In the Matter of Deferral or Waiver of Fees and Court Costs in Civil Actions or Proceedings Pursuant to ORS 21.682	)	CHIEF JUSTICE ORDER No.10-045
	)	ORDER ESTABLISHING STANDARDS AND PRACTICES FOR FEE DEFERRALS AND WAIVERS IN CIVIL ACTIONS AND PROCEEDINGS PURSUANT TO ORS 21.682; SUPERSEDES CJO 07-056

Pursuant to my authority under ORS 1.002 and ORS 21.682, I hereby promulgate these standards and practices for state courts to consider for all requests to defer or waive fees and court costs:

The court may grant a temporary deferral of a filing fee and court costs on an individual fee basis postponing a final determination on the application for a waiver until the conclusion of the case, or require a new application for deferral or waiver upon conclusion of the case.

1. Application

   To be eligible for deferral or waiver of fees and court costs 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:
         1. OHP Plus,
         2. OHP Standard, or
         3. 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 a state court to defer or waive civil fees and court costs.

   The court shall consider the following when determining whether to grant a deferral or waiver of fees and court costs:

   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 court will take one of the following actions:

      i. Waive fees and court costs 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. Defer fees and court costs if the applicant's household income from all sources, including food stamps, is between 133 and 185 percent of the federal poverty guidelines.

      iii. Deny a request to defer or waive fees and court costs if the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.

   b. Instead of taking one of the actions established by subsection a. above, after considering the applicant's entire financial situation, a judge may instead determine that no relief or an alternative form of relief is warranted for the individual circumstances presented.

4. Other

   a. The model forms and instructions for courts to use to implement this Order are attached.

   b. The presiding judge of the court may issue a written delegation of authority to the court administrator and court clerks to defer or waive in accordance with ORS 21.682(2) and consistent with the standards of this Order.

   c. This Order does not apply to an application filed by an inmate subject to the provisions of ORS 30.642 to 30.650.

5. Definitions

   As used in this Order:

   a. "Deferral" means either postponing an obligation to pay fees and court costs or 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 annually established by the U.S. Department of Health and Human Services.
   d. "Judge" means the Chief Justice of the Supreme Court, the Chief Judge of the Oregon Court of Appeals, a judge of a circuit court, the judge of the Oregon Tax Court, and a tax court magistrate.
   e. "Court" means the Oregon Supreme Court, the Oregon Court of Appeals, a circuit court, and the Oregon Tax Court (Regular and Magistrate Divisions).

This Order is effective October 1, 2010, and supersedes CJO-07-056.

DATED this 26th day of August, 2010.

Paul J. De Muniz
Chief Justice