



James J. Campbell  
Commissioner

# *The Commonwealth of Massachusetts*

## *Department of Industrial Accidents*

*600 Washington Street  
Boston, Mass. 02111*

### **CIRCULAR LETTER NO. 282**

**TO: ALL INTERESTED PERSONS**

**FROM: JAMES J. CAMPBELL, COMMISSIONER** *JJC*

**RE: REQUESTS FOR WAIVERS OF C. 152, §11A(2) IMPARTIAL EXAMINATION FEES**

**DATE: APRIL 26, 1996**

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This circular letter addresses the procedures to use when applying for waivers of M.G.L. c. 152, §11A(2) impartial medical examination fees based on a claim of indigence, pursuant to Neff v. Commissioner of the Dept. of Indus. Accidents, 421 Mass. 70 (1995).<sup>1</sup>

Beginning April 26, 1996, the following documents, available from the Department, should be used when applying for a waiver:

1. Revised Departmental Form 136, "Affidavit of Indigence and Request for Waiver of §11A(2) Fees;
2. Updated Poverty Guidelines; and
3. Departmental "Standards and Procedures for §11A(2) Fee Waiver Requests".

Note that Form 136 should be filled out in its entirety, with the entry of relevant figures or the word "none", accompanied by such relevant documentation as is required by the "Standards and Procedures". Failure to comply with these procedures may result in denial of a request.

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<sup>1</sup> In accordance with Neff, the Department promulgated emergency regulations, effective January 26, 1996, setting forth procedures, standards, and a form for processing waiver requests. The regulations expire April 25, 1996. The Department is implementing essentially the same program as set forth in the regulations, but in circular letter and condensed format.



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(a/o 3/4/96)

### **125% OF CURRENT POVERTY GUIDELINES\***

#### **(FOR USE IN APPLYING FOR WAIVER OF C. 152, §11A(2) IMPARTIAL EXAMINATION FEES BASED ON INDIGENCE)**

SIZE OF FAMILY UNIT	AMOUNT
1	\$ 9,675
2	12,950
3	16,225
4	19,500
5	22,775
6	26,050
7	29,325
8	32,600

For family units with more than eight members, add \$3,275 for each additional member in the family.

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\* POVERTY GUIDELINES ARE CURRENTLY SET AT THE FOLLOWING AMOUNTS:

SIZE OF FAMILY UNIT	AMOUNT
1	\$ 7,740
2	10,360
3	12,980
4	15,600
5	18,220
6	20,840
7	23,460
8	26,080

For family units with more than 8 members, add \$2,620 for each additional member. (The same increment applies to smaller family sizes, as can be seen in the figures above.) The 125% figures are the actual figures which will be used by the Department to determine whether the applicant meets the current poverty threshold component of the 452 CMR 1.02 definition of "indigent".

The Poverty Guidelines are updated annually (usually in early February or March) by the U.S. Department of Health and Human Services.



**THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF INDUSTRIAL ACCIDENTS - DEPARTMENT 136  
600 WASHINGTON STREET, 7TH FLOOR, BOSTON, MA 02111**

ENTER IF KNOWN

**AFFIDAVIT OF INDIGENCE AND REQUEST FOR WAIVER OF §11A(2) FEES**

All questions must be answered in full or the word "none" inserted. If additional space is needed for any answer, an attached sheet may be filed in addition to, but not in place of, the answer. Information contained herein will only be made available to the parties and other persons as allowed by state or federal law. Give monthly figures. To convert weekly to monthly figures, multiply the weekly amount by 4.3.

**I. CLAIM INFORMATION:**Name: \_\_\_\_\_ Social Security No.<sup>1</sup>: \_\_\_\_\_

Address: \_\_\_\_\_ Date of Injury: \_\_\_\_\_

Marital Status &amp; No. of Dependents: \_\_\_\_\_ Comp. Insurer: \_\_\_\_\_

**II. POVERTY AND ASSISTANCE QUALIFICATION (from SJC RULE 3:10, Section 1 (i) and (ii)):**

\_\_\_\_ (a) I receive one of the following types of public assistance: Aid to Families with Dependent Children (AFDC), Emergency Aid to Elderly, Disabled and Children (EAEDC), poverty related veterans' benefits, food stamps, refugee resettlement benefits, Medicaid, or Supplemental Security Income (SSI), or

\_\_\_\_ (b) I receive an annual income, after taxes, of 125% or less of the current poverty threshold referred to in M.G.L. c. 261, §27A(b).<sup>2</sup>

