

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

Costs for Indigent Persons in Civil Matters

Chief Justice Directive 98-01

Amended Effective April 2024

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 court. 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 plaintiff or a respondent or defendant 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.

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, forms and instruction fees, jury fees, E-file and E-service fees, and research fees.

V. Service of Process Fees

If the court, having ordered service, delivers the documents for service of process to the sheriff, the court may pay the fees to the sheriff from mandated costs. If the party delivers the documents for service of process to the sheriff, then the party may be responsible for any applicable fees as designated by the sheriff as set forth by statute. If a process server other than the sheriff is selected by a party, the party shall be responsible for any applicable fees as set forth in statute. Service fees may not be assessed for protection orders for victims of domestic abuse or domestic violence Section 13-14-109 (2) C.R.S.

VI. Installment Payment Procedure

A court may permit a petitioner or plaintiff or a respondent or defendant in a civil case to pay the filing fee

in installments if the person is determined not to be indigent. **If payment is not received in accordance with the schedule set by the court, the court may dismiss the filer's claims or the entire case, without further notice.**

VII. Dispute Resolution Fees

The Office of Dispute Resolution (ODR) provides dispute resolution services through independent contractors.

If a party is found to be indigent and ODR has funds available to pay the fees, the contractors' fees may be reduced accordingly after ODR's approval. In limited situations, required by statute, mediation fees may be waived. In exceptional financial or personal circumstances (e.g., incarceration), the ODR Director has the discretionary authority to waive mediation fees based on a party's request explaining why no fees are able to be paid. In order to qualify for reduced or waived fees for mediation, a party must provide a copy of the order or certificate determining indigency – not older than 6 months - to the mediator. In the absence of an order or certification, a party can submit a Judicial Department Form (JDF) 211 to ODR for reduced fee consideration as detailed in the JDF 211 form instruction.

VIII. Inmate Payment Procedure

Any inmate who is allowed to proceed in a civil action as a poor person shall be required to pay the full amount of the filing fee and service of process fees previously paid by the Court as follows: The Court may require an initial partial payment if the inmate has ten dollars or more in his/her account. The Court may require continuous monthly payments equal to 20% of the preceding month's deposit in the inmate account until the filing fee and service of process fees are paid in full. Section 13-17.5-106 (3) C.R.S.

Done at Denver, Colorado, this 23rd day of April, 2024.

/s/

Brian D. Boatright, 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:

1. Procedures for the Determination of Indigency by Court Staff

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 bar association or Access to Justice Committee-sponsored program; a law school; or an organized, non-profit entity, such as Legal Services Corporation or others whose purpose is or includes the provision of pro bono representation to indigent or near-indigent persons.

i. Completion of JDF 205 form, attesting to the applicant's eligibility to waive filing fees and/or other court costs:

If receiving public benefits, persons requesting waiver of court costs must complete the section attesting to the applicant's receipt of one or more of the following public benefits:

1. Aid to the Blind Colorado Supplement
2. Aid to the Needy and Disabled (AND)
3. Supplemental Security Income (SSI)
4. Old Age Pension - A and B
5. Temporary Aid for Needy Families (TANF)
6. Supplemental Nutrition Assistance Program (SNAP)

If not receiving public benefits, persons requesting waiver of court costs must complete, or have completed on their behalf, the other sections of the Motion to Waive Fees and submit it to the court or to the Legal Service Provider or Non-Profit Entity.

ii. Completion of JDF 211, attesting to the applicant's need for fee reduction in ODR cases:

Persons requesting reduction of fees for ODR services must complete, or have completed on their behalf, the Request to Reduce Payment for Office of Dispute Resolution Services, form JDF 211, and submit it to the court, or ODR staff as directed; except that if an indigency Order has been made using JDF 206 within six (6) months of the ODR scheduled service, then such order shall determine indigency for ODR services and JDF 211 does not need to be completed.

iii. Review of Financial Information by Court Staff or Legal Service Provider or Non-Profit Entity:

Court staff, Legal Service Provider, or Non-Profit Entity reviews the applicant's information on form JDF 205 to determine whether the applicant is indigent. **Generally, this determination should be made solely on consideration of the signed affidavit incorporated into JDF 205.** If the court determines that a particular affidavit requires supporting documentation, it may consider documentary evidence of:

