



(a) Where Paid

Fees for the filing of motions and applications for relief with the Immigration Court, when required, are paid to the Department of Homeland Security as set forth in 8 C.F.R. § 1103.7. The Immigration Court does not collect fees. See 8 C.F.R. §§ 1003.24, 1103.7.

(b) Filing Fees for Motions

(1) When required — The following motions require a filing fee:

1. a motion to reopen (except a motion that is based exclusively on a claim for asylum)
2. a motion to reconsider (except a motion that is based on an underlying claim for asylum 8 C.F.R. §§ 1003.23(b)(1), 1003.24, 1103.7. For purposes of determining filing fee requirements, the term “asylum” here includes withholding of removal (“restriction on removal”), withholding of deportation, and claims under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

Where a filing fee is required, the filing fee must be paid in advance to the Department of Homeland Security and the fee receipt must be submitted with the motion. If a filing party is unable to pay the fee, he or she should request that the fee be waived. See subsection (d), below.

(2) When not required — The following motions do not require a filing fee:

1. a motion to reopen that is based exclusively on a claim for asylum
2. a motion to reconsider that is based on an underlying a claim for asylum
3. a motion filed while proceedings are pending before the Immigration Court
4. a motion requesting only a stay of removal, deportation, or exclusion
5. a motion to recalendar
6. any motion filed by the Department of Homeland Security
7. a motion that is agreed upon by all parties and is jointly filed (“joint motion”)
8. a motion to reopen a removal order entered in absentia if the motion is filed under INA § 240(b)(5)(C)(ii).
9. a motion to reopen a deportation order entered in absentia if the motion is filed under INA § 242B(c)(3)(B), as it existed prior to April 1, 1997
10. a motion filed under law, regulation, or directive that specifically does not require a filing fee

8 C.F.R. §§ 1003.23(b)(1), 1003.24, 1103.7. For purposes of determining filing fee requirements, the term “asylum” here includes withholding of removal (“restriction on removal”), withholding of deportation, and claims under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

(c) Application Fees

(1) When required - When an application for relief that requires a fee is filed during the course of proceedings, the fee for that application must be paid in advance to the Department of Homeland Security (DHS). Instructions for paying application fees can be found in the DHS biometrics instructions, which are available on the Executive Office for Immigration Review website at www.justice.gov/eoir. A fee receipt must be submitted when the application is filed with the Immigration Court.

If a filing party is unable to pay the fee, the party should file a motion for a fee waiver. See subsection (d), below.

(2) When not required - When an application for relief that requires a fee is the underlying basis of a motion to reopen, the fee for the application need not be paid to the Department of Homeland Security (DHS) in advance of the motion to reopen. Rather, only the fee for the motion to reopen must be paid in advance. The fee receipt for the motion

to reopen must be attached to that motion. See subsection (b)(1), above. If the motion to reopen is granted, the fee for the underlying application must then be paid to DHS and that fee receipt must be submitted to the Immigration Court. See [Chapter 3.1\(c\)](#). (Must be “Timely”).

(d) When Waived

When a fee to file an application or motion is required, the Immigration Judge has the discretion to waive the fee upon a showing that the filing party is unable to pay the fee. However, the Immigration Judge will not grant a fee waiver where the application for relief is a Department of Homeland Security (DHS) form and DHS regulations prohibit the waiving of such fee. See 8 C.F.R. §§ [103.7](#), [1103.7](#).

Fee waivers are not automatic. The request for a fee waiver must be accompanied by a properly executed affidavit or unsworn declaration made pursuant to 28 U.S.C. § [1746](#), substantiating the filing party’s inability to pay the fee. If a filing is submitted without a required fee and the request for a fee waiver is denied, the filing will be deemed defectively filed and may be rejected or excluded from evidence. See [Chapter 3.1\(d\)](#) (Defective Filings).

Fees are not reimbursed merely because the application or motion is granted.

In all cases, the immigration judge will issue a decision on a fee waiver request in writing or on the record.

(e) Amount of Payment

(1) Motions to reopen or reconsider - When a filing fee is required, the fee for motions to reopen or reconsider is \$145. 8 C.F.R. § [1103.7\(b\)\(2\)](#). The fee is paid to the Department of Homeland Security in advance. The fee receipt and motion are then filed with the Immigration Court.

(2) Applications for relief - Application fees are found in the application instructions and in the federal regulations. See 8 C.F.R. §§ [103.7](#), [1103.7\(b\)\(1\)](#). See also [Chapter 11](#) (Forms), [Appendix D](#) (Forms).

(3) Background and security checks - The Department of Homeland Security (DHS) biometrics fee is found in the DHS biometrics instructions provided to the aliens in the Immigration Court. 8 C.F.R. § [1003.47\(d\)](#). The Immigration Judge cannot waive the DHS biometrics fee.

(f) Payments in Consolidated Proceedings

(1) Motions to reopen and reconsider - Only one motion fee should be paid in a consolidated proceeding. For example, if several aliens in a consolidated proceeding file simultaneous motions to reopen, only one motion fee should be paid.

(2) Applications for relief - To determine the amount of the fee to be paid for applications filed in consolidated proceedings, the parties should follow the instructions on the application. In some cases, a fee is required for each application. For example, if each alien in a consolidated proceeding wishes to apply for cancellation of removal, a fee is required for each application.

(g) Form of Payment

When a fee is required to file an application for relief or a motion to reopen or reconsider, the fee is paid to the Department of Homeland Security and the form of the payment is governed by federal regulations. See 8 C.F.R. § [103.7](#).

(h) Defective or Missing Payment

If a fee is required to file an application for relief or motion but a fee receipt is not submitted to the Immigration Court (for example, because the fee was not paid in advance to the Department of Homeland Security), the filing is defective and may be rejected or excluded from evidence. If a fee is not paid in the correct amount or is uncollectible, the filing is defective and may be rejected or excluded from evidence. See [Chapter 3.1\(d\)](#) (Defective Filings).