**III. MONTHLY INCOME FROM ALL SOURCES:****A. EMPLOYMENT OR SELF-EMPLOYMENT:****1. GROSS:**

- a. salary, wages,  
b. tips, bonuses, self-employment income

**2. TOTAL (a plus b)**

self/spouse<sup>3</sup>  
\$ \_\_\_\_\_ / \_\_\_\_\_  
\_\_\_\_\_ / \_\_\_\_\_  
\_\_\_\_\_ / \_\_\_\_\_

**3. DEDUCTIONS:**

- c. Federal income tax  
d. State income tax  
e. FICA/state or other retirement  
f. Union Dues  
g. Business expense, if self-employed

**4. TOTAL DEDUCTIONS (c through g)**

\_\_\_\_ / \_\_\_\_  
\_\_\_\_ / \_\_\_\_  
\_\_\_\_ / \_\_\_\_  
\_\_\_\_ / \_\_\_\_  
\_\_\_\_ / \_\_\_\_

**5. ADJUSTED INCOME (2 minus 4)**

\_\_\_\_ / \_\_\_\_

<sup>1</sup> Disclosing Social Security Number is voluntary. It will assist in the processing of your request.

<sup>2</sup> The 125% figures shall be available from the Department. The citation to §625 of the Economic Opportunity Act in M.G.L. c. 261, §27A, as amended by St. 1980, c. 539, §5 has become §624. Pub. L. 88-452, title VI, §624, [42 U.S.C. §2971(d)]. As noted on "Affidavit of Indigency and Request for Waiver, Substitution or State Payment of Fees and Costs" Form CIV. P. 90, in note 1, the 125% figure is substantially the same poverty standard used by legal services programs funded by the Federal Legal Services Corporation. 42 U.S.C. §2996(a)(2)(A)&(B).

<sup>3</sup> If there is a spouse, or person in substantially the same relationship, or parent (provided, in each instance, any such person lives in the same residence as the applicant and contributes substantially toward the household's basic living costs), you must list income, amounts contributed by each to basic living costs, and liquid assets for such person(s), in Parts III, IV, and V in the column labeled "spouse".

**B. INCOME FROM OTHER SOURCES:**

- h. Workers' Compensation  
 i. Social Security  
 j. Long- or Short-term Disability  
 k. Welfare benefits  
 l. Unemployment Compensation  
 n. Other Sources (for example, Rental Income,  
 Pensions Payments, Annuities Alimony)  
**6. TOTAL INCOME OTHER SOURCES (h through n)**

self/spouse

\_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_

**7. TOTAL NET MONTHLY INCOME (5 plus 6)**

\_\_\_\_\_/\_\_\_\_\_

**IV. BASIC LIVING COSTS (monthly):**

- a. Rent  
 b. Mortgage (Principle, Interest & Taxes)  
 c. Food  
 d. Clothing  
 e. Utilities (Electricity/Gas)  
 f. Heat  
 g. Water/sewer  
 h. Telephone  
 i. Transportation, e.g., Auto Loan ,  
 Auto Insurance  
 j. Health Care/Health Insurance  
 k. Support for Dependents  
 l. Education Costs  
**8. TOTAL COSTS (a through l)**

\_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
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**9. NET DISPOSABLE INCOME (7 minus 8)**

\_\_\_\_\_/\_\_\_\_\_

**V. LIQUID ASSETS (Cash or Assets readily convertible to cash):**

- a. Cash on hand  
 b. Cash in bank, mutual or other fund, account  
     Savings Acct. # \_\_\_\_\_  
     Checking or Mutual/Fund Acct. # \_\_\_\_\_  
 c. Real estate  
     Location \_\_\_\_\_  
     Fair Market Value \$ \_\_\_\_\_ - Loan \_\_\_\_\_ = Equity  
 d. Stocks, bonds, etc.  
 e. Motor Vehicle(s)  
     Make \_\_\_\_\_ Year \_\_\_\_\_  
     Fair Market Value \$ \_\_\_\_\_ - Loan \_\_\_\_\_ = Equity  
 f. Other liquid assets  
**10. TOTAL LIQUID ASSETS (a through f)**

\_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
 \_\_\_\_\_/\_\_\_\_\_  
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I, \_\_\_\_\_, make this affidavit and request for waiver and certify that I am unable to pay the filing fee mandated by c.152, §11A. I further certify that the information provided is true, complete, and accurate to the best of my ability, knowledge, and belief. I understand that some or all of this information is subject to, and must be accompanied by, verification.<sup>4</sup> Signed under the pains and penalties of perjury:

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

**OTHER INFORMATION relative to financial circumstances (attach separate sheet).**

<sup>4</sup> See "Standards and Procedures for §11A(2) Fee Waiver Requests", available from the Department.

