

Notice to Chapter 7 Trustees re: Bankruptcy Filing Fee Waivers

The purpose of this Notice is to clarify the position of the United States Trustee Program (“USTP”) as to the chapter 7 trustee’s role in evaluating filing fee waiver applications. The USTP does not expect or require chapter 7 trustees to review fee waiver applications.

Pursuant to 28 U.S.C. § 1930(f)(1) and procedures prescribed by the Judicial Conference of the United States (“Judicial Procedures”), the bankruptcy court may, but is not required to, waive the filing fee in a chapter 7 case filed by an individual debtor if the court determines that “such individual has income less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments.” 28 U.S.C. § 1930(f)(1). Federal Rule of Bankruptcy Procedure 1006(c) provides that the clerk of the bankruptcy court shall accept a voluntary individual chapter 7 petition without the filing fee if it is accompanied by an application for a fee waiver using the appropriate Official Form. The Judicial Procedures require the bankruptcy court to promptly determine whether the fee waiver application should be granted, denied, or set for early hearing. *See, Guide to Judiciary Policy*, Vol. 4, Chapter 8, Section 820 (last revised (Transmittal 04-024) December 13, 2021).

Objecting to filing fee waiver requests is not one of the trustee duties specified under 11 U.S.C. § 704. Neither section 1930(f)(1), nor Rule 1006(c), nor the Judicial Procedures require the chapter 7 trustee to review, evaluate, or object to fee waiver applications. Nor are chapter 7 trustees required to do so by the USTP’s Handbook for Chapter 7 Trustees.

The USTP issues this Notice to clarify that the USTP does not expect or require chapter 7 trustees to review the fee waiver application filed in every debtor’s case or to police generally the fee waiver statute. The chapter 7 trustee should advise the United States Trustee if evidence suggests a pattern of abusing 28 U.S.C. § 1930(f)(1). This Notice is not intended to override the requirements of the Bankruptcy Code, Federal Bankruptcy Rules, or local bankruptcy rules.