#	Subject	Summary of Change to Common Manual	Type of Update	Effective Date
1286	Administrative Forbearance for Total and Permanent Disability	**11.21.R Total and Permanent Disability** Requires the lender to cease collection activity for a period of no more than 120 days when it receives notice from the Department that the borrower has filed a loan discharge application. The lender must extend that forbearance or implement a new period of forbearance if none exists on the borrower's loan if the lender receives additional information from the Department indicating that the borrower has filed the loan discharge application.	Federal	July 1, 2013, for loans for which the lender receives notice from the Department that the borrower has filed an application for a total and permanent disability (TPD) discharge.

Batch 194 (Out for Comment)

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: March 15, 2013

X	DRAFT	Comments Due	Apr 5
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Administrative Forbearance for Total and Permanent Disability**

AFFECTED SECTIONS: **11.21.R Total and Permanent Disability**

POLICY INFORMATION: **1286/Batch 194**

EFFECTIVE DATE/TRIGGER EVENT: July 1, 2013, for loans for which the lender receives notice from the Department that the borrower has filed an application for a total and permanent disability (TPD) discharge.

BASIS:
§682.402(c)(2) and (9).

CURRENT POLICY:
Current policy requires the lender to continue collections activity on a loan until it receives the prescribed TPD documentation for claim filing. When the lender receives the appropriate documentation or a request from the borrower's physician for more time to provide that documentation, it must suspend collections activity. Current policy requires the lender to provide up to 60 days of administrative forbearance if the borrower's physician requests additional time to complete the loan discharge application.

REVISED POLICY:
Revised policy requires the lender to cease collection activity for a period of no more than 120 days when it receives notice from the Department that the borrower has filed a loan discharge application. The lender must extend that forbearance or implement a new period of forbearance if none exists on the borrower's loan if the lender receives additional information from the Department indicating that the borrower has filed the loan discharge application.

REASON FOR CHANGE:
Regulatory changes published in the November 1, 2012, *Federal Register*, Vol. 77, No. 212.

PROPOSED LANGUAGE - *COMMON MANUAL*:
Revise Subsection 11.21.R, page 38, column 2, paragraph 1, as follows:

11.21.R Total and Permanent Disability

If the lender receives information indicating that a borrower intends to file an application for ~~has become~~ totally~~ly~~ and permanently~~ly~~ disability (TPD) ~~disabled~~, the lender must direct the borrower to the Department to initiate the discharge application process and continue collection activities until it receives notification from the Department that the borrower intends to file a total and permanent disability discharge application. When it receives the Department's notice that the borrower has made the initial contact with the Department, the lender must suspend collection on the loan for a period of no more than 120 days. If the borrower does not provide the necessary TPD documentation to the Department within the 120-day period, the lender must return the loan to repayment and may capitalize the accrued interest. See Section 10.10 for more information regarding permissible capitalization. ~~either the certification of total and permanent disability from a physician or a letter from a physician stating that the borrower has requested the certification and that the physician needs additional time to determine if the borrower is totally and permanently disabled~~. [§682.402(c)(2)(ii)(C); §682.402(c)(9)(ii)(C)]

When the Department receives the documentation necessary to make the TPD determination, it will notify the lender to extend any existing forbearance or to initiate a new forbearance. The forbearance extends until the Department makes the necessary determination regarding the borrower's TPD loan discharge application and notifies the lender of that decision. If the Department denies the borrower's discharge application, then the lender may capitalize the accrued interest.

[§682.402(c)(2)(viii); §682.402(c)(9)(viii)]

~~If the lender receives a written request from the borrower's physician (who is a doctor of medicine or osteopathy and is legally authorized to practice in a state) that additional time is needed either to determine if the borrower is totally and permanently disabled or to complete the borrower's discharge documentation, the lender must grant an administrative forbearance to the borrower and, if applicable, the endorser. This period of required administrative forbearance cannot exceed 60 days from the date the lender receives the physician's request for additional time. The lender may not require the borrower to submit a request for the forbearance. For more information on the suspension of collection activities in the event of the total and permanent disability of a borrower, see Subsection 13.8.G. [§682.402(c)(5)(i)]~~

If a comaker of a joint Consolidation loan or PLUS loan ~~applies~~ notifies the lender that he or she intends to apply for a total and permanent disability loan discharge, the lender must continue servicing the loan ~~for the non-disabled comaker~~ while directing the potentially disabled borrower to the Department. The lender must, at the Department's direction, suspend collection activity on the loan as noted above. If the Department approves the loan discharge application, then the lender must file the claim with the guarantor for the portion of the loan applicable to the disabled comaker but must return the remaining balance to a repayment status. The lender may capitalize interest that accrued on the remaining balance of the loan during the suspension period.

For loans processed under rules that require a three-year conditional discharge period, ~~T~~the lender must protect the status of the loan during the conditional discharge period so that the loan does not become delinquent or more delinquent. The lender may apply an administrative forbearance on the entire loan if the non-disabled comaker is not eligible for or does not choose another repayment option, deferment, discretionary forbearance, or reduced-payment forbearance. The administrative forbearance may not begin prior to the date the lender receives the disabled comaker's loan discharge application, or the date the lender receives the notification from the guarantor that one comaker is totally and permanently disabled, whichever is earlier. The forbearance ends on the date that the lender receives notice of the disabled comaker's final discharge determination.

PROPOSED LANGUAGE - COMMON BULLETIN:

Forbearance for Total and Permanent Disability (TPD) Discharge Processing

Revised policy adds new administrative forbearance provisions related to the revised processes being initiated to manage the TPD approval process. The new processes specify that:

- If the lender receives notice from the Department that a borrower has initiated the process of applying for a total and permanent disability discharge, the lender must suspend collection activity on the borrower's loan(s) for a period - usually referred to as an administrative forbearance - of not more than 120 days while the Department gathers the necessary TPD documentation. The lender may capitalize interest accrued during this period if the borrower fails to provide the necessary documentation.

- When the Department has the borrower's TPD documentation, it will provide a second notice to the lender which will initiate a second period or a continuation of an existing period of suspended collections. The lender must maintain this period of forbearance until it receives notice from the Department that it has completed its review of the discharge application and made a determination.

- If the loan is made to comakers and one comaker applies for a TPD discharge, then the lender must suspend collections on the loan as directed by the Department until it receives notice of the disposition of the comaker's loan discharge application. The lender must then return any portion of the loan that is not discharged to repayment.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower's loan will be placed in an administrative forbearance for the periods necessary for the borrower to submit the loan discharge documentation and/or for the Department to make the necessary determination of the borrower's disabled status.

School:
None.

Lender/Servicer:
A lender must ensure that it has processes in place to provide the two periods of administrative forbearance, to limit the first period to no more than 120 days, and to promptly return the borrower to repayment when instructed by the Department.

Guarantor:
A guarantor may be required to amend its policies and program review procedures.

U.S. Department of Education:
The Department of Education must ensure that the appropriate notifications regarding the beginning and end-date of administrative forbearances are provided promptly and consistently to each loan holder.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
November 19, 2013

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:
CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others

bg/edited-chh