## **STANDARDS AND PROCEDURES FOR §11A(2) FEE WAIVER REQUESTS**

1. Requests for waivers of the M.G.L. c. 152; §11A(2) impartial medical examination fees must be made by filing a Departmental Form 136 with the Commissioner, on or before ten calendar days following the filing of an appeal of a conference order or allowance of a late appeal pursuant to M.G.L. c. 152, §10A. Form 136 waiver requests not filed within the ten-day period will be considered only when warranted.
2. A party's Form 136 waiver request may be granted after applying the standards set forth in SJC Rule 3:10: receipt of one of the designated types of public assistance; having an annual income after taxes of 125% or less of the current poverty threshold; and/or consideration of a party's available funds or special circumstances. The appeal of any party whose waiver request is granted shall be deemed perfected.
3. If the Form 136 waiver request is denied, the Commissioner shall render a Notice of Denial setting forth the reason(s) for the denial. Such Notice shall constitute the Commissioner's final determination, unless the party timely seeks reconsideration.
4. A party whose Form 136 waiver request is denied may perfect the appeal by paying the impartial medical examination fee within ten calendar days following the filing date of the Commissioner's final determination, provided the Form 136 request was timely filed. Remittance of the fee in all other instances shall be allowed only when warranted.
5. Insurers shall reimburse the Department for fees waived and paid by the Department on behalf of an indigent party who prevails on, adjusts, or lump sums a claim.
6. As set out below, a party requesting a waiver shall submit documentation with Form 136 to verify information on the form. Failure to submit the required documentation may result in denial of the request. When warranted, alternative forms of verification may be allowed or required by the Commissioner.

### **Bank Accounts, Certificates of Deposit, and Savings Accounts.**

Copies of bank books or statements that show the balance within 45 days of the date of the filing of Form 136. For joint bank accounts, the entire balance shall be indicated as an asset, unless the applicant can demonstrate other than joint ownership.

### **Basic Living Costs.**

- a) Shelter costs: canceled checks, money order receipts, and/or monthly or other periodic mortgage statements or copies of leases or rental agreements.
- b) Food and clothing costs: receipts or affirmed statements.
- c) Utility, telephone, heat, water, and sewer costs: monthly/periodic bills.
- d) Health insurance premiums; health care treatment/services essential for treatment: copies of paid medical bills, health insurance premium payments or bills.

- e) Transportation costs: copies of paid bills, receipts, or statements for transportation costs, including those related to motor vehicle loans and insurance.
- f) Education and support payments: copies of canceled checks or receipts showing the amount and date of the payment and to whom paid.

Income (wages, salary, tips, and other earnings; self-employment income).

Pay stubs, pay envelopes, a written statement signed by an employer, W-2's, or 1099's showing the gross wages (including tips, if applicable) and deductions. For self-employment income, business records showing total income and total business expenses (records of bank deposits; wages, social security and other taxes paid, etc.) associated with the gross income earned for the three most current months.

Income from Other Sources.

- a) Workers' compensation, social security, long- or short-term disability, unemployment, and welfare benefits: copies of benefit payment checks, award letter(s), or statement(s) from the agency/person making the payment that indicates the amount and frequency of the payment. For workers' compensation, also copies of the order, agreement, hearing decision; and, where applicable, copies of any wage statements filed with the insurer pursuant to M.G.L. c. 152, §11D.
- b) Pensions: retirement fund statements and other related documents.
- c) Dividends and interest: copy of the most recent bank or other financial statement showing yearly/ periodic receipts.
- d) Rental or other realty income: copies of rental receipts or other statements.
- e) Other sources: copies of formal statements indicating amount and dates.

Motor Vehicles - Equity Value.

Equity value: fair market value (price of the vehicle on the open market - verified by advertisements, book value) minus the balance of any liens/loans (verified by payment book(s) or statement(s) from the lending institution). All vehicles must be listed. Equity value in excess of \$1500 is countable, provided the equity is reasonably convertible to cash and the vehicle is not needed for employment.

Real Property - Equity Value.

Equity value: fair market value (price on the open market - verified by assessment or appraisal documents) less encumbrances (verified by copies of loan instruments or other documents evidencing the outstanding loan balance). The equity value of all real property owned shall be countable, provided it is reasonably convertible to cash, for example, by the availability of an equity line of credit.

Securities (stocks, bonds, futures, contracts, debentures, mutual/other funds, etc.)

Copies of statements from the individual, corporation, licensed stockbroker, bank or government agency that issued the security; a current daily newspaper clipping showing the date and closing bid price; a bank or other financial institution statement verifying current security value; or documentation from a current financial publication.