (mm-dd-yyyy)	Printed Name of Physician (first name, middle initial, last name)	
Address	City, State, Zip Code			
Telephone	Fax	E-mail Address (Optional)		
State Where Licensed		License No.		

Response:

We have reformatted this part of the form so that there are now separate sections for the physician to enter the state where he or she is licensed to practice and his or her professional license number. However, instead of placing these sections at the end of the physician's certification section (as recommended), we have located them directly below the sentence that begins "I am a doctor of..." and have replaced the original second sentence ("I am legally authorized to practice in the state of...and my professional license number is...") with "I am legally authorized to practice in a state, and have identified the state where I am licensed to practice and provided my professional license number below." In addition, extra space has been added above the new sections to accommodate the use of a stamp that contains the required state licensing information.

Comment:

Accessibility of the Form

This Discharge Application is intended to be used by people with a wide range of disabilities. The form currently utilizes seven (7) point font. This font size is inaccessible to a number of older individuals and other individuals with low-vision. We recommend that the Department consult with the Department of Justice and other disability advocates to increase the font size of the form and ensure compliance with the Americans with Disabilities Act.

Response:

A relatively small font size is used on the disability discharge application and other forms in order to minimize the number of pages required to convey all required information, since forms with multiple pages can be more difficult to process and may also be more difficult for borrowers to use. While we understand that the small font size may make the form difficult to read for some individuals, we do not believe that increasing the font size would satisfactorily address this issue. It is unlikely that one particular font size would be adequate to meet the needs of all borrowers who have visual impairments, and who are unable to access the available electronic versions of the document (in Microsoft Word or PDF format) that can be enlarged when viewed on a computer screen. However, any borrower with special needs who needs help navigating the total and permanent disability discharge process (including visually impaired borrowers who require an alternative version of the discharge application) may request assistance by contacting the Department's Nelnet Total and Permanent Disability Servicer by phone (1-888-303-7818), online (www.disabilitydischarge.com), or by e-mail (disabilityinformation@nelnet.net).