

UNITED STATES DEPARTMENT OF HOMELAND SECURITY AND U.S. CITIZENSHIP  
AND IMMIGRATION SERVICES

U.S. Citizenship and Immigration Services : [CIS No. 2627-18; DHS Docket No.  
Fee Schedule and Changes to Certain Other : USCIS-2019-0010]  
Immigration Benefit Request Requirements : RIN: 1615-AC18

*Submitted via Federal eRulemaking Portal: [http:// www.regulations.gov](http://www.regulations.gov)*

**COMMENTS OF WHITMAN-WALKER HEALTH**

Whitman-Walker Health (WWH or Whitman-Walker) submits these comments in response to the proposed rule, “U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements” published in the Federal Register on November 14, 2019, 84 Federal Register at 62280 (hereinafter “proposed rule”). Whitman-Walker Health opposes the increased fees as an additional barrier to legal immigration into the United States and an abrogation of obligations to facilitate asylum applications under the Convention Against Torture. We oppose the transfer to funds to Immigration and Customs Enforcement as counter to Congressional intent for USCIS’ activities as a benefit-granting agency.

**EXPERTISE AND INTEREST OF WHITMAN-WALKER HEALTH**

Whitman-Walker Health is a community-based, Federally Qualified Health Center offering primary medical care and HIV specialty care, community health services and legal services to residents of the greater Washington, DC metropolitan area. WWH has a special mission to the lesbian, gay, bisexual, and transgender (LGBT) members of our community, as well as to all Washington-area residents of every gender and sexual orientation who are living with or otherwise affected by HIV. In calendar year 2018, more than 20,700 individuals received health services from Whitman-Walker. In that year, 58% percent of our health care

patients and clients who provided their sexual orientation identified as lesbian, gay, bisexual, or otherwise non-heterosexual, and 9% of our patients and clients—more than 1,800 individuals—identified as transgender or gender queer.

Since the mid-1980s, Whitman-Walker has had an in-house Legal Services Department. Our attorneys and legal assistants provide information, counseling, and representation to Whitman-Walker patients, and to others in the community who are LGBT or living with or affected by HIV, on a wide range of civil legal matters that relate directly or indirectly to health and wellness – including immigration and asylum cases. Our Legal Services Department, with the assistance of hundreds of volunteer attorneys throughout the area, has provided a wide range of immigration-related services to foreign-born LGBT individuals and families. Many come to the U.S. fleeing persecution in their countries of birth because of their sexual orientation or gender identity.

In 2018, 52% of our legal services clients who provided their sexual orientation identified as lesbian, gay, bisexual or otherwise non-heterosexual; 20% identified as transgender or gender nonconforming. Although our patients and clients come from every income level, substantial numbers are lower-income. Because of the difficult circumstances in which they have come to the U.S. – for instance, fleeing persecution in their countries of birth – many if not most of our immigration clients and foreign-born health care patients have limited means, particularly until their employment authorization documents are received and they are able to make new lives for themselves and becoming fully integrated members of our community.

## COMMENTS ON THE PROPOSED RULE

### **INCREASED FEES ERECT BARRIERS TO LEGAL IMMIGRATION**

Whitman-Walker works directly with the immigrant LGBT community, including those who are survivors of misogyny, homophobia, transphobia, family rejection and gang violence. The increased fees, in the context of additional rule changes that require more frequent filings, will prove especially burdensome to LGBT immigrants, and all immigration applicants living in poverty. The newly created fee for asylum applications and Deferred Action for Childhood Arrivals (DACA) renewals are particularly onerous. The new fees will likely lead to catastrophic consequences for clients who will be at increased risk of losing their legal immigration status.

A retrospective analysis of immigration filings by WWH Legal Services filed between January 1, 2016 and December 5, 2019 indicates that the fee schedule changes would increase filing fees for our clients by an estimated \$22,700 annually. This analysis is conservative; representing the lower threshold of increased costs. The analysis does not include 1) the newly created fees for asylum, 2) newly created fees DACA renewals, 3) the increased rate of filings required with more frequent renewals of documents under other proposed rules, and 4) the decreased access to fee waivers under other proposed rules. Filing fees already represent a substantial portion of the resources available to our clients and the increases will strain their already limited resources. For immigration applicants living in poverty, these fees create barriers to asylum, education, employment, and citizenship.

Access to secure immigration benefits, including naturalization, can lead to an increase in an individual's wages, create stability for family members and contribute to the economic growth

of our country as a whole.<sup>1</sup> Erecting barriers to legal immigration, asylum, and employment is counter to public policy goals of facilitating independence and assimilation into the United States. For survivors of gendered violence and family rejection in particular, access to immigration benefits is essential to gain self-sufficiency following victimization.

