

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

Costs for Indigent Persons in Civil Matters

I. Statutory Authority

Section 13-16-103 C.R.S. provides for an indigent person to prosecute or to defend in a court proceeding without the payment of costs, at the discretion of the judge. In the event that the indigent person successfully prosecutes or defends an action or proceeding, a judgment shall be entered in favor of the indigent person for court costs. If these costs are collected by the indigent person, that person shall pay the court in the amount of court costs which were waived.

II. Indigency Determination

A petitioner or a respondent in a civil case must be indigent to proceed in a court action without the payment of costs. Indigency should be determined by using the attached procedures.

III. Costs That May Not Be Waived

Any obligation for payment to a person or entity other than the State of Colorado, which arises in the course of "prosecuting or defending" a civil action or special proceeding is not one which can be waived on the basis of a party's indigency. Waiver of costs is limited to those fees and expenses owed to the state and does not apply to fees and expenses owed to other persons or entities. Therefore, transcript fees, witness fees, and process server fees cannot be waived by the court. As set forth in Section 13-16-124 C.R.S., if the party delivers the documents for service of process to the sheriff, the court cannot waive the sheriff's fee. The sheriff must make that determination.

IV. Costs That May Be Waived

If the court determines the person to be indigent, any costs owed to the state may be waived. Such costs would include filing fees, reasonable copy fees, jury fees, E-file and E-service fees, and research fees. If the court delivers the documents for service of process to the sheriff, the court can waive the sheriff's fee and pay such fees from mandated costs.

Done at Denver, Colorado, this 29th day of August, 2008.

_____/s/_____
Mary J. Mullarkey, Chief Justice

**PROCEDURES FOR THE WAIVER OF COURT COSTS IN CIVIL CASES ON THE
BASIS OF INDIGENCY**

As set forth in CJD 98-01, Section II., all persons requesting waiver of court costs in civil actions or proceedings on the basis of indigency must follow the following procedures:

I. Procedures for the Determination of Indigency by Court Staff or Legal Service Provider

A. Process for Evaluating Indigency

The following procedures are used for applicants in cases addressed in CJD 98-01 where the applicant is not represented by an attorney or the applicant is represented by an attorney of or obtained through a legal service provider qualified to certify CLE hours for pro bono representation pursuant to C.R.C.P. 260.8 (Legal Service Provider).

1. Completion of JDF 205 form by Applicant

Persons requesting waiver of court costs must complete, or have completed on their behalf, the Motion to File Without Payment and Supporting Financial Affidavit, form JDF 205, and submit it to the court or to the Legal Service Provider.

2. Review of Financial Information by Court Staff or Legal Service Provider

Court staff or Legal Service Provider reviews the applicant's information on form JDF 205 to determine whether the applicant is indigent on the basis of three factors:

Income*

Liquid assets**

Expenses***

3. Filing of Order for Indigent Persons Not Represented through a Legal Service Provider

Once indigency status is determined for a person not represented through a Legal Service Provider, court staff completes Finding and Order Concerning Payment of Costs, form JDF 206.

4. Filing of Notice for Indigent Persons Represented by an Attorney of or Obtained Through a Legal Service Provider

Once indigency status is determined by the Legal Service Provider, the Provider completes JDF Form 203, which the attorney representing the indigent person files in the case with the court by e-filing or other authorized filing method. Upon filing of form JDF 203, the waivable costs are waived. The Legal Service Provider shall maintain the completed JDF 205 form for a period of three years following conclusion of the case or representation of the client, whichever is the later date. The State Court Administrator's Office may request to view any such records, and such request may not be refused.

B. Criteria for Indigency

An applicant qualifies for waiver of court costs in civil cases if his or her financial circumstances meet either set of criteria described below.

1. Income is at or below guidelines / Liquid assets equal \$0 to \$1,500

• If the applicant's income is at or below the income eligibility guidelines (see the "Monthly Income Guideline" and "Yearly Income Guideline" columns in the chart on the following page) and he or she has liquid assets of \$1,500 or less, as determined on form JDF 205, the applicant is indigent and eligible for waiver of court costs in civil cases.

2. Income is up to 25% above guidelines / Liquid assets equal \$0 to \$1,500 / Monthly expenses equal or exceed monthly income

• If the applicant's income is up to 25% above the income eligibility guidelines (see the "Monthly Income Guideline plus 25%" and "Yearly Income Guideline plus 25%" columns in the chart on the following page); the applicant has assets of \$1,500 or less; and the applicant's monthly expenses equal or exceed monthly income, as determined on form JDF 205, the applicant is indigent and eligible for waiver of court costs.

II. Procedures for the Determination of Indigency When Applicant is Represented by an Attorney of an agency funded by the Legal Services Corporation pursuant to 45 C.F.R., Chapter XVI.