- Income*
- Liquid assets**
- Expenses***

iv. 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 or Non-Profit Entity, court staff completes Finding and Order Concerning Payment of Costs, form JDF 206 and the court enters an order concerning the applicant's payment of fees.

b. Criteria for Indigency

An applicant qualifies for waiver of court costs in civil cases if:

i. Applicant is receiving public benefits; 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 last page of this Directive) 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.

ii. 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.

iii. Indigency status shall remain in domestic cases until the final orders are entered. Indigency status shall remain for the duration of the case in all other civil case types.

2. Procedures for the Determination of Indigency When Applicant is Represented by an Attorney of or Obtained Through a Legal Service Provider or Non-Profit Entity

a. Process for Evaluating Indigency by an Agency Funded by the Legal Services Corporation pursuant to 45 C.F.R., Chapter XVI.

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. 45 C.F.R. Part 1600 et. seq.

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 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.

b. Process for Evaluating Indigency by a Non-Profit Entity

An attorney employed by a Non-Profit Entity not covered by federal regulation but whose purpose is or includes the provision of pro bono representation to indigent or near-indigent persons may file form JDF 203 certified by that Entity. That entity shall maintain its completed determination of indigency documentation for a period of three years following conclusion representation of the client, 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 reasonably denied.

c. Court procedures upon receipt of JDF 203

Once indigency status is determined by the Legal Service Provider or Non-Profit Entity, the Provider completes JDF Form 203 and files it in the case. The clerk of the court may refer any notice filed by an attorney appointed by a Legal Service Provider or Non-Profit Entity to a judge of the court in which the matter is pending if there is a reasonable question about the eligibility of the applicant. Otherwise, the clerk of the court in which the case is filed is authorized and directed to allow the applicant to proceed in forma pauperis without any additional court order. Upon filing of form JDF 203, the waivable costs are waived. The Legal Service Provider or Non-Profit Entity shall maintain the completed JDF 205 form for a period of three years following withdrawal from the case. The State Court Administrator's Office may request to view any such records, and such request may not be refused.

3. Processing of JDF 211 Application for Reduced Fees (mediation)

- a. Requests for reduced dispute resolution fees through the Office of Dispute Resolution shall be made in accordance with the instructions set forth at the website: www.coloradoODR.org
- b. Requests for reduced dispute resolution fees processed through the local courts shall be made in accordance with that court's procedures.

4. Appeals from Civil Cases

A standard application and motion to proceed in forma pauperis with verification of eligibility will be required to waive costs to file an 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) Aid to the Blind Colorado Supplement, Aid to the Needy and Disabled (AND), Old Age Pension - A and B, 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 January 17, 2024)

Family Size	Poverty Guideline	Monthly Poverty Level	Monthly Income*	Monthly Income plus 25%	Yearly Income*	Yearly Income plus 25%
1	\$ 15,060	\$ 1,255	\$ 1,569	\$ 1,961	\$18,825	\$23,531
2	\$ 20,440	\$ 1,703	\$ 2,129	\$ 2,661	\$25,550	\$31,938
3	\$ 25,820	\$ 2,152	\$ 2,690	\$ 3,362	\$32,275	\$40,344
4	\$ 31,200	\$ 2,600	\$ 3,250	\$ 4,063	\$39,000	\$48,750
5	\$ 36,580	\$ 3,048	\$ 3,810	\$ 4,763	\$45,725	\$57,156
6	\$ 41,960	\$ 3,497	\$ 4,371	\$ 5,464	\$52,450	\$65,563
7	\$ 47,340	\$ 3,945	\$ 4,931	\$ 6,164	\$59,175	\$73,969
8	\$ 52,720	\$ 4,393	\$ 5,492	\$ 6,865	\$65,900	\$82,375

* 125% of poverty level as determined by the Department of Health and Human Services.

*For family units with more than eight members, add \$560 per month to "monthly income" or \$ 6,725 per year to "yearly income" for each additional family member. Poverty guideline is \$ 5,380/year.

Source: Federal Register (89 FR 2961, 01/17/2024)