

National Network to End Violence Against Immigrant Women

Co-Chaired by the following organizations

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March 28, 2007

Director, Regulatory Management Division
US Citizenship and Immigration Services
Department of Homeland Security
111 Massachusetts Ave. NW, 3rd 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 the National Network to End Violence Against Immigrant Women, we are writing to strongly oppose the proposed increases for immigration and naturalization fees, the elimination of VAWA self-petitioning fees, and changes to the fee waiver system as proposed by the US Citizenship and Immigration Services (USCIS) on February 1, 2007.

The National Network to End Violence Against Immigrant Women is comprised of over 3,000 professionals nationwide including police, sheriffs, district attorneys, probation officers, prosecutors, health providers, churches, rape crisis centers, domestic violence shelters, mental health professionals, child protective services workers, and immigrant rights' groups. The Network's members are all joined by a common purpose -- working towards the eradication of all forms of violence perpetrated against immigrant women and children including domestic abuse, sexual assault, human trafficking, and stalking.

Eliminating Fees for VAWA Self-petitioners

The National Network has worked with Congress since 1994 to craft special routes to status for noncitizen survivors of domestic violence and sexual assault.

The VAWA self-petitioning provisions and the U visa are two notable products of our efforts. As the authors of these provisions, we strongly object to the proposed elimination of fees for VAWA self-petitioners. We did not request this fee elimination and we believe it will be more harmful than helpful to self-petitioners.

We certainly do not support raising other fees to compensate for the elimination of VAWA fees. We have always opposed “fixes” for survivors of violence that harm other immigrants, not only for philosophical reasons, but also because immigrant survivors of violence do not live in a vacuum. Many of them may have separated from their abusers and live in families and communities that will be harmed by the general fee increases. This, in turn, harms domestic violence survivors.

Self-petitioning is not the only route to status Congress contemplated for survivors of violence; the battery or extreme cruelty waiver to conditional residence, the U visa, and the special access to work authorization for dependents of certain nonimmigrants are examples of other special options Congress has created. Victims of domestic violence must be able to pursue the avenues to status that are safest for them, which may not be completely outside the special options for violence victims.

Some self-petitioners can afford to pay the fees, so providing an exception for only this category makes no sense. 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, as should all otherwise eligible applicants for secure status.

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, promoting safety as well as fairness. 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 their 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.

USCIS should retain the existing fee waiver system, not restrict it. Giving applicants the choice to pay the fees or seek fee waivers is the best way to promote victim safety and ensure eligible immigrants participate fully in our society.

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. 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.

On behalf of the National Network to End Violence Against Immigrant Women

Gail Pendleton

Joanne Lin

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/s/ Gail Pendleton

/s/ Joanne Lin

/s/ Leni Marin

Asista Immigration
Assistance

Legal Momentum
Immigrant Women's Project

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