

Questions and Answers Jan. 26, 2010

Requesting Waiver of Fees

Temporary Protected Status Applicants

Background

U.S. Citizenship and Immigration Services (USCIS) is funded by application and petition fees. Waiving a fee for certain individuals transfers the cost of processing applications and petitions to other applicants and petitioners and often necessitates increasing fees for everyone. However, we recognize that some individuals may not be able to pay the filing or biometrics fees. If you wish for us to consider waiving the fees for your application, please follow the instructions provided on requesting a fee waiver at <http://www.uscis.gov/feewaiver> and in these Questions and Answers. When you request a fee waiver, you must clearly demonstrate that you are unable to pay the application fees and biometrics fee that are applicable in your case.

Questions and Answers

Q. Which fees can USCIS waive if requested?

A. If you are unable to pay, you may request a fee waiver for the following fees:

- Application for Temporary Protected Status (Form I -821);
- Application for Employment Authorization (Form I -765);
- Application for Waiver of Ground of Inadmissibility (Form I-601); and
- The biometrics fee.

The fee for the Application for Travel Document, (Form I-131), is not waivable.

Q. How should I apply for a fee waiver request?

A. To apply for a fee waiver, you must submit a written statement, made under oath, affirmation, or pursuant to 28 U.S.C. 1746 containing the statement: "I declare under penalty of perjury that the foregoing is true and correct," requesting a fee waiver(s) and stating the reasons why you are unable to pay the filing fee(s). This statement must be on the request and the request will be denied if it is not. Be sure to state which specific fees you are requesting to be waived in your

affidavit.

The signed written statement and any supporting documentation must be submitted along with your benefit application(s).

Your fee waiver request must explain why you are unable to pay the fees and also include:

Any evidence that you are receiving a federal or state means-tested public benefit (e.g., Medicaid, food and nutrition benefits (SNAP program), housing assistance, etc.),*

Your monthly Gross Income from all sources for each of the three months prior to the filing of the fee waiver request,

A list of all assets owned, possessed or controlled by you or your dependents,

Your monthly essential expenditures , including any extraordinary expenses (e.g., high medical bills), for each of the three months prior to the filing of the fee waiver request,

A list of your dependents in the United States, their address and relationship to you, and any income earned or received by your dependents,

Any evidence of humanitarian considerations (e.g., disability, age, homelessness, unemployment),* and

Any other information that you believe supports your inability to pay the fees that you would like waived.

*Although these starred items are not mandatory requirements, such evidence will be given significant weight in determining your eligibility for a fee waiver.

Q. How will USCIS determine if I qualify for a fee waiver?

A. We will determine that you qualify if you are able to demonstrate that it is more probable than not that your gross income for the three-month period prior to the filing of your fee waiver request was equal to or less than your essential expenses (e.g. reasonable expenditures for rent, utilities, medical expenses, child care) during that same period AND you do not own, possess or control ASSETS sufficient to pay the fee without substantial hardship.

We will review your fee waiver request according to the following 5 steps:

Step 1. Are you receiving a federal-means tested benefit? If you are and you have provided sufficient evidence, your fee waiver will normally be approved.

Step 2. Is your household's income over the three months preceding the filing of your fee waiver request less than the Federal Poverty Guidelines?

Step 3. Did your essential expenses over the three months preceding the filing of your fee waiver request equal or exceed your gross income during that period?

Step 4. Do you have a humanitarian consideration (e.g., disability, age, etc.) or an extraordinary economic situation (e.g., recent unemployment) that you believe has a sufficiently negative financial impact to make you eligible for a fee waiver? If so, you must provide sufficient evidence to support your claim.

Step 5. Do you have any other reasons and supporting evidence that would support your inability to pay the fee(s)? If so, you must provide the evidence and explain how it makes you unable to pay the fee.

By utilizing the step-by-step process above, USCIS will look at your entire situation to determine whether to grant you a fee waiver based on whether you have sufficient assets to pay the fee without substantial hardship.

Q. What is a federal means-tested benefit and what effect does it have on my eligibility for a fee waiver?

A. A federal means-tested benefit is any benefit funded in whole or part by the Federal government that requires you to demonstrate your "means" (e.g., your income, assets and related resources) as part of the eligibility requirements for the benefit. The federal agency administering the funds determines whether the benefit is a Federal means-tested public benefit under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193.

Many federal-means tested benefits are administered by state, county and city social service agencies. All benefits, whether they are provided by the federal or local government agencies, carry equal weight in our consideration of your fee waiver request.