### **THE PROPOSED RULE IS COUNTER TO HUMAN RIGHTS NORMS AND TREATY OBLIGATIONS**

The proposed rule represents another piece in a pattern of rule changes that increase the difficulty of legally immigrating to the United States.<sup>2</sup> As over 80 members of Congress have stated, the proposed rule would “inevitably price out hundreds of thousands, if not millions, of people from obtaining citizenship and other immigration benefits for which they qualify, based solely on their inability to afford these unreasonably high fees.”<sup>3</sup> These changes, especially the newly instated fee for asylum applications, are counter to international norms and an abrogation of the government’s responsibilities under the Refugee Act of 1980, in which the U.S. codified its international human rights obligations as a party to the Refugee Convention and the Convention Against Torture to ensure that the alien’s life or freedom would not be threatened. 8 U.S.C. § 1158 (a)(1), GA res. 39/46, annex, 39 UN GAOR Supp. (No. 51) at 197, UN Doc. A/39/51 (1984); 1465 UNTS 85.

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<sup>1</sup> The Center for American Progress. “How Citizenship Helps the Economy”, available at <https://cdn.americanprogress.org/wp-content/uploads/2014/03/EconofCitizenship.pdf>

<sup>2</sup> See e.g., comments submitted in response to USCIS, “Agency Information Collection Activities; Form I-912; Request for an Individual Fee Waiver,” USCIS-2010-0008, available at <https://www.regulations.gov/docketBrowser?rpp=25&po=75&dct=PS&D=USCIS-2010-0008&refD=USCIS-2010-0008-0144>

<sup>3</sup> Letter to Acting DHS Secretary Chad Wolf and Acting USCIS Director Ken Cuchinelli. “Re: U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request DHS Docket No: USCIS-2019-0010: RIN: 1615-AC18” (November 19, 2019). Available at: <https://meng.house.gov/sites/meng.house.gov/files/Letter.pdf>

Fees for asylum applications are counter to the historical intention of the asylum process created by agreements made in the aftermath of World War II in hopes of preventing another global travesty by ensuring that individuals fleeing crises and persecution are able to access fair and safe procedures to seek asylum. Introduction of a fee for asylum accomplishes just the opposite by erecting higher barriers to seeking asylum in the United States.

**TRANSFER OF FUNDS TO IMMIGRATION AND CUSTOMS ENFORCEMENT IS COUNTER TO  
CONGRESSIONAL INTENT**

WWH strongly opposes USCIS' proposed plan to transfer over \$110 million to fund Immigration and Customs Enforcement operations.<sup>4</sup> The DHS' interpretation of the statutory limits of their ability to transfer funds overreaches the authority delegated to them by Congress to reimburse agencies that conduct activities supporting immigration adjudication and naturalization services. Enforcing immigration laws and searching for immigration fraud are policing activities, not adjudicatory activities. The proposed rule contravenes the purpose of USCIS as a benefit-granting agency, not one focused on enforcement.<sup>5</sup> USCIS should instead focus its efforts on ensuring that low-income and other vulnerable immigrants have access to immigration relief for which they are eligible. It is regrettable that the agency seeks to fund enforcement measures by raising fees on low-income immigrants seeking to immigrate to the United States using our legal immigration procedures. The proposed rule represents yet another

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<sup>4</sup> USCIS. "Proposed rule; Extension of comment period; Availability of supplemental information" (Published December 9, 2019), available at <https://www.federalregister.gov/documents/2019/12/09/2019-26521/us-citizenship-and-immigration-services-fee-schedule-and-changes-to-certain-other-immigration>

<sup>5</sup> Congress specifically designated USCIS as the immigration benefits and adjudications agency in the Homeland Security Act in 2002 See, Section 451(b) Pub. L. No. 107-296, 116 Stat. 2135) (November 25, 2002), available at: [https://www.dhs.gov/xlibrary/assets/hr\\_5005\\_enr.pdf](https://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf)

way in which USCIS is betraying that mission and becoming a third enforcement arm of DHS, undermining the public trust in fair and unbiased immigration proceedings.

### CONCLUSION

For these reasons, Whitman-Walker Health strongly opposes the proposed fee schedule and changes to certain other benefit request requirements and recommends that the

Administration promptly rescind it.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Brooks". The signature is fluid and cursive, with a large initial "C" and "B".

Benjamin Brooks, Assistant Director of Policy  
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