

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

U.S. Department of Education's Responses to November 7, 2011 Comments from MFY Legal Services

December 9, 2011

Comment:

The first question in Section IV of the discharge form, entitled "Ability to Engage in Substantial Gainful Employment," requires the physician to certify whether the borrower has a medical condition that prevents the ability to engage in substantial gainful employment. A physician who answers "yes" confirms that a borrower does suffer from such a condition and is unable to engage in substantially gainful activity. However, the section heading and the actual question presented to the physician on the form are inconsistent, so it is possible that a physician may answer "no," resulting in a denial, because of the way the section heading is phrased. A physician who sees that heading, "Ability to Engage in Substantial Gainful Employment," may immediately answer "no" even though the borrower does suffer from a medical condition preventing him or her from engaging in successful gainful employment. This potential pitfall can be avoided completely if the Department revises the section heading to be consistent with the question presented to the physician. MFY Legal Services encourages the Department to make the heading and its subsequent questions as consistent as possible so as to avoid improper denials.

Response:

In response to this comment, we have revised Item 1 in Section 4 by replacing "Ability to Engage in Substantial Gainful Activity" 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:

In the past, MFY's Consumer Rights Project has assisted clients in re-applying for a disability discharge where it appeared that a physician did not properly fill out the signature block, and where that may have led to an initial denial. We are concerned that some physicians may improperly complete this section because of how it is presented on the form. The form could be improved to set forth specific sections for the doctor to fill out, rather than a sentence stating the state that he or she practices in, and his or her license number. Moreover, the form should also be improved to allow a doctor's information to be stamped somewhere on the form, as long as the requisite information is contained in the stamp, and as long as the doctor also signs the form as required.

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. We

have also added extra space above these sections to accommodate the use of a stamp that contains the required state licensing information.

Comment:

Many of our clients are elderly and disabled, and often suffer from low or poor vision. The disability discharge application form unfortunately utilizes seven-point font and is very difficult to read for those with less than perfect vision. MFY Legal Services recommends that the Department increase the font size of the form and ensure that the form complies with the American 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).