Examples of federal means-tested benefits include Supplemental Nutrition Assistance Program (SNAP) benefits (formerly called "Food Stamps"), Medicaid, Supplemental Security Income (SSI), and Temporary Assistance to Needy Families (TANF).

You should provide evidence you are receiving these benefits if you wish USCIS to take into account the fact that you have previously demonstrated low income and limited resources to a different agency as part of USCIS' determination of your eligibility for a fee waiver. This evidence should be a copy of a letter or other documentation bearing the letterhead or logo of the agency granting the benefit, the name of the recipient of the benefit and that you are currently receiving the benefit.

Q. What if someone else in my family is receiving federal means-tested benefits?

A. The person applying for the fee waiver must be the person who is receiving the Federal means-tested benefits.

The only exceptions are:

1. If an applicant is receiving a federal means-tested benefit, then a dependent spouse who lives in the same household of the applicant will also qualify for a fee waiver unless the spouse owns, possesses or controls assets sufficient to pay the fee without substantial hardship; and,
2. If a parent is receiving federal means-tested benefits, then his or her unmarried children under 18 living with him or her would also qualify for a fee waiver.

However, the reverse situation does not apply. For example, if a child or grandchild is receiving Federal means-tested benefits, eligibility for a fee waiver does not automatically extend to parents or other family members. Similarly, if a parent is receiving SSI, his or her adult children do not automatically qualify for a fee waiver as a result.

Q. If I am not receiving a federal-means tested benefit, how will you determine my eligibility for a fee waiver?

A. If you are not receiving a federal-means tested benefit, we will look at other factors, such as the income level of your household and compare it to Federal Poverty Guidelines. We will also consider assets, humanitarian factors, and all evidence that you submit regarding your inability to pay to determine whether your request merits a discretionary grant of a fee waiver.

Q. How will you use my household income information to determine my eligibility for a fee waiver?

A. We will compare your household income with the "Federal Poverty Guidelines". We use the Federal Poverty Guidelines, as established by the Secretary of Health and Human Services.

If your household income is greater than the Federal Poverty Guidelines, then you are not likely to qualify for a fee waiver. However, even if your household income exceeds that of the Federal Poverty Guidelines, if you have a humanitarian consideration or an extraordinary economic situation such as medical bills or unemployment, then USCIS will take this account in an overall assessment of your inability to pay the fees. See further Q&A's below.

Q. What evidence should I provide concerning my household income?

A. In addition to your written statement, you are strongly encouraged to submit documentary evidence of your household income which includes all forms of income, including income received or earned by any dependent in the United States, and financial assistance. Such evidence may include:

- If available, a copy your Federal tax return for the last tax year;
or

- If you did not file a federal tax return, submit other forms of evidence which may include paycheck stubs, employment contracts, statement(s) from your employer(s) own business stationary showing salary or wages paid etc, for the past 3 months; or

- Official transcripts of your tax returns and W -2s. These can be obtained without fee from the Internal Revenue Service by filing an IRS Request for Transcript of Tax Return, (Form 4506T).

Q. Who should I include when determining my household size?

A. You should include:

Yourself;

Your spouse;

- The following family members:

- o Your children or legal wards, who are unmarried and under 21, and who live with you;

- o Your children or legal wards, who are unmarried, under 23, full-time students, and who live with you when not at school;

- o Your children, or legal wards, who are unmarried, and for whom you are the legal guardian because they are physically or mentally disabled to the extent they cannot adequately care for themselves and cannot establish, maintain, or re-establish their own household;

- o Your parents, if:

- § You are unmarried, under 23, a full-time student, and you live with your parents when you are not at school; or

- § They are retired and living with you.

Q. Will you include the income of a person living with me if that person is not part of my household for tax purposes?

A. If a person is living with you but is not claimed as a member of your household for tax purposes, that person's income will not be considered when determining your household income. You do not need to provide this person's income information.

Q. If I am separated, do I need to count my husband or wife, and children living with him or her?

A. If you are legally separated, you do not need to include your spouse in your family size, and do not need to include your spouse's income information. However, be sure you include in your household income any support that your spouse is still legally required to provide to your household under court order or state law.

If you are legally separated but continue to live together, your spouse's income information must be included with your fee waiver request.

If you are not legally separated, even if you are living apart, then you need to include your spouse's income information in your fee waiver request.

Evidence of legal separation should be included with your fee waiver request. This may be a copy of the court order or a letter from the attorney that is managing your case.

Q. If I am applying for immigration benefits under the provisions of the Violence Against Women Act, do I need to provide my spouse's financial information?