Process for Evaluating Indigency

Legal Services Corporation is a federally funded program for representation of indigent persons. The Code of Federal Regulations determines how applications for representation by attorneys employed by the agencies funded by the Legal Services Corporation shall be filed, reviewed, maintained, and when an applicant is deemed indigent for the purposes of representation. Because that review already takes place in order to determine eligibility for representation, and because the Legal Services Corporation may not represent someone in court who has not been deemed indigent under the Code of Federal Regulations, a further application for indigency for the purpose of waiving the filing fee under §13-16-103, C.R.S. is not necessary.

An attorney employed by an agency funded by the Legal Services Corporation or obtained through such an agency may file form JDF 203 certified by that agency. That agency shall maintain its completed determination of indigency documentation for a period of three years following conclusion of the case or representation of the client, whichever is the later date, for which waiver of court costs is obtained under these provisions. The State Court Administrator's Office may request to view any such records, and such request may not be refused.

III. Court procedures upon receipt of JDF 206 or JDF 203

A. When the court receives a JDF 206 form completed by court staff, the court enters an order concerning the applicant's payment of fees. **In cases in which the criteria above are not met and extraordinary circumstances exist, the court may find the applicant indigent and waive the payment of fees. In such cases, the court shall enter a written order setting forth the reasons for the finding of indigency.**

B. Upon filing by an attorney for an indigent person of a JDF 203 form certified by a Legal Service Provider or an agency funded by the Legal Services Corporation, the clerk of the court in which the case is filed is authorized and directed to allow the applicant to proceed in forma pauperis in court proceedings without any additional court order. **The clerk of the court may refer any notice filed by an attorney appointed by a Legal Service Provider or an agency funded by the Legal Services Corporation to a judge of the court in which the matter is pending if there is a question about the eligibility of the applicant.**

IV. Appeals from Civil Cases

A standard application and motion to proceed in forma pauperis with verification of eligibility will be required in any appeal of a civil case.

* Income is gross income from all members of the household who contribute monetarily to the common support of the household. Income categories include wages, salary, commissions, profits, interest/investment earnings, social security benefits (including disability), Supplemental Security Income (SSI), maintenance (alimony), pension, workers' compensation, and unemployment benefits. NOTE: Income from roommates should not be considered if such income is not commingled in accounts or otherwise combined with the applicant's income in a fashion which would allow the applicant proprietary rights to the roommate's income.

Gross income does not include TANF payments, food stamps, subsidized housing assistance, veteran's benefits or child support.

**Liquid assets include cash on hand or in accounts, stocks, bonds, certificates of deposit, equity, and personal property or investments which could readily be converted into cash without jeopardizing the applicant's ability to maintain home and employment.

***Expenses for nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc., shall not be included. Allowable expense categories are listed on form JDF 205.

INCOME ELIGIBILITY GUIDELINES (amended March 2009)				
Family Size	Monthly Income*	Monthly Income plus 25%	Yearly Income*	Yearly Income plus 25%
1	\$1,128	\$1,410	\$13,538	\$16,922
2	\$1,518	\$1,897	\$18,213	\$22,766
3	\$1,907	\$2,384	\$22,888	\$28,609
4	\$2,297	\$2,871	\$27,563	\$34,453
5	\$2,686	\$3,358	\$32,238	\$40,297
6	\$3,076	\$3,845	\$36,913	\$46,141
7	\$3,466	\$4,332	\$41,588	\$51,984
8	\$3,855	\$4,819	\$46,263	\$57,828
* 125% of poverty level as determined by the Department of Health and Human Services				
For family units with more than eight members, add \$390 per month to "monthly income" or \$4,675 per year to "yearly income" for each additional family member.				
Source: FEDERAL REGISTER (74FR4200, 01/23/2009)				

<input type="checkbox"/> County Court <input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/> Plaintiff/Petitioner: _____ v. Defendant/Respondent: _____	▲ COURT USE ONLY ▲ Case Number: _____ Courtroom: _____
--	---

MOTION TO: FILE WITHOUT PAYMENT OF FILING FEE APPOINT AND PAY INTERPRETER COSTS AND SUPPORTING FINANCIAL AFFIDAVIT

I, _____ respectfully move the Court for an order to waive the following filing fee(s):
 complaint petition answer response motion to modify other: _____ and/or to appoint and pay for an interpreter for the following language _____ pursuant to CJD 06-03 and as grounds state that I am without funds, have no adequate funds available, and have a meritorious claim.

All items must be fully completed. Print or type neatly. If an item does not apply, please write "N/A"

Name of Applicant			Other Responsible Party (Spouse, Parent, Other Persons in Household)		
Last Name	First Name	MI	Last Name	First Name	MI
Street Address (Include Apt. # if applicable) _____			Street Address (Include Apt. # if applicable) _____		
City _____ State _____ Zip Code _____			City _____ State _____ Zip Code _____		
<input type="checkbox"/> Own <input type="checkbox"/> Rent Home Phone #: _____			<input type="checkbox"/> Own <input type="checkbox"/> Rent Home Phone #: _____		
Social Security #	Driver's Lic. # & State	Date of Birth	Social Security #	Driver's Lic. # & State	Date of Birth
Most Recent Employer: _____			Most Recent Employer: _____		
Work Address: _____			Work Address: _____		
Work Phone #: () _____			Work Phone #: () _____		
Dates Employed: _____			Dates Employed: _____		
Hours/Week: _____ Pay Rate: \$ _____			Hours/Week: _____ Pay Rate: \$ _____		
Pay Dates: _____			Pay Dates: _____		

