



FOR IMMEDIATE RELEASE

Proposed change to I-912 Fee Waiver

Arguments in Opposition to the Proposed Change to USCIS Policy

[OAKLAND, CALIFORNIA, October 10, 2018—] On September 27, 2018 the United States Citizenship and Immigration Services (USCIS) issued a news alert indicating that the agency intended to limit the forms of evidence that are acceptable for the I-912 Request for Fee Waiver, removing the receipt of means-tested benefits from the eligibility criteria.¹ Currently, applicants for the fee waiver can submit evidence of receipt of means-tested benefits, household income at or below 150% of the Federal Poverty Guidelines, or financial hardship. Oasis Legal Services is deeply concerned by this proposed policy changes and encourages all legal and social services providers for low income immigrants, immigrants, and concerned community members to comment on this proposed policy change. The was published to the Federal Register for public comment on September 28, 2018.² The notice and comment period is available until November 27, 2018. A collection of talking points addressing the irrationality and harmfulness of this proposal is provided below.

Overview of Proposed Change:

“USCIS is proposing to revise [] Form I-912, Request for Fee Waiver, to remove the receipt of means-tested benefits from the eligibility criteria. A means-tested benefit is a public benefit where eligibility for the benefit, the amount of the benefit, or both, is based on an individual’s income level. ... Individuals should use Form I-912 to request a fee waiver for eligible immigration benefit applications and petitions. When requesting a fee waiver, an alien must clearly demonstrate that he or she is unable to pay the fees. ... With the proposed change, an alien may request a fee waiver if the documented annual household income is at or below 150 percent of the Federal Poverty Guidelines (FPG), or if the person can demonstrate financial hardship.”³

USCIS’s Stated Reason for Change:

“Eligibility for [means tested] benefits can vary from state to state, depending on the state’s income level guidelines. As a result, individuals who would not otherwise qualify under the poverty-guideline threshold and financial hardship criteria have been granted fee waivers by USCIS. ...

“Fee revenues support more than 95 percent of the USCIS budget as part of the agency’s work administering the nation’s lawful immigration system. In fact, the total dollar values of fee waivers granted by USCIS have increased substantially in each of the last eight years, which, in effect, increases the fee that must be paid by other individuals seeking benefits. The annual dollar amount of fee waivers granted by USCIS increased from \$344.3 million in fiscal year (FY) 2016 to \$367.9 million in FY 2017.”

Federal Register Information:

<https://www.federalregister.gov/documents/2018/09/28/2018-21101/agency-information-collection-activities-revision-of-a-currently-approved-collection-request-for-fee>

¹ USCIS, “Proposed I-912 Fee Waiver Form Revision,” Last Reviewed/Updated: 09/27/2018, <https://www.uscis.gov/news/alerts/proposed-i-912-fee-waiver-form-revision>.

² USCIS, “Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions,” Federal Register, Published 09/28/2018, <https://www.federalregister.gov/documents/2018/09/28/2018-21101/agency-information-collection-activities-revision-of-a-currently-approved-collection-request-for-fee#addressesc>.

³ USCIS, “Proposed I-912 Fee Waiver Form Revision,” Last Reviewed/Updated: 09/27/2018, <https://www.uscis.gov/news/alerts/proposed-i-912-fee-waiver-form-revision>.



Reasons this Proposal is Harmful and Irrational:

- Proposal will prevent thousands of low-income individuals from accessing their rightful immigration benefits.
 - The I-912 Fee Waiver is available to waive the fee for applications for many lawful immigration benefits, including adjusting to lawful permanent residency, getting replacement documents, filing appeals of decisions, and becoming a citizen.⁴
 - Removal of this evidentiary option will inevitably prevent many immigrants from filing eligible applications.
 - This proposal indicates that USCIS has disdain for the rights and wellbeing of low-income immigrants, which runs contrary to the organization's stated mission of "fairly adjudicating requests for immigration benefits."⁵

- Proposal ignores the reality of disparate costs of living across the United States.
 - The U.S. Department for Health and Human Services only publishes poverty guidelines for the continental 48 states, Hawaii, and Alaska.⁶ This means that the same income cut off is used for all continental states.⁷
 - Means tested benefits use different metrics in different parts of the country because the United States is a diverse country, and the cost of living varies regionally.⁸
 - Social services agencies and state legislators have acknowledged this reality by setting income guidelines for means tested benefits that are relative to the regional and local costs of living.
 - This proposal would ignore this rational and relevant determination in favor of an insufficient national standard that does not take into account the lived experiences of applicants for fee waivers.

- Proposal would significantly increase the time and paperwork required to file an I-912.
 - With only two evidentiary options, applicants are likely to need to pay for additional legal representation and submit additional paperwork.
 - Filing the I-912 on the basis of financial hardship requires applicants to detail their situation, all assets, and all expenses and liabilities, as well as provide documentation for all claims.
 - In the alternative, applying on the basis of a means tested benefit requires the applicant to list and document the benefit received, nothing more.
 - This change will disincentivize legal representatives from taking on cases for the most disadvantaged in our society due to the increased time and paperwork required for filing applications.

⁴ USCIS, "I-912, Request for Fee Waiver," Last Reviewed/Updated: 08/13/2018, <https://www.uscis.gov/i-912> (listing 25 forms and six additional categories of status that are eligible for the I-912 Fee Waiver).

⁵ USCIS, "About Us," Last Reviewed/Updated: 03/06/2018, <https://www.uscis.gov/aboutus>.

⁶ U.S. Department of Health and Human Services, "U.S. FEDERAL POVERTY GUIDELINES USED TO DETERMINE FINANCIAL ELIGIBILITY FOR CERTAIN FEDERAL PROGRAMS," <https://aspe.hhs.gov/poverty-guidelines>.

⁷ USCIS, "Form I-912P Supplement, 2018 HHS Poverty Guidelines for Fee Waiver Request," Last Reviewed/Updated: 07/30/2018, <https://www.uscis.gov/i-912p>.

⁸ See e.g. Michael B. Sauter, "Cost of living: The purchasing power of a dollar in every state," USA Today, Published May 10, 2018, <https://www.usatoday.com/story/money/economy/2018/05/10/cost-of-living-value-of-dollar-in-every-state/34567549/>; CNN Money, "Cost of living: How far will my salary go in another city?" Published January 2018, <https://money.cnn.com/calculator/pf/cost-of-living/index.html>.