FEE WAIVERS
FOR NATURALIZATION:
ELIGIBILITY,
WORKSHOP ISSUES,
PROBLEM AREAS

April 3, 2014

Presenters

• Laura Burdick, Field Support Coordinator, CLINIC, Silver Spring, MD
• Daniel Sharp, Legal Director, CARECEN LA, Los Angeles, CA
• Debbie Smith, Senior Attorney, CLINIC, Oakland, CA

Agenda

• Fee waiver eligibility in naturalization
  – Regulation and form
  – Criteria
  – Documentation
• Tips for applying
• Incorporating fee waivers into workshops
• Advocacy and problem areas
• Resources
Fee Waivers

• Allowed under 8 C.F.R. § 103.7(c)
• Based on inability to pay the fee
  – Household income
  – Means-tested benefit
  – Poverty guidelines
• Form I-912 – recommended not required
• Standardized form implemented November 2010

Eligibility

USCIS will look at three criteria to determine if applicant is unable to pay the fee:

1) Public Benefits. Whether applicant is currently receiving a federal or state “means-tested benefit”

2) Low Income. Whether annual household income is at or below 150% of the federal poverty level, at http://aspe.hhs.gov/poverty

Eligibility, cont’d

3) Financial Hardship. Whether applicant is facing recent unemployment, high medical expenses, etc.

“Each fee waiver request is unique and should be considered on its own merits.”
Application Process

- File I-912 with supporting documentation
- USCIS’ stated goal is to adjudicate requests within 5 days of receipt
- If approved, will receive receipt for underlying application
- If denied, entire application will be returned with denial letter stating reasons
- No appeal, but can reapply with additional information if denied
- Current approval rate for fee waivers (overall): 75%

What Should Margarita Do?

- Margarita, a LPR for 10 ten years, filed for naturalization and a fee waiver. She submitted a copy of the WIC notification letter she received in Spanish along with the Form I-912. She received a denial without a statement of the reason for the denial. What should Margarita do?

Documentation of Means-Tested Benefit

- Evidence to demonstrate current receipt of benefits
  - Recent notice from agency issuing benefit with recipient’s name and type of benefit
  - SSA issues various benefits – not all means-tested
  - Notice from agency – is it clear which benefit applicant receives
  - Notice in Spanish
    - Translate relevant portion
    - Create translation templates
Means-Tested Benefit and Family Members

- Household member receipt of benefit makes family members eligible
  - Spouse of applicant
  - Unmarried children under 21 living with parent
  - Parents/other family members of child or grandchild
  - Adult child of elderly SSI recipient
  - Document relationship

What Should Gina Do?

- Gina, a divorced LPR who lives with her two daughters. Although Gina works, her salary is low and her daughters receive Medicaid. Gina applied for naturalization and submitted a fee waiver with proof that her daughters receive Medicaid. Her fee waiver request was denied. What should Gina do?

Means-Tested Benefit Tips

- Don’t include income or financial hardship
- Keep it simple
- Fee waiver eligible becomes part of A file
- Not eligible while outside U.S.
Documentation of Income

• Many examples in the I-912 instructions:
  – Federal tax returns, W-2s, pay check stubs, employment contract, letter from employer, IRS transcripts, alimony received, scholarships, Social Security, etc.
  – Include most recent tax return

What Should Alex Do?

• Alex has been an LPR for 15 years and lives under a freeway overpass in Los Angeles. He does not work but frequently receives services from agencies and food pantries. He wants to apply for naturalization and a fee waiver. What documentation should he include?

Documentation of Hardship

– Evidence of types and amounts of expenses, i.e. rent, mortgage, food, utilities, child care, debt payments, medical expenses, tuition
– If no evidence of income, then can use affidavits from churches and other community-based organizations providing assistance

Note: Request may be approved in absence of documentation if sufficiently detailed
Manage Client Expectations

• Correct myths about public benefits and naturalization
  – Understand difference between public charge ground of inadmissibility and deportability
• Educate prospective applicants
  – Use USCIS memos, etc.

General Tips for Applying for Fee Waiver

• Use Form I-912
• Do not send fee
• Put “FEE WAIVER REQUEST ENCLOSED”
• Keep it simple (one criteria)
• Answer all applicable questions
• If benefit is not well-known, include info from DSS website

What Should Erin Do?

• Erin has been an LPR for 7 years and works as a cook at a diner in Boston. She is single, lives on her own, and earns 130% of the poverty guidelines. Her recent application for naturalization with a fee waiver was denied. The denial stated that Erin did not demonstrate that her income was at or below 150% of the poverty guidelines. What should Erin do?
Tips: Documentation

- Present it in the order referenced in the application and number pages
- Label document if needed
- Circle key info (i.e. name and amount) on each document for easy reference
- Make sure numbers/math are correct
- Make sure info. is consistent
- Make sure info. is sufficiently detailed

Fee Waivers at Workshops

- For mid-size workshops
- Have a dedicated station after registration
- Staff with trained volunteers
- Create a checklist of documents needed
- Fee waiver gets reviewed at quality control
- Limit to public benefits and low income
- Refer hardship or problem cases to office
- Partner with DSS
- Pros and cons of advertising

Recent Advocacy with USCIS HQ

- Problems seen in CLINIC’s network
- Patterns of denials
- Efforts to resolve problems
- Latest news
- Remaining issues
  - Getting evidence of public benefits
  - Household size calculation
  - Boilerplate denial letters
  - Form instructions re roommate
Advocacy Tips for Service Providers

- Work with local DSS office if needed, and State Refugee Coordinator
- Re-send denied application to “Attn. Supervisor”
- Send denied case information to lockboxsupport@dhs.gov
- Contact Ombudsman’s Office, margaret.gleason@dhs.gov
- Contact your national network

Resources

- List of state benefits http://www.benefits.gov/benefits/browse-by-state

Questions?

8757 Georgia Avenue
Suite 850
Silver Spring, MD 20910
301-565-4800
national@cliniclegal.org

twitter.com/cliniclegal
facebook.com/cliniclegal

national@cliniclegal.org