

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE FIFTEENTH JUDICIAL DISTRICT

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

General Order

No. 07-04

This Matter Coming Before the Court on its Own Motion:

Whereas ORS 21.682(2) (chapter 493, Oregon Laws 2007) 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) (chapter 493, Oregon Laws 2007) 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 07-056, pursuant to ORS 21.682(4), establishes standards and practices for fee waivers and deferrals, effective January 1, 2008.

**IT IS THEREBY ORDERED** that, effective January 1, 2008, authority to waive or defer fees and court costs, including the sheriff's service fee<sup>i</sup>, 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.

**IT IS FURTHER ORDERED** that, effective January 1, 2008, the following standards must be followed by the court administrator and court staff on all requests filed with the court to waive or defer fees and court costs:

- 1. Mandatory waiver.** A waiver of fees and court costs must be granted when the applicant, who has completed the Application form (copy attached), receives benefits from certain government programs, the applicants income is less than or equal to 133 percent of the federal poverty guidelines (copy attached), and the applicant provides proof of current eligibility for one or more of the benefit programs. The following benefit programs qualify for a mandatory waiver: food stamps, TANF, SSI, OHP Plus, OHP Standard, and OHP with limited drug. Applicants who fall into the mandatory waiver category do not need to complete the Declaration form (copy attached). The court clerk shall consider the following documentation to determine eligibility for a fee waiver:

- Verification of Food Stamps
- Verification of Temporary Assistance to Needy Families (TANF)
- Verification of SSI (SSI computer-generated printout or bank statement showing SSI deposit

- Current Oregon Health Plan card
2. **Waiver presumption.** A waiver of fees and court costs is presumed to be appropriate when, after taking into account the applicant's household size, the applicant's income from all sources, including food stamps, is less than or equal to 133 percent of the federal poverty guidelines (copy attached).
  3. **Deferral presumption.** A deferral of fees and court costs is presumed to be appropriate when, after taking into account the applicant's household size, the applicant's income from all sources, including food stamps, is between 133 and 185 percent of the federal poverty guidelines.
  4. **Denial presumption.** A denial of a deferral or waiver request is presumed to be appropriate when, after taking into account the applicant's household size, the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.
  5. **Judicial Discretion.** Categories 2, 3, and 4 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 expense/prescriptions) over \$500 the court clerk shall forward the request to a Judge for further review. (Pursuant to Chief Justice Order 07-056 the court may not consider available credit as an asset or source of income.)
  6. **Paperwork.** The attached 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 shall also post these documents on the court's website:
    - **Application.** All applicants must complete and sign this document. The applicant must specify the fees he or she is requesting the court to waive or defer. If the applicant is requesting waiver or deferral based on eligibility for benefit programs, the applicant must identify the type of benefits received and show the court proof of current eligibility.
    - **Declaration.** If the applicant does not receive or is unable to show proof of current eligibility for the listed benefit programs, the applicant must complete the Declaration. The Declaration shows the applicants household size, household income, and assets, and provides an opportunity for the applicant to explain any extenuating circumstances. By law, the clerk must keep the personal financial information in the Declaration confidential and not subject to public inspection. (This will be done by the clerk placing the Declaration in a sealed envelope marked confidential inside the court file on the right hand side.)

The following forms are to be filled in by the clerk and, where indicated, submitted to the TCA in Coquille and the supervisor in North Bend or Gold Beach for signature:

- **Recommendation and Order.** The clerk will fill out the recommendation portion of the form documenting the clerk's recommendation and then complete the order portion of the form and then sign it. If the clerk has any questions about eligibility, that do not fall within the guidelines outlined under Judicial Discretion, the clerk shall consult with the TCA, a supervisor in North Bend or Gold Beach, or, in their absence, a judge prior to completing the form.
- **Judgment.** If fees are deferred the judgment form will be completed by the clerk and submitted to the TCA in Coquille or to the supervisors in North Bend and Gold Beach for their signature. (In the absence of the TCA or supervisor the Recommendation and Order should be forwarded to a judge for signature.) Once the signed Judgment is returned to the clerk the clerk will enter the Judgment and create a judgment lien. When paid in full the clerk shall note that fact in the judgment lien record and change the judgment status to "satisfied".

**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.

It is so ordered this \_\_\_\_\_ day of December, 2007

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Richard L. Barron, Presiding Judge  
Fifteenth Judicial District

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<sup>i</sup> The forms include provisions relating to waiver or deferral of the sheriff's service fee. In *Burgess v Holstedt*, 156 Or App 436, 965 P2d 473 (1998), the Court of Appeals held that the sheriff's service fee is a "fee" within the meaning of ORS 21.605 that a circuit court has the authority to waive or defer. The Court also held that it is an abuse of discretion for a court to waive or defer other fees and costs at the request of an indigent person but to deny waiver or deferral of the sheriff's service fee.

