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- International Counseling & Community Services
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- Refugee & Immigrant Children's Program
- South Everett Neighborhood Center



April 2, 2007

Mr. Richard A. Sloan Director
Regulatory Management Division
U.S. Citizenship and Immigration Services
Department of Homeland Security
111 Massachusetts Avenue, N.W., 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

Dear Mr. Sloan:

Lutheran Community Services Northwest, a non-profit social service agency, is deeply concerned about the impact that the proposed fee increases by the U.S. Citizenship and Immigration Services (USCIS) will have on the unaccompanied minors we serve through the Unaccompanied Refugee Minor (URM) foster care program. At Lutheran Community Services Northwest we work with unaccompanied asylees, refugees, child victims of human trafficking, and special immigrant juveniles. We are deeply concerned about the significant obstacle to reaching a place of stability and permanency the recently proposed increases will create for the children we serve.

In Section IX: Proposed Fee Adjustments, USCIS is proposing a fee of \$905 for an I-485 adjustment of status application, representing an increase of \$580 from the current fee of \$325. This proposed fee will prevent many asylees and child trafficking victims from being able to apply for legal permanent residence, which will delay their eligibility to naturalize as U.S. Citizens. Currently, many asylee minors have considerable trouble paying the current \$325 fee and will either wait to adjust, sometimes years after they are eligible, or request a fee waiver. Under this USCIS proposal, however, not only is the application fee undergoing a 178% increase, USCIS is proposing to categorically eliminate the availability of fee waivers for all I-485 adjustment of status applications, even for unaccompanied minors. The only population that is able to avoid the damaging consequences of these increase are the refugees adjusting status under INA §209(a) who will continue to be automatically exempt from the paying the I-485 application fee.

In Section XI: fee waivers of the proposed rule, USCIS argues that because the likelihood of becoming a public charge is a ground of inadmissibility under INA §212(a)(4), allowing for a fee waiver for an adjustment application is inconsistent with the requirements of the benefit sought. When the applicant for permanent residence is an asylee or trafficking victim this rationale is inconsistent with USCIS's mandate in INA §286(m) to offset the fee burden of "similar services provided without charge to asylum applicants or other immigrants." Similar to refugees, asylees and trafficking victims are eligible for public assistance by virtue of their status, which includes eligibility into URM foster care. According to 8 C.F.R. §209.2(a)(1)(v), the public charge ground of inadmissibility does not apply to asylees adjusting status. For an asylee or trafficking victim, seeking a need-based waiver for an I-485 application is entirely consistent with the historical treatment of the population. The current policy is mindful of the desperate circumstances that force asylum seekers to flee their homes and the dire financial

Lutheran Community Services Northwest partners with individuals, families and communities for health, justice and hope.

situation an asylee may face during the early stages of his/her new life in the United States. The I-485 fee must also take this reality into consideration and, at least, provide waivers for those who most need the assistance.

Lutheran Community Services Northwest thanks USCIS for continuing to exempt refugees adjusting their status under INA §209(a) from paying the I-485 adjustment of status application fee, and for recognizing the hardship suffered by trafficking victims by deciding to eliminate the \$270 fee for an I-914 Application for T Nonimmigrant Status. However, this does not alleviate the extraordinary burden that the proposed adjustment fees will impose upon asylee and trafficked children seeing to adjust status. Therefore, Lutheran Community Services Northwest recommends that USCIS reevaluate the fee structure; especially the extraordinary increase, and institute a fee policy which is consistent, reasonable and affordable for asylee minors and child victims of trafficking applying for adjustment of status. Lutheran Community Services Northwest especially encourages USCIS to maintain an accessible and clear fee waiver policy, particularly for those populations, such as asylees or trafficking victims, who receive public benefits by virtue of their status and/or are otherwise exempt from the public charge ground of inadmissibility. For example, since asylees and trafficking victims are in similar compelling circumstances as refugees, they should receive the same automatic exemption from paying adjustment fees as refugees.

USCIS-proposed fee increases will be particularly harmful to one of the most vulnerable of immigrant populations: special immigrant juveniles, who are undocumented minors who have been determined to be eligible for long term foster care based on abuse, neglect, or abandonment. In order to obtain this benefit, an SIJS applicant must file a Form I-360 self-petition, approval of which makes the minor immediately eligible to adjust status by filing a Form I-485.

In Section IX: Proposed Fee Adjustments, Table 12: Current and Proposed Fees, USCIS outlines the comparative costs of different benefit applications. Currently an I-360 self-petition costs the child applicant \$190 and the I-485 costs \$325, a total of \$515, though a minor may request a fee waiver for either the I-360 or I-485 if they are unable to afford this expense. Under the new USCIS proposal, the fee for the I-360 increases from \$190 to \$375 and the fee for the I-485 increases from \$325 to \$905, for a total of \$1280 for the two-step process. Besides these increases, the proposed elimination of fee waivers for these petitions is an additional burdensome obstacle to receiving the protection of the United States. Vulnerable minors will be left with no options if they are unable to pay these dramatically higher fees.

SIJS applicants are foster children who rarely have work authorization prior to filing the I-485 petition; they are unable to legally work, provide for themselves, or earn the money necessary to apply to USCIS for immigration relief. These are minors with no financial resources. Also by definition, SIJS applicants can "age-out" of eligibility for failure to adjust prior to their 21st birthday, regardless of the merits of the underlying claim. An increase in fees that makes it too difficult to obtain SIJS may actually make it impossible for the individual to obtain any future immigration status.

Lutheran Community Services Northwest recommends that in addition to automatically exempting VAWA self-petitioners (abused spouses, parents or children of a U.S. citizen or LPR) from paying the \$375 I-360 fee, USCIS should also automatically waive the I-360 fee for special immigrant juveniles. Lutheran Community Services Northwest encourages USCIS to set

all adjustment of status fees at a more reasonable level. In particular, Lutheran Community Services Northwest would like USCIS to maintain a fee waiver policy that considers the hardships suffered by one of our most vulnerable immigrant populations: abandoned, abused or neglected children.

In conclusion, Lutheran Community Services Northwest urges USCIS to reconsider the proposed fee increase's impact on refugees and asylees. We ask that USCIS work with members of Congress to help resolve the disparity in adjudication costs versus revenues collected. USCIS must create an alternative and permanent funding stream that will support its operations. Seeking appropriations from Congress that supplement what USCIS collects in fees is the only realistic way for USCIS to operate effectively without imposing undue hardship upon individuals seeking to access immigration benefits. It also helps to assure that vulnerable individuals are not marginalized but are integrated into U.S. communities, achieving a good outcome for the individuals and a common good for the greater community. Lutheran Community Services Northwest supports the efforts of USCIS in modernizing its infrastructure, reducing backlogs and adjudication times, and ensuring that all security background checks are completed accurately and efficiently. Nevertheless, we do not believe the expenses should not be passed off onto USCIS customers alone. Lutheran Community Services Northwest hopes that USCIS will work with immigrant communities and with Congress to develop a functioning, effective immigration system that will benefit our country.

Thank you for hearing our concerns.

Sincerely,



Roberta Nestaas
President/CEO
Lutheran Community Services