



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

April 5, 2021

Secretary Cardona
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Commissioner Saul
US Social Security Administration
1500 Woodlawn Drive
Baltimore, MD 21241

Dear Secretary Cardona and Commissioner Saul:

The undersigned members of the Consortium for Citizens with Disabilities (CCD) write to bring your attention to several problematic elements of the current total and permanent disability (TPD) student loan discharge process for disabled borrowers. We believe that there are many steps that the Biden Administration can take to simplify the program and better serve people with disabilities on Social Security Title II benefits or Supplemental Security Income (SSI) with student loan debt.

We were very glad to see that the Department of Education's (ED) recent announcement of some COVID-19 emergency protections for borrowers with disabilities, but believe there is substantial reform necessary to the program as a whole. The TPD discharge process allows individuals who are "totally and permanently disabled" to discharge their federal student loans. The TPD program also provides discharge for borrowers who have died and veterans who "have been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition." Many veterans with disabilities not connected to service receive Social Security disability benefits.

The TPD program was intended to eliminate the burden of student loans for individuals whose disabilities prevent them from substantial employment, but it has not provided such relief to hundreds of thousands of beneficiaries because of the significant bureaucratic burdens within the program. A recent report from the Social Security Administration (SSA) Office of Inspector General estimates that \$5.7 million in a 12-month period would be collected from over 20,000 beneficiaries who are eligible for student loan discharge, but have not gone through the process to obtain discharge.¹ While recent COVID relief efforts have included the suspension of such offsets, we are extremely concerned that these offsets will start again when the pandemic is over. It is crucial that the Department of Education (ED) address the issues with the TPD program before the offset pause ends in September. Specifically, we believe that ED should revisit the regulations promulgated in 2012 and make several changes: 1) modifying the criteria for the program to reflect Congressional intent, 2) automating and simplifying the program, and 3) eliminating the monitoring period.

¹ SOCIAL SECURITY ADMINISTRATION, OFFICE OF INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION BENEFICIARIES ELIGIBLE FOR TOTAL AND PERMANENT DISABILITY FEDERAL STUDENT LOAN DISCHARGE, 4-5 (Nov. 2020), <https://www.oversight.gov/sites/default/files/oig-reports/A-06-17-50281.pdf>. *Id.* at 5.

1) Reflecting Congressional Intent

The TPD program was established in 1965 through the Higher Education Act² and has gone through various iterations. The current regulations incorporated several new components to the process that are not reflected in the statute. First, the regulations require that a beneficiary be classified in a particular medical diary category, a classification that SSA utilizes to determine when medical reviews are appropriate. This is not the durational requirement in the statute and has excluded thousands of people with disabilities from obtaining relief. We believe as a first step, the Administration should revise the TPD regulations to be more in line with the original statute. In addition to ensuring that all people with disabilities who have been on a Title II disability program or SSI for five years or more are entitled to relief, ED should also ensure that TPD Discharge is available to the following categories of disability beneficiaries who would meet the statutory standard: Individuals who have been found eligible for SSA benefits through the “compassionate allowance” system, SSA beneficiaries with an onset date of five or more years ago, individuals aged 62 or older who are currently receiving SSA benefits who were receiving benefits based on a disability at the time they began receiving retirement benefits, older SSA beneficiaries who will not be reviewed again for disability, individuals continuing to receive disability benefits from SSA while maintaining the ability to engage in limited work activity, and new SSA beneficiaries classified as Medical Improvement Not Expected

2) Automating and Simplifying the Program

The current TPD program requires disability beneficiaries to actively apply for the TPD program, collecting relevant paperwork from SSA themselves and submitting it to ED. This is unnecessary since it is clear that ED and SSA have strong data matching programs in place – in 2016, they sent pre-filled TPD application forms to hundreds of thousands of disabled borrowers identified as eligible for TPD discharge.³ It is unclear how many of these forms were completed and returned, especially given that student loan forgiveness was taxable when the forms were sent out, and unclear how many of those who returned the forms then had their debt reinstated during the monitoring period. We urge the administration to automate the TPD program as much as possible. SSA and ED together have sufficient data to identify and communicate with eligible beneficiaries and to simply cancel their debt automatically. An opt out letter could be sent to all identified beneficiaries and SSA could provide sufficient evidence of income for the subsequent years of the monitoring period, if that is maintained.

3) Eliminate the Monitoring Period

Finally, the current TPD program requires beneficiaries of loan discharge to provide income verification for three years after their loans are discharged or have their loans reinstated. There is no monitoring period required by the statute and we can find no compelling reason to maintain this additional layer of bureaucracy to an already burdensome process. We strongly urge that the current monitoring period be eliminated. Substantial analysis has demonstrated that the monitoring period results in qualified individuals having their loans reinstated.⁴ If it is not eliminated, this income information that is needed

² Higher Education Act of 1965, § 430; 20 U.S.C § 1087(a).

³ U.S. DEPARTMENT OF EDUCATION, U.S. DEPARTMENT OF EDUCATION ACTS TO PROTECT SOCIAL SECURITY BENEFITS FOR BORROWERS WITH DISABILITIES (2016), <https://www.ed.gov/news/press-releases/us-department-education-acts-protect-social-security-benefits-borrowers-disabilities>.

⁴ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, IMPROVEMENTS TO PROGRAM DESIGN COULD BETTER ASSIST OLDER STUDENT LOAN

to maintain eligibility for the discharge is also collected by SSA and that agency could provide automatic verification to ED for the entire period.

If properly implemented, the TPD process has the potential to assist tens of thousands of individuals who are unable to work because of their disabilities in discharging federal student loans. We believe the recommendations outlined above will alleviate the immense burden of federal student loans on thousands of individuals who are totally and permanently disabled. We thank you for the consideration of this request. Please contact Bethany Lilly (lilly@thearc.org) with any questions or to arrange for a meeting to discuss the recommendations in this letter.

Sincerely,

American Council of the Blind
Autistic Self Advocacy Network
Christopher & Dana Reeve Foundation
Council of Administrators of Special Education
Easterseals
Epilepsy Foundation
Justice in Aging
National Association of Disability Representatives
National Disability Institute
National Disability Rights Network (NDRN)
National Down Syndrome Congress
National Organization of Social Security Claimants' Representatives
Paralyzed Veterans of America
RespectAbility
The Arc of the United States
The National Committee to Protect Social Security and Medicare

BORROWERS WITH OBTAINING PERMITTED RELIEF (2016), <https://www.gao.gov/assets/gao-17-45.pdf>; National Public Radio, *Student Loan Borrowers With Disabilities Aren't Getting Help They Were Promised* (2019), <https://www.npr.org/2019/12/04/776058798/why-student-loan-borrowers-with-disabilities-arent-getting-the-help-they-deserve>.