

37th Judicial Circuit of Michigan
Caseflow Management Directive

RE: Waiver/Suspension of Fees/Costs for Indigent Person

This directive establishes the standards and process to be observed uniformly by the Circuit Court in processing applications for waiver/suspension of fees and/or costs pursuant to applicable statute and MCR 2.002. This process and the standards provided are intended to supplement the requirements of the Michigan Court Rule.

1. Application: All applications must be by an otherwise eligible applicant (who must be a natural person, not a company or entity) fully completing and filing with the Circuit Court Clerk SCAO form MC-20 (05/07 or current edition), Affidavit and Order, Suspension of Fees/Costs and MC-287 (03/08 or current edition), Financial Statement (for use by persons who are not receiving public assistance.) The Clerk shall provide a copy of the forms to the applicant upon request at no charge.

2. Fees/Costs: Per MCR 2.002(A), the term “fees and costs” is limited for waiver/suspension purposes to only filing or entry fees required by law. Under appropriate showing, the term can be extended to include process service fees and/or publication costs per MCR 2.002(F).

3. Standards:

A. Persons Receiving Public Assistance: The term “public assistance” means cash assistance provided under the Social Welfare Act, MCL 400.1 to 400.119b. (Cash assistance includes Temporary Assistance to Needy Families (TANF), Family Independence Payments (FIP (formerly AFDC)), and Supplemental Security Income (SSI). It DOES NOT include food assistance, child care or medical assistance.) Per MCR 2.002(C), if a party shows that he or she is receiving public assistance, the payment of fees and costs shall be suspended by the court.

B. Other Indigent Persons: Per MCR 2.002(D) if a party shows inability to pay fees and costs because of indigency, the court shall order either waiver or suspension of fees and costs until the conclusion of the litigation. To qualify under this provision, the party must show they are either represented by a federally recognized legal services organization (eligibility for which is based on indigence); or, that their annual family income before taxes is less than 125% of the Federal Poverty Guidelines for a family of their family size for which they are legally liable to support; or, that the party’s family income and/or liquidable assets are not enough to pay for the common necessities of life for them and the people they are required by law to support and also to pay court fees and costs.

4. Review of Application: Upon filing with the Circuit Court Clerk of the properly

completed MC-20 and MC-287 (as applicable), the application will be referred by the Clerk to the Court Collections Unit (CCU) for review and recommendation. The CCU will interview (if necessary) the applicant (either in person or by telephone) and make a written recommendation within 1 business day. The completed MC-20, MC-287 (as applicable) and the recommendation shall be forwarded promptly by CCU as follows: a) to the Chief Circuit Judge for commencement of new actions; or, b) to the assigned Trial Judge for matters subsequent to initiation of a case. The Chief Judge or assigned Trial Judge will review the application and recommendation and complete the order portion of the MC-20. The MC-20 with the completed order together with the MC-287 (if applicable) and the CCU recommendation form shall be returned to the Court Clerk for filing. The Court Clerk shall inform the party of the judicial action.

5. Certain Domestic Relations Cases: If a party is granted a fee waiver/suspension in an action for divorce, separate maintenance, or annulment or affirmation of marriage, the court shall order applicant's spouse to pay the fees and costs per MCR 2.002(E). In such an event, the Court Clerk shall notify the party of the amount due.

6. This directive is effective July 1, 2009.

DATED: June 9, 2009

A handwritten signature in cursive script, reading "Allen L. Garbrecht".

ALLEN L. GARBRECHT.
Chief Circuit Judge

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	AFFIDAVIT AND ORDER SUSPENSION OF FEES/COSTS	CASE NO.
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Court address _____

Court telephone no. _____

Plaintiff/Petitioner name, address, and telephone no.	v	Defendant/Respondent name, address, and telephone no.
Plaintiff's/Petitioner's attorney, bar no., address, telephone no.		Defendant's/Respondent's attorney, bar no., address, telephone no.
<input type="checkbox"/> Probate In the matter of _____		

NOTE: Requests for waiver/suspension of transcript costs must be made separately by motion.

AFFIDAVIT

1. The attached pleading is to be filed with the court by or on behalf of _____, Name applicant, who is plaintiff/petitioner. defendant/respondent.

2. The applicant is entitled to and asks the court for suspension of fees and costs in the action for the following reason:

a. S/he is currently receiving public assistance: \$ _____ per _____ Case No.: _____

b. S/he is unable to pay those fees and costs because of indigency, based on the following facts:

INCOME: _____
Employer name and address _____

Length of employment _____ Average gross pay _____ Average net pay _____ per week. month. two weeks.

ASSETS: State value of car, home, bank deposits, bonds, stocks, etc.

OBLIGATIONS: Itemize monthly rent, installment payments, mortgage payments, child support, etc.

3. The number of people living in the applicant's household is _____.

4. (in domestic relations cases only) The applicant is entitled to an order requiring his/her spouse to pay attorney fees.

