

May 3, 2019

SUBMITTED VIA E-MAIL

OMB USCIS Desk Officer
dhsdeskofficer@omb.eop.gov

**RE: Agency USCIS, OMB Control Number 1615-0116 - Public Comment
Opposing Changes to Fee Waiver Eligibility Criteria, Agency Information
Collection Activities: Revision of a Currently Approved Collection: Request
for Fee Waiver FR Doc. 2019-06657 Filed 4-4-19; 84 FR 13687, 13687-13688**

Dear Desk Officer:

I am writing on behalf of UnidosUS in opposition to the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS) proposed changes to fee waiver eligibility criteria, OMB Control Number 1615-0116, published in the Federal Register on April 5, 2019. UnidosUS electronically submitted a comment in advance of the deadline opposing this proposed rule. After reading the USCIS responses to public comments, UnidosUS remains opposed to the revision to stop accepting receipt of a means-tested benefit as evidence that a person qualifies for an application fee waiver and urges USCIS to rescind this proposal.

Since 1968, UnidosUS—formerly known as the National Council of La Raza—has been committed to building a stronger America by creating opportunities for Latinos. In this rich 50-year history, UnidosUS has remained a trusted, nonpartisan voice for Latinos, serving the community through research, policy analysis, and state and national advocacy. UnidosUS works closely with a network of nearly 300 community-based organizations in 37 states, the District of Columbia, and Puerto Rico, to serve our community in a variety of areas including providing citizenship classes for eligible permanent residents. More than 50 UnidosUS Affiliates provide immigration legal services to primarily low-income immigrants, including many who depend on the fee waiver to help with the high cost of USCIS application fees. This revision would drastically impact the clients that UnidosUS Affiliates serve and will place a significant burden on their legal services programs.

UnidosUS has long been concerned about the high fees associated with naturalization and has advocated to keep the cost of naturalization reasonable in the national interest. As noted in its previous comment, UnidosUS remains opposed to the proposal because it would significantly harm the ability of eligible permanent residents to apply for naturalization and it would place a significant burden on legal service providers. The revision would increase the time, expense, and burden on applicants, their representatives, and on USCIS without substantial benefit to USCIS.

Negative Impact on Individuals' Ability to Apply for Benefits for Which They Are Eligible

The revision eliminates an individual's ability to use proof of receipt of means-tested public benefits to demonstrate inability to pay the fee. Receipt of a means-tested benefit is sufficient evidence of inability to pay, which is what 8 C.F.R. § 103.7(c) requires. USCIS fails to provide any evidence that accepting proof of receipt of a means-tested benefit has led the agency to grant fee waivers to individuals who were able to pay the fee. This proof is by far the most common and straightforward way to demonstrate fee waiver eligibility as applicants have already proven current receipt of benefits by providing a copy of the official eligibility letter, or Notice of Action, from the government agency administering the benefit.

USCIS determined, in making these revisions, that the various income levels used in states to grant a means-tested benefit result in inconsistent income levels being used to determine eligibility for a fee waiver. Consequently, a fee waiver may be granted for one person who has a certain level of income in one state but denied for a person with that same income who lives in another state. However, the underlying legal standard for a fee waiver is ability to pay, according to the regulations. Receipt of a means-tested benefit is a straightforward, economical threshold that takes advantage of the work local and state adjudicators have already invested in reviewing records, instead of requiring federal adjudicators to repeat it.

Individuals who have already passed a thorough income eligibility screening by government agencies should not have to prove their eligibility all over again to USCIS. Narrowing the universe of evidence that can be submitted to prove eligibility for a fee waiver will discourage eligible individuals from filing for fee waivers and immigration benefits. By eliminating receipt of a means-tested benefit to show eligibility, the government is adding an additional burden on immigrants who already are facing the economic challenge of paying for application fees. USCIS is taking the indefensible position that it cannot tell which public benefit programs are means-tested and which ones are not. Given that the largest means-tested programs are federal program such as Medicaid or SNAP, this assertion is plainly a pretense for an action that has no real basis in fact. Further, making it more difficult for qualified permanent residents to apply to become U.S. citizens runs counter to the USCIS mission regarding naturalization.

In its comments, USCIS asserts, without any evidence to back up its claim, that individuals can merely "save funds" and apply later if they do not have the funds to apply today. This not only places an emphasis on naturalization being available only for people who can afford it, but it also runs against the national interest. A decrease in the number of people naturalizing would have negative consequences for everyone. When they become U.S. citizens, naturalized Americans increase their earnings by an average of 8 to 11 percent, according to the Center for the Study of Immigrant Integration at the University of Southern California. That increase in earnings grows the tax base and results in growth to the country's Gross Domestic Product.

Negative Impact on Legal Service Providers

The revisions proposed by USCIS will place a time and resource burden on legal service providers and reduce access to legal services. Fee waiver preparation for low-income immigrants can take weeks while the applicant gathers documents and then requires hours of work per application from legal services providers. The fee waiver based on receipt of a means-tested benefit is efficient in that the provider knows which document will be sufficiently probative for USCIS. The other grounds for a fee waiver, financial hardship and a threshold of the poverty income guidelines, are much less clear, and require far more time to gather sufficient documentation.

As stated in its previous public comment, UnidosUS Affiliates report that most of the clients they serve are low income individuals who qualify for an application fee waiver. UnidosUS has already heard from some of its Affiliates that if the revisions were to go into effect, this would significantly increase time spent on each case and result in them being able to see fewer applicants. If immigration legal service providers who are already stretched to their capacity limits are forced to tell people that they will have to wait longer for an appointment or are turned away, they will likely go to a notario or to a well-intentioned, but unqualified person for assistance. This runs counter to USCIS work to combat immigration scams and to encourage immigrants to go to qualified immigration legal service providers.

Conclusion

USCIS claims the proposed changes will standardize the process of requesting a fee waiver. Instead, the proposed changes will slow down an already overburdened system, delaying and denying access to immigration benefits or naturalization for otherwise eligible immigrants. The government estimates that the total number of responses for Form I-912 is approximately 350,000. With nearly 6 million pending cases as of March 31, 2018, DHS has conceded that USCIS lacks the resources to timely process its existing workload. These operational demands would be levied upon an agency that already suffers profound capacity shortfalls.

UnidosUS strongly opposes the Department's plan to stop accepting receipt of a means-tested benefit as evidence that a person qualifies for an application fee waiver. We are gravely concerned that the proposed rule threatens the ability of immigrants to apply for a fee waiver that they are eligible to receive and therefore impedes them from applying for naturalization. A reduction in naturalization rates would cause all Americans to lose the economic and social benefits of naturalization. We urge the Department to abandon this revision.

Sincerely,

Laura Vazquez
Senior Program Manager, Immigration Initiatives
UnidosUS