

March 21, 2007

Director, Regulatory Management Division  
US Citizenship and Immigration Services  
Department of Homeland Security  
111 Massachusetts Ave. NW, 3<sup>rd</sup> floor  
Washington DC 20529.

**RE: DHS Docket # USCIS-2006-0044**

**Proposed rule— Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule**

On behalf of my law office I am writing to strongly oppose the increase to immigration and naturalization fees, the elimination of VAWA self-petitioning fees, and changes to the fee waiver system that US Citizenship and Immigration Services (USCIS) proposed on February 1, 2007.

I have been in the practice of immigration law for close to twenty-five years. The firm represents predominantly lower middle income and lower income clients.

**Eliminating Fees for VAWA Self-petitioners**

While we work with immigrant survivors of domestic violence and other crimes, we oppose eliminating the self-petition fee, particularly in relationship to eliminating fee waivers as an option outside of the self-petitioning context.

First of all, many victims of domestic violence gain status outside of the self-petitioning context, including through family-based immigration and employment. Further, self-petitioners who separate from their abusers find protection in families and communities that will be harmed by the general fee increases, which in turn harms self-petitioners. Finally, some of our self-petitioners can afford to pay the fees. Since USCIS argues that it needs fees to ensure efficient adjudication, self-petitioners who can afford to pay the fees should do so. Those that cannot should be able to request a fee waiver.

**Fair Fee and Waiver Structure**

What self-petitioners need, like other immigrants, are a fee structure and a generous fee waiver system that reflect their financial reality. These principles should apply not just to self-petitioning, but to fees for work authorization, adjustment of status and other matters associated with obtaining self-petitioning status and permanent residence. This is how the current system works, and it works well for self-petitioners. Eliminating or restricting access to fee waivers for all related applications will undermine Congress' goal to protect and provide secure status to immigrant survivors of domestic violence and other crimes.

USCIS' suggestion that public charge concerns make fee waivers inappropriate for those seeking adjustment of status is inaccurate. Congress didn't just

mandate access to self-petitioning for domestic violence survivors, it also smoothed the path to lawful permanent residence, including relaxing public charge considerations at the adjustment phase. Self-petitioners, those seeking special immigrant juvenile status, U and T visa applicants, asylees and others may be able to overcome public charge concerns even if they obtain fee waivers.

USCIS also argues that regular family-based petitioners should be ineligible for fee waivers because they must submit affidavits of support. Given the visa quota system and processing backlogs, many regular family-based immigrant applicants who need fee waivers at the initial phase may be able to overcome public charge concerns by the time USCIS adjudicates their adjustment applications. This approach, in fact, comports with USCIS own instructions on considering public charge as a prospective test.

Applicant choice, not inaccurate USCIS assumptions, should determine access to the fee waiver system. USCIS should retain the existing fee waiver system, not restrict it.

### **Do Not Erect a Financial Fence to Regularizing Status**

Many immigrants already struggle to pay immigration fees. The proposed increases in these fees, sometimes double the current fee, will create a financial fence to legalizing thousands of immigrants. Drastically enhanced fees, coupled with restrictions on fee waivers, will force many hard-working immigrants into undocumented status. These otherwise-eligible immigrants will become more vulnerable to exploitation and crime victimization and less able to contribute to our communities and formal economy. This result confounds attempts at immigration reform by forcing people to become undocumented instead of encouraging them to gain secure legal status.

USCIS should wait to see what Congress enacts in the coming year before suggesting new fees. The new law may create a new stream of money. Moreover, USCIS should not rely solely on fees to support its operations. It should ask Congress for direct support instead, which Congress has provided in the past.

For all these reasons, the proposal to increase immigration fees and change the current fee waiver system is imprudent and ineffective in accomplishing the goals the DHS. We urge USCIS to reconsider this proposal, to retain the existing fee waiver system and fees for VAWA self-petitioners, and to seek other sources of funding for its operations, rather than shift the burden to selected groups of immigrants. Thank you for your consideration.

Sincerely,

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