



CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

**12866 Meeting regarding RIN No. 1125-AA90: Updating EOIR Fees for
Certain Filings and Appeals**

July 30, 2020

Attendees

- Jill Marie Bussey, Advocacy Director
- Michelle Mendez, Director, Defending Vulnerable Populations Program
- Karen Sullivan, Advocacy Attorney, Federal Advocacy and Liaison

Agenda

- I. Overview of CLINIC's interest in the NPRM and comment on the EOIR Fee Regulation
- II. Elaboration on selected topics
- III. Q&A

CLINIC's Interest in the NPRM

- CLINIC's network employs roughly 1,400 attorneys and accredited representatives who, in turn, serve hundreds of thousands of low-income immigrants each year
- In addition to affirmative applications for immigration benefits, CLINIC affiliates have increasingly begun to represent clients in removal proceedings
- In 2019, CLINIC established a new program, Defending Vulnerable Populations, which focuses on training and mentoring in the areas of removal defense, asylum law, and appeals

Efforts to Seek Appropriate Comment Process

- On March 6, 2020, more than 90 immigration and legal service providers submitted a letter to DOJ and OMB, requesting that a 60-day comment period per EO 12866 and EO 13563
- On March 6, 2020, CLINIC formally requested the actual fee study associated with the NPRM, which was not acknowledged or honored
- On March 23, 2020, more than 100 NGOs sent a request to DOJ and OMB to freeze the comment deadline due to the COVID-19 pandemic

CLINIC DID NOT RECEIVE A SUBSTANTIVE RESPONSE AND REITERATES THE NEED FOR AN APPROPRIATE COMMENT PERIOD AS WELL AS MORE INFORMATION ABOUT THE FEE STUDY ASSOCIATED WITH THE PROPOSED CHANGES

Summary of CLINIC's Public Comment

- EOIR is not a fee-funded agency; did not sufficiently evaluate alternatives to increasing fees
- The population most significantly impacted are vulnerable populations; access to justice for all socioeconomic strata is a basic American value.
- The regulation does not sufficiently account for necessary fee waivers to protect the rights of vulnerable populations.

Summary of CLINIC's Public Comment

- The regulation will increase the burden on Federal courts
- The new asylum fee contradicts policies on ensuring humanitarian access to relief, may result in multiple payments per applicant, and may burden nonprofit organizations who serve them
- EOIR incorrectly analyzes its fees like a fee funded agency, a federal court, or an administrative adjudicator of for-profit benefits, rather than an administrative adjudicator individual benefits
- By failing to estimate and weigh the impacts of its regulation appropriately, DOJ EOIR did not meet its obligations under E.O. 12866

Economic Significance of the Regulation

- In the NPRM, however, the agency has failed to consider and account for a number of economic impacts of its proposed fee increases, including the impacts on the family members of the individuals in Immigration Court proceedings who will be subjected to the increased fees.
- Concerns about the economic impact on already-vulnerable populations may impact public health and safety because more than 1 million cases pending in immigration courts; existing concerns with unemployment, ongoing COVID-19 epidemic, and lack of affordable healthcare.

Economic Significance of the Regulation

- Impact on state and local communities; burden on non-public resources; religious-based food pantries, housing assistance, local legal services organizations will have the added burden of assisting with filing fees.
- DOJ EOIR dramatically underestimated the increased reliance of immigrants' and their families on state and local services if they have pay these increased fees, especially during the COVID-19 pandemic.

Fee Waiver

- If 36 percent of fee waivers were granted for application fees ranging from \$100-110, as noted in the NPRM, it is foreseeable that many more noncitizens would apply for waivers of fees that are three to eight times higher than the existing fees. Yet CLINIC has heard, anecdotally, that EOIR fee waiver requests have increasingly been denied in the past year.
- If DOJ raises EOIR fees, it will be crucial for the agency to make fee waivers broadly available and relay information to ensure noncitizens apply for a fee waiver without fear of adverse immigration action stemming from the public charge changes.

Fee Waiver

- EOIR has not provided sufficient documentation of the impact of Fee Waivers on filings, revenue, and potential suppression of appeals, access to justice, and access to affordable counsel.
- It is impossible to analyze the effect of this dramatic proposed fee increase without a full understanding of how many noncitizens can afford the current, lower fees through fee waivers.

Questions & Answers





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