A. Individuals applying for immigration benefits under provisions of the Violence Against Women Act (VAWA), regardless of current marital status, should only provide their spouse's financial information if it is readily available. In those cases where the information cannot be obtained, please provide a brief explanation describing the circumstances.

Q. How will my expenses factor into my eligibility for a fee waiver?

A. Essential expenses for this purpose are limited to reasonable expenditures for: rent, food, utilities, child care, medical expenses, commuting costs, clothing, and laundry. Temporary Protected States (TPS) fees are also considered an essential expenditure.

Q. How will my assets and/or the assets of my dependents factor into my eligibility for a fee waiver?

A. In addition to providing us with evidence that your essential

expenditures have equaled or exceeded your gross income for the last three months, you will need to provide us with information concerning your assets (as well as those of your dependents) and their value.

Assets include: real estate, property, cash, checking, and savings accounts, stocks, bonds, and annuities (except for pension plans and Individual Retirement Accounts (IRAs)).

If we determine that you can pay the fees from your assets without substantial harm, we will deny your fee request. For example if you have \$20,000 in the bank and own two cars, we would determine the applicant has the ability to pay.

Q. What if I believe I am eligible for a fee waiver because of a humanitarian consideration or due to a recent extraordinary economic situation?

A. To the extent that your essential expenses over the three month period prior to your filing the fee waiver request were not equal to or greater than your income during that period, we may consider the following in determining your eligibility for a fee waiver:

Whether your age will have an effect on your ability to earn income in the near future;

Any disability that may prevent you from earning an income in the near future; and

Evidence that you recently became unemployed.

Disabilities (physical and emotional) should be documented with a letter from a medical professional and should state the nature of your disability and that it prevents or severely inhibits your ability to earn an income.

Q. What if I am filing on behalf of a special immigrant juvenile (SIJ)?

A. Juveniles in the custody of the state or local government will likely qualify for a fee waiver. The legal guardian, conservator, or similar court-appointed surrogate should sign the fee waiver request and provide one of the forms of evidence listed below:

- Evidence that the SIJ is receiving a federal means -tested benefit.
- Pay stubs or bank statements indicating the SIJ's income is under the federal poverty guidelines.
- Recent juvenile court order establishing dependency or custodial assignment (within the last 6 months) of the SIJ.
- Letter from a foster care home or similar agency overseeing the SIJ's custodial placement that describes the SIJ's inability to pay.
- Form I-797 Approval Notice for a Form I-360 filed for the SIJ.

Any one of the above types of documentation will meet the evidentiary

requirement to support the SIJ's inability to pay.

Q. Who may request a fee waiver?

A. Anyone who is 18 or older and wants to request a fee waiver for his/her own application.

Anyone who is 18 or older may request a fee waiver for his/her:

1. Unmarried children under 18;
2. Unmarried sons and daughters for whom s/he remains the legal guardian to the extent they cannot adequately care for themselves; and
3. Legal ward who meets either of the above definitions.

Q. Who should sign the fee waiver request?

A. If you are at least 14 years old, you may sign on your own.

Your parent or legal guardian conservator, committee or similar court-appointed surrogate may sign the request for you if you are under 14 years old, or if you are between 14 and 18 years of age, but incapable of signing on your own.

A legal guardian, conservator, committee or similar court-appointed surrogate may also sign the fee waiver request for you if you are 18 years of age or older but a court has appointed a guardian, conservator, committee or similar surrogate for you because you are not capable of managing your own affairs.

Q. If the applicant is a minor and is a ward of the state, who should complete and sign the fee waiver request?

A. The court appointed guardian, conservator, committee or similar surrogate should sign the fee waiver request. The fee waiver request should include a copy of the court order designating the signee as guardian, conservator, committee or similar surrogate.

Q. Some form instructions mention filing fees and biometric fees. Can both be waived? Do I have to file separate fee waiver requests?

A. You do not have to file a separate fee waiver request for the filing fee and the biometric fee. If we approve your fee waiver request, we will waive both the filing and biometric fees.

Q. Do I need English translation of documents?

A. If any document that you submit with your application is not in English, you must submit both the document itself (in the other

language) and a full and complete English translation.

The individual who translated the document into English must certify that he or she is competent to translate from the other language into English, and that the translation is a full, complete and accurate translation of the entire document.

The translator must include his or her name, signature, full address, phone number, e-mail address and any related license or registration number.

Q. What if I have questions?

A. If you have questions, refer to our Web site (<http://www.uscis.gov>) or call customer service at the National Customer Service Center (NCSC): 1-800-375-5283 or 1-800-767-1833 (TDD for the hearing impaired).

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