REIMBURSEMENT: It is understood that the court may order the applicant to pay the fees and costs when the reason for the waiver or suspension no longer exists.

Affiant signature

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Date Signature: _____
Deputy clerk/Register/Notary public

Notary public, State of Michigan, County of _____

(SEE REVERSE SIDE FOR ORDER)

CERTIFICATION OF ATTORNEY

1. I have reviewed the affidavit of indigency, and I certify that its contents are true to the best of my information, knowledge, and belief.
2. I will bring to the court's attention the matter of suspended costs and fees and the availability of funds to pay them before any disposition is entered. I will report at that time any changes in the information contained in the affidavit of indigency or any other information regarding the affiant's financial status or alterations of the fee arrangement.

Date

Attorney signature

Attorney name (type or print) Bar no.

CERTIFICATION BY PERSON OTHER THAN PARTY

1. I have personal knowledge of the facts appearing in the affidavit.
2. The person in whose behalf the petition is filed is unable to sign it because of

minority: _____ other disability: _____
Date of birth Nature of disability

Relationship: _____

Date

Affiant signature

Affiant name (type or print)

Address

City, state, zip Telephone no.

ORDER

IT IS ORDERED:

1. Fees and costs in this action required by law or court rule are waived/suspended until further order of the court. Before any final disposition or discontinuance is entered, the moving party shall bring the fee and costs suspension to the attention of the judge for final disposition.
2. The applicant's spouse shall pay the fees and costs required by law or court rule.
3. This application is denied.

Date

Judge/Magistrate Bar no.

STATE OF MICHIGAN	FINANCIAL STATEMENT	CASE NO.
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Court address _____ Court telephone no. _____

PERSONAL INFORMATION

Name (last, first, middle)			Date of birth	SSN (last 4 digits)
Address <input type="checkbox"/> house <input type="checkbox"/> apartment <input type="checkbox"/> lot no.		City	Zip	
Home phone no.	Work phone no.	Cellular phone no.	Driver's license no.	State
Mailing address (if different than above)		Marital status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced If divorced, date final _____		
Name and address of nearest living relative		Relationship	Phone no.	
Names of dependents		Dates of birth	Student (Yes/No)	College/University
Employer 1 (Company name and address)			Length of employment	
Employer 2 (Company name and address)			Length of employment	
If self-employed, type of business/trade		If unemployed, source of support <input type="checkbox"/> General assistance <input type="checkbox"/> SSI <input type="checkbox"/> Food stamps <input type="checkbox"/> AFDC		
Have you ever filed for bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, date filed		Date completed

ASSETS

Vehicle #1	Year / Make	Present Value
		\$
Vehicle #2	Year / Make	Present Value
		\$
Bank/Financial account no.	Name and address of financial institution	Present balance
		\$
Bank/Financial account no.	Name and address of financial institution	Present balance
		\$
Bank/Financial account no.	Name and address of financial institution	Present balance
		\$
Investment/Brokerage account no.	Name and address of financial institution	Present balance
		\$
Other property such as real estate, boats, snowmobiles (describe)		Value
		\$
TOTAL ASSETS		\$

MONTHLY INCOME	
Gross monthly income (self)	\$
Gross monthly income (spouse)	\$
Unemployment benefits	\$
Social security	\$
Retirement/Pension benefits	\$
Child support	\$
Alimony/Maintenance	\$
Disability	\$
Veteran's benefits	\$
Interest/Dividends	\$
Other (cash):	\$
TOTAL INCOME	\$

MONTHLY EXPENSES	
Mortgage or rent	\$
Utilities	\$
Vehicle payments	\$
Insurance (vehicle/health/life)	\$
Other loan payments	\$
Child support/Alimony	\$
Medical payments	\$
Court payments	\$
Other:	\$
TOTAL EXPENSES	\$

I certify under penalty of perjury that this financial statement is a complete and accurate statement of my income, assets, and expenses, and that I have no other additional income. I will supply supporting documentation of income and debts upon request.

Date _____ Signature _____

RECOMMENDATION FOR FEES/COSTS WAIVER/SUSPENSION

Case No.: _____

The applicant, _____, has requested that the fees/costs be
Name

waived/suspended in this case.

Following a review of the information provided by the applicant, I recommend that the application be

Approved for the reason that:

- the party is receiving public assistance
- the party is represented by a federally recognized legal service organization
- family income is less than 125% of Federal Poverty Guidelines
- family income or liquidable assets are not enough to pay for common necessities

Denied for the reason that:

- family income exceeds 125% of Federal Poverty Guidelines
- family income or liquidable assets are sufficient to pay for common necessities: _____
identify liquid asset(s)

Reviewed by: _____ Date: _____

- New filing - refer to Chief Judge
- Subsequent filing - refer to assigned Judge _____

Name