



Tip of the Month October 2019

Requesting a Fee Waiver (“IFP”)

Submitted by: John Beutler, Resource Attorney
Volunteer Lawyers Network

Many civil actions in Minnesota require a fee at the time of filing to be accepted by the court. Filing fees vary across county and case type but often can be costly enough that many folks cannot afford the fee. For example, for a criminal expungement, the filing in most every county is approximately \$300 per case which is costly enough that most low-income clients cannot afford to pay. Thankfully, if a client cannot afford the filing fee, the client can request that the fee be waived via an *Affidavit for Proceeding in Forma Pauperis* (“IFP”). Below are a few tips, [based on information from the Minnesota Courts’ website](#), for working with a fee waiver request.

Who qualifies for a fee waiver (IFP)?

[Minnesota courts identify four circumstances](#) for which someone would qualify for a fee waiver:

1. If the client is receiving public assistance under or more of the following programs: Minnesota Family Investment Plan (MFIP), including emergency or diversionary assistance; General Assistance or Emergency General Assistance; Medical Assistance or General Assistance Medical Care; Food Stamps; Supplemental Security Income; Minnesota Supplemental Assistance (MSA) or MSA-Emergency Assistance; Energy Assistance, OR
2. The client is being represented by a legal services or volunteer attorney on behalf of a civil legal services program or volunteer attorney program based on indigence (such as VLN), OR
3. The clients annual income before taxes is less than 125% of the [Federal Poverty Guidelines](#) for their family size, OR
4. The client’s income “is not enough to pay for the common necessities of life for [them]self and the people [they] support and also to pay court fees and costs.”

What are the steps for receiving a fee waiver?

1. Complete the documents for the legal action(s) you want to file. These will need to accompany the IFP forms.
2. Obtain the *Affidavit for Proceeding In Forma Pauperis* and *Order Denying/Granting In Forma Pauperis* either online, at a courthouse, or as part of a document drafting program and fill them out. The forms are straightforward and ask for basic income information about the client.
3. File the documents and wait for approval or denial. As an attorney, you will be required to e-file the documents. You can e-file the fee waiver forms when you file the documents for the legal action. To file using a fee waiver for payment, you will need to set up a “Waiver Account” for payment account type. [Click here for help with e-filing.](#)

If you or your client prefer, the client can take the documents to the courthouse to see a signing judge in person who can grant or deny their IFP on the spot. They will need to bring the completed paperwork for the legal action(s) for which they are seeking the fee waiver. The client will want to ask the information desk at the

county courthouse for the procedure for having a signing judge review the IFP as procedures may differ between counties.

FAQs regarding IFPs

Q: If my client has multiple cases, how many IFPs do I need to file?

A: This depends on the county and the type of case the client is seeking. For certain types of cases, some counties will allow one IFP to cover multiple cases within its jurisdiction. Be sure to list all the cases that you want the IFP to be applied to in the caption of the IFP form. Other counties may ask that you fill out one IFP for each case. To be sure, call the county clerk to ask about that county's policy.
If the cases are in different counties, you will at least need one IFP per county.

Q: My client thinks they won't qualify for a fee waiver but can't afford the filing fee. Should they still seek an IFP even if they think they might not qualify?

A: Yes. The IFP form gives clients a chance to explain their situation and other factors that should be considered as to why their fee should be waived. Clients will be able to explain their situation under #16 of the IFP and should discuss other factors or expenses that are preventing them from affording the filing fee. These can include: medical expenses, other emergency expenses, recent car repairs, housing changes or moving, reasons why some money is not available to them currently, or other things that are affecting the client's ability to pay.

Q: Can clients receive a partial fee waiver if they don't fully qualify?

A: Yes. Even if the client does not fully qualify for a fee waiver, they may qualify for a reduced fee. It may be worth the time and effort to seek an IFP even if the client thinks they may not qualify.

Q: Do clients need proof of income for the IFP?

A: Maybe. The IFP asks that clients either provide proof of the public assistance they receive or to provide proof if requested.

Q: Does getting a fee waiver approved mean that the client will never be responsible for any costs in a case?

A: No. The court specifically notes that a fee waiver does not mean that a client will never have to pay any costs or judgments in a case.

Q: How long is a fee waiver valid?

A: IFP orders expire one year from the date of the order and can be altered or amended by the court at any time before expiration.

Q: Is it possible that one county might approve the IFP and another county deny the IFP, even though the information on the IFP forms are identical?

A: Yes. Because of the discretionary aspect of the IFP granting process, this is possible.

Q: Should I fill out all parts of the IFP form even if I know my client qualifies under one particular category?

A: Yes. Courts generally want the IFP form to be fully completed regardless of the basis for qualification.

If you have other questions regarding IFPs or the process, please feel free to reach out to John Beutler at john.beutler@vlmn.org or 612-752-6659.