Marital Status: Single Married Divorced Separated Widowed **Number in Household:** (including yourself) _____
 Identify Name, Age, and Relationship: _____

Gross Monthly Income (See Information on page 2)		Monthly Expenses (See Information on Page 2)	
Self (wages, salary, commission)	\$	Rent or Mortgage	\$
Spouse/Other Household Members	\$	Groceries	\$
Parents (if same household)	\$	Utilities	\$
Unemployment Benefits	\$	Clothing	\$
Social Security/Retirement Funds	\$	Maintenance/Alimony and/or Child Support	\$
Maintenance/Alimony	\$	Medical/Dental	\$
Other Income (identify)	\$	Other Expenses (identify)	\$
Other Income (identify)	\$	Other Expenses (identify)	\$
Total Income	\$	Total Expenses	\$

If incarcerated, amount in Inmate Account \$ _____. (Attach copy of Inmate Trust Fund Account statement for a six-month period immediately preceding filing pursuant to §13-17.5-103, C.R.S.)

Cash on Hand (Cash you are carrying or which is stored at home, etc.)	\$	Credit Cards: (Show type and balance owed)
Checking Account Balance	\$	Name/Address of Bank
Savings Account Balance	\$	Name/Address of Bank:
Stocks, Bonds, or other Investments Held Balance	\$	Type of Investment, Name/Location of Company/Corporation
Vehicles Owned (Autos, boats, recreational vehicles, etc.) - Estimate Value	\$	Identify Year _____ Model _____ License Plate _____ Identify Year _____ Model _____ License Plate _____
House(s) or other Property - Estimate Value	\$	Amount owed, Year Purchased

IF ADDITIONAL SPACE IS NEEDED TO PROVIDE COMPLETE INFORMATION, ATTACH A SEPARATE PAGE.

I swear under penalty of perjury that all information provided is true and complete. In addition, I authorize the Court to make any necessary contacts to verify the information.

Signature: _____ Date: _____

MOTION TO FILE WITHOUT PAYMENT AND SUPPORTING FINANCIAL AFFIDAVIT

General Information

It is important that you accurately complete all sections of this form as appropriate based on your personal circumstances. If a section does not apply, please write N/A.

A. Gross Monthly Income. Includes income from all members of the household who contribute monetarily to the common support of the household.

◆ **Income categories to include:**

Wages, including tips, salaries, commissions, payments received as an independent contractor for labor or services, bonuses, dividends, severance pay, pensions, retirement benefits, royalties, interest/investment earnings, trust income, annuities, capital gains, unemployment benefits, Social Security Disability (SSD), Social Security Supplemental Income (SSI), Workman's Compensation Benefits, and alimony.

Note: Income from roommates should not be considered if such income is not commingled in accounts or otherwise combined with the applicant's income in a fashion which would allow the applicant proprietary rights to the roommate's income.

◆ **Income categories do not include:**

TANF payments, food stamps, subsidized housing assistance, veteran's benefits earned from a disability, child support payments, or other public assistance programs.

B. Liquid Assets. Includes cash on hand or in accounts, stocks bonds, certificates of deposit, equity, and personal property or investments which could readily be converted into cash without jeopardizing the applicant's ability to maintain home and employment.

C. Expenses. Nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc., **shall not** be included. Allowable expense categories are listed on JDF 205.

<input type="checkbox"/> County Court <input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____		▲ COURT USE ONLY ▲
Plaintiff/Petitioner: v. Defendant/Respondent/Co-Petitioner:		
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____		Case Number: Division _____ Courtroom _____
CERTIFICATION OF DETERMINATION OF INDIGENCY		

I, _____, (name of authorized person to sign for Legal Service Provider) have determined under the provision of CJD 98-01, as amended August 2008 that _____ (name of client to be represented) is indigent based on:

a review of his/her application under the Legal Services Corporation Act of 1974.

or

a review of the client's Motion to File without Payment and Supporting Financial Affidavit (JDF 205). I understand that JDF 205 shall be maintained for three years following conclusion of the case or representation of the client, which ever is the later date, for which waiver of courts costs is obtained under CJD 98-01. The State Court Administrator's Office may request to view any such records, and such request may not be refused.

Based on that determination, the above-name party is eligible to have the filing fee, jury fee, if applicable, reasonable copy fees, E-file and E-service fees, and research fees waived as they relate to this case, pursuant to CJD 98-01, as amended August 2008, without additional findings or orders of the Court. If the Court delivers the documents for service of process to the Sheriff, the Court can waive the sheriff's fee and pay such fees from mandated costs.

Date: _____

Signature of Attorney filing this form with the Court

Signature and Name of Legal Services Provider
Certifying Indigency Determination

