



U.S. Citizenship
and Immigration
Services

Fact Sheet

March 29, 2004

USCIS Fee Waiver Guidance

The United States Citizenship and Immigration Service (USCIS) periodically reviews its fee waiver policy to ensure that it is fair to the applicant, promotes consistency, and is reasonable for USCIS to administer. Generally, the USCIS has discretion to waive the filing fees for an application, petition, motion or request if the applicant establishes that he/she is unable to pay the fee. The guidance maintains USCIS' discretionary authority to grant fee waivers and provides direction on what constitutes "inability to pay."

On March 4, 2004 new field guidance was issued, replacing the October 9, 1998 guidance. This guidance will be effective until a final regulation amending the current fee waiver regulation has been published in the Federal Register.

Fee Waiver Guidance

USCIS Officers currently have broad discretion in granting fee waivers under 8 CFR 103.7(c). The field guidance, outlined below, will provide USCIS Officers with guidelines, which delineate factors, which may be considered when determining if a fee waiver is justified. These guidelines apply to those applications, petitions, motions, and requests filing fees contained in 8 CFR 103.7(b). There are certain applications and petitions listed in 103.7(b), which are exempt from fee waivers or have specific fee exemptions and therefore would not fall under these fee waiver guidelines.

The field guidance is not exhaustive as USCIS Officers will evaluate all factors, circumstances, and evidence supplied by the individual in support of a fee waiver request before making a determination. The Officer will take note of any evidence or documentation regarding the individual's living arrangements in the United States; the individual's extraordinary expenditures or those of his dependents residing in the United States; monetary contributions for the payment of monthly expenses received from adult children, dependents, and other people who are living in the individual's household, etc.; and other expenses for which the individual is responsible.

An individual does not automatically qualify for a fee waiver based on any one particular situation. Each case is unique and will be considered upon its own merits. A fee waiver request may be granted when it has been established to the satisfaction of the USCIS Officer with jurisdiction over the request that the individual is unable to pay the fee.



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In all fee waiver requests applicants are required to demonstrate an **"inability to pay."** In determining "inability to pay," USCIS Officers may consider the following situations and criteria regarding the applicant:

- Whether the individual has demonstrated that within the last 180 days, he or she qualified for or received a "federal means-tested public benefit". This may include, but is not limited to, Food Stamps, Medicaid, Supplemental Security Income, and Temporary Assistance of Needy Families or other public benefit.

NOTE: Each agency's public benefits are determined based on a unique set of criteria. Therefore, even though an individual has qualified for another agency's benefits, it should only be one of the factors in determining the USCIS fee waiver request and should not be used as a definitive factor.

- Whether the individual has demonstrated that his or her household income, on which taxes were paid for the most recent tax year, is at or below the poverty level contained in the most recent poverty guidelines revised annually by the Secretary of Health and Human Services' "Poverty Guidelines".
- Whether the individual is elderly (age 65 and over, at the time the fee request is submitted).
- Whether the individual is disabled. Applicant should submit verification of disability (see below, **How To Apply for a Fee Waiver.**)
- The age and number of dependents in the individual's family's household who are seeking derivative status or benefits concurrently with the principal applicant or beneficiary.
- Humanitarian or compassionate reasons, either temporary or permanent, which justify a granting of a fee waiver request. For example: the applicant is temporarily destitute; the applicant does not own, possess, or control assets sufficient to pay the fee without a showing of substantial hardship; or an applicant is on a fixed income and confined to a nursing home.
- Any other evidence or factors that the USCIS Officer believe establishes an applicant or petitioner's inability to pay the required filing fees.

Applicants should be aware that certain immigration benefits have income requirements or require evidence that the applicant or beneficiary is not likely to become a public charge (for example: nonimmigrant visa petitions, family-based visa petitions, classifying an orphan as an immediate relative, employment-based visa petitions, employment authorizations, travel documents, and advance parole.)



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Documentation

Documentation, such as the suggested examples listed below, may be submitted to provide proof of the "inability to pay":

- Proof of living arrangements (i.e. living with relatives, living in the individual's own house, apartment, etc.), and evidence of whether the individual's dependents are residing in his or her household.
- Evidence of current employment or self-employment such as recent pay statements, W-2 forms, statement(s) from the individual's employer(s) on business stationary showing salary or wages paid, income tax returns (proof of filing of a tax return).
- Mortgage payment receipts, rent receipts, food and clothing receipts, utility bills (such as gas, electricity, telephone, water), child or elder care receipts, tuition bills, transportation expense receipts, medical expense receipts, and proof of other essential expenditures.
- Any other proof of essential expenditures.
- Proof that verifies the individual's disability. The individual may provide proof of his or her disability by submitting documentation showing that the disability has been previously determined by the Social Security Administration (SSA), the Department of Health and Human Services (HHS), the Department of Veterans Affairs (VA), the Department of Defense (DOD), or other appropriate federal agency.
- Proof of the individual's extraordinary expenditures or his or her dependents residing in the United States. Essential extraordinary expenses are those which do not occur on a monthly basis but which are necessary for the well being of the individual or his or her dependents.
- Proof that the individual has, within the last 6 months, qualified for and/or received a Federal "means-tested public benefit".
- Documentation to show all assets owned, possessed, or controlled by the individual or by his or her dependents.
- Documentation establishing other financial support or subsidies--such as parental support, alimony, child support, educational scholarships, and fellowships, pensions, Social Security or Veterans Benefits, etc. This includes monetary contributions for the payment of monthly expenses received from adult children, dependents, and other people who are living in the individual's household, etc.



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- Documentation of debts and liabilities--what is owed on any outstanding loans, credit cards, etc. by the individual and his or her dependents, and any other expenses the individual is responsible for (i.e. insurance, medical/dental bills, etc.).

How To Apply for a Fee Waiver

- To apply for a fee waiver, an applicant must submit an affidavit—or unsworn declaration that is signed and dated and includes the statement: “I declare under penalty of perjury that the foregoing is true and correct”—requesting a fee waiver and stating the reasons why he/she is unable to pay the filing fee.
- The affidavit and any supporting documentation (see above, **Documentation**) must be submitted along with the benefit application or petition.
- To facilitate the processing of fee waiver requests, applicants should write in large print “**Fee Waiver Request**” on the outside of the mailing envelope containing their application or petition and fee waiver request, as well as at the top of their affidavit and each page of their supporting information.
- If a fee waiver request is denied, the entire application package will be returned to the applicant, who must then begin the application process again by re-filing for the benefit with the appropriate fee.

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