



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner
Director

MEMORANDUM

DATE: February 13, 2019

TO: Judges
County Clerks

cc: Court Administrators
Probate Registers

FROM: Stephanie Beyersdorf, Management Analyst

RE: Technical Amendments to MCR 2.002 Waiver of Fees for Indigent Persons

On December 3, 2018, the Michigan Supreme Court adopted amendments to MCR 2.002.¹ These amendments were effective January 1, 2019, and changed how fee waiver requests are processed and decided in Michigan courts. The Court adopted technical amendments on January 23, 2019,² to clarify the amendments adopted in December 2018. The amendments provide instruction for the court clerk if fees cannot be waived based on the information provided by the filer under MCR 2.002(C) or (D). It also clarifies the definition of the federal poverty guidelines and the nonpublic status of the fee waiver request and order.

Automatic Fee Waiver by Court Clerk and Judicial Review

The rule requires that the clerk of the court or any deputy clerk waive the filing fees if the individual is a recipient of a means-tested public assistance program or represented by a legal services program or law school clinic that provides services on the basis of indigence. The clerk must date and sign the fee waiver request form (MC 20) if the filer has completed the public assistance or legal services section of the form. MCR 2.002(E) adds a provision for the clerk to immediately forward the waiver request to the appropriate judge for judicial review if the clerk is unable to waive the fees.

Fee Waiver Based on Other Indigence

MCR 2.002(F) maintains the waiver of fees based on indigence. If an individual does not receive public assistance but requests a fee waiver because he or she is otherwise indigent, a judge must determine if the person meets the criteria prescribed. Filing fees must be waived if the individual's income is below 125% of the federal poverty guidelines³ or if payment of the fees would constitute a financial hardship.

¹ [Administrative Order 2002-37/2018-20](#) Amendment of MCR 2.002 entered December 3, 2018

² [Administrative Order 2002-37/2018-20](#) Amendment of MCR 2.002 entered January 23, 2019

³ The US Department of Health and Human Services utilizes the poverty guidelines for administrative purposes, including determining financial eligibility for certain federal programs. <https://aspe.hhs.gov/poverty-guidelines>.

Order Regarding a Request to Waive Fees

Language was added under MCR 2.002(G) to provide that the judge enters an order granting or denying the request to waive fees for requests made in accordance with MCR 2.002(E) or (F). The court does not need to enter an order granting the waiver if the court clerk waives fees under MCR 2.002(C) or (D).

Denial of Fee Waiver Request and Filing Date

If a fee waiver request is denied, the clerk must send a notice regarding the denial. The filer has 14 days from the date of the notice denying the waiver to pay the filing fee or request a de novo review. The filing will be rejected if the filer does not pay the filing fee or request a review within the 14 days. The original filing date of the documents and fee waiver request with the court is preserved if the individual pays the filing fee timely or the fee waiver is granted after a de novo review.

Nonpublic Status of Fee Waiver Requests

The rule amendments also clarify that MC 20 is nonpublic in its entirety. This includes the request and information submitted on the form by the filer, the clerk waiver if applicable, and the order if entered by the court. The clerk enters the waiver into the case history, or register of actions (ROA). The filer must still serve a copy of the form, waiver, and order on any opposing parties in the case.

Reinstatement of Requirement to Pay Fees

Under MCR 2.002(J), the court may reinstate fees on its own initiative upon a finding of fact or if the individual notifies the court that the reason for the fee waiver no longer exists. Courts may follow their current processes for the reinstatement of fees through the entry of an order to that effect or through some other method.

Fee Waiver Request (SCAO-Approved Form [MC 20](#))

SCAO-approved form MC 20 has been revised to reflect the both the December substantive amendments and the January technical amendments to MCR 2.002. The order section of MC 20 is amended to reflect the change from the federal poverty threshold levels to the federal poverty guidelines and includes language for the court if fees are waived based on financial hardship. The order has been expanded to notify the filer that he or she must notify the court if he or she is able to pay the fees before adjudication.

Notice of Denied Fee Waiver and Request for De Novo Review (SCAO-Approved Form [MC 114](#))

SCAO-approved form MC 114 is designed for court clerks to provide notice of denied fee waivers and for individuals to request a de novo review under MCR 2.002(G)(2). Language has been added to explain that the filer's request was denied by the judge and the filer has 14 days from date of the notice to complete the form and return it to the court. A writing space for the issue date has been added to MC 114 to comply with the rule.

If you have questions regarding procedure, please contact me at TrialCourtServices@courts.mi.gov or 517-373-0122. If you have questions regarding forms, please contact Matthew Walker at TrialCourtServices@courts.mi.gov or 517-373-2217.