

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE FIFTEENTH JUDICIAL DISTRICT

FILED

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IN THE MATTER OF REQUESTS)
TO DEFER OR WAIVE COURT)
FEES AND COURT COSTS AND)
ENTERING JUDGMENTS IF FEES)
AND COURT COSTS ARE DEFERRED)

General Order
COURT CLERK
COQUILLE, OREGON

No. 10-05

This Matter Coming Before the Court on its Own Motion:

Whereas ORS 21.682(2) allows a judge to waive or defer all or part of fees and costs payable to the court by a party in a civil action or proceeding, if the judge finds that the party is unable to pay all or any part of the fees and costs.

Whereas ORS 21.682(2) allows a presiding judge to delegate the authority to waive or defer fees and court costs to the court administrator if the delegation is made in writing and provides clear standards.

Whereas Chief Justice Order 10-045, pursuant to ORS 21.682(4), establishes standards and practices for fee waivers and deferrals, effective October 1, 2010.

IT IS THEREBY ORDERED that, effective October 1, 2010 authority to waive or defer fees and court costs, which are payable to the court, in a civil action or proceeding, are delegated to the court administrator and that pursuant to ORS 8.225(4) the court administrator may delegate these duties to court staff:

1. Application:

To be eligible for deferral or waiver of fees and court costs, which are payable to the court, an applicant must do the following:

- a) File an application that lists the type of benefits received and show proof of current benefit eligibility, if an applicant receives any of the following benefits:
 - I. Food stamps (SNAP – Supplemental Nutrition Assistance Program).
 - II. Temporary Assistance to Needy Families (TANF)
 - III. Supplemental Security Income (SSI)
 - IV. The following Oregon Health Plan (OHP) benefit packages:
 - OHP Plus,
 - OHP Standard, or

- OHP with limited drug.
- b) File a declaration that describes the applicant's household size, household income, assets and expenses as well as any extenuating circumstances an applicant wishes the court to consider.
- c) A court may not consider available credit on a credit card as an asset or source of income in its evaluation.

2. Eligibility:

These standards apply to all requests filed in the Fifteenth Judicial District (Coos & Curry) to defer or waive civil fees and court costs which are payable to the court.

The court shall consider the following when determining whether to grant a deferral or waiver of fees and court costs which are payable to the court.

- a) Whether the applicant receives benefits from a government program whose eligibility criteria account for the applicant's household income assets, and size;
- b) Whether the applicant's income from all sources is less than or equal to 133 percent of the federal poverty guidelines; and
- c) Whether the applicant provides proof of current eligibility for one or more of the benefit programs listed in subsection 1.a. of this order.

3. Court Actions:

- a) Except as provided in subsection b. below, after considering the applicant's household size, the clerks will take one of the following actions:
 - I. Waiver Presumption: Waive fees and court costs, which are payable to the court, if the applicant's household income from all sources, including food stamps, is less than or equal to 133 percent of the federal poverty guidelines.
 - II. Deferral Presumption: Defer fees and court costs, which are payable to the court, if the applicant's household income from all sources, including food stamps, is between 133 and 185 percent of the federal poverty guidelines.
 - III. Denial Presumption: Deny a request to defer or waive fees and court costs, which are payable to the court, if the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.
 - IV. I, II, and III above are presumptions because they do not take into account assets and other factors relevant to the applicant's ability to pay. If the applicant identifies liquid assets (cash/savings) of \$500.00 or more or extraordinary expenses (medical expenses/prescriptions) over \$500.00 the court clerk shall forward the request to the TCA or Judge in Coos or a Judge in Curry for a review.

V. The Federal Poverty Guidelines are the current-year poverty guidelines established by the U.S. Department of Health and Human Services. The State Court Administrators Office will annually provide the Federal Poverty Guidelines to the courts. The following documents, attached, will be provided by the court free of charge to all individuals seeking a fee waiver or deferral. The court will also post these documents to the court's website (<http://www.courts.oregon.gov/Coos> or <http://www.courts.oregon.gov/Curry>):

- Application for Deferral or Waiver of Fees: All applicants must complete and sign this document. **Please note this is a generic statewide form – the Sheriff's Service Fee is not paid to the court and therefore the fee is not eligible to be deferred or waived pursuant to ORS 21.682(1).** Incomplete or missing information could result in request being denied.
- Declaration for Deferral or Waiver of Fees: All applicants must complete and sign this form. Incomplete or missing information could result in request being denied.
- Order Regarding Deferral or Waiver of Fees: Pursuant to this Order the clerk will complete and sign the order. The clerk, on his/her own motion or at the request of the applicant, may refer the Order to the TCA or Judge for review. **Please note this is a generic statewide form – at the time the fee is deferred in Coos or Curry County the clerk will prepare a judgment and payment plan for the applicant.**
- Judgment: If Judgment for Deferred Fees is not paid in 30 days, collection costs will be added without further notice to the party. When paid in full the clerk shall note the fact in the judgment lien record and change the judgment status to "satisfied".

4. Definitions:

As used in this order:

- a) "Deferral" means establishing a schedule to pay fees and court costs.
- b) "Household" means a person or group of people occupying a common dwelling and sharing necessary living expenses.
- c) "Federal Poverty Guidelines" means the current-year poverty guidelines established annually by the U.S. Department of Health and Human Services.
- d) "Judge" means a judge of a circuit court.
- e) "Court" means a circuit court.

IT IS FURTHER ORDERED that these procedures do not apply to a request for waiver or deferral of fees and costs filed by an inmate subject to the provisions of ORS 30.642 to 30.650.

This Order is effective October, 1, 2010 and supersedes General Order 07-04.

It is so ordered this 24th day of September, 2010.



Richard L. Barron, Presiding Judge
Fifteenth Judicial District