

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

PROCEDURES GOVERNING IN FORMA PAUPERIS
PAYMENTS FOR FILING FEES BY INCARCERATED INDIVIDUALS

Amendments in April 1996 to 28 U.S.C. § 1915 require an inmate to pay the full filing fee when bringing a civil action or filing an appeal *in forma pauperis*. If, however, insufficient funds exist in the inmate's account:

1. When filed with the court, all complaints or petitions by incarcerated persons should be accompanied by:

- a. a motion to proceed in forma pauperis;
- b. a financial affidavit (USDCNH 15 or equivalent);
- c. a Certificate of Custodial Institution (see USDCNH-14 attached) with a copy, certified by an authorized official of the institution, of the applicant's trust account statement for the prior six-month period.

2. Should *in forma pauperis* status be granted, the court will set an initial partial filing fee in the amount of 20% of the greater of (a) the average monthly (for the prior six months) deposits to the inmate's account; or (2) the average monthly balance in the inmate's account for the prior six-month period.

3. The court will issue an order:

- a. setting the amount of the initial partial filing fee;

- b. setting the date by which that fee must be received (usually ten calendar days);
- c. ordering subsequent monthly payments of 20% of the preceding month's income, whenever the inmate's account exceeds \$10.

A copy of this order will be sent to the institution.

4. Should the inmate wish to pursue the action, it is the responsibility of the inmate to request that the initial partial filing fee, as set by the court, be withdrawn from his/her account and sent to the court. Said inmate shall make a written request to the institution. The institution shall issue such check and send it to the court by the date ordered.

N.B. If the initial partial fee is not paid by the date ordered by the court, the case will be dismissed for lack of prosecution.

5. Once the initial partial filing fee is paid, it is the responsibility of the institution to automatically withdraw the subsequent monthly payments (20% of the preceding month's income, whenever the inmate's account exceeds \$10) until the fee is paid in full.

Any check sent to the court shall be accompanied by a transmittal memo clearly indicating the case number and name of inmate.

If the institution has multiple inmate litigants who have been assessed filing fees, the institution may issue one check, provided that it is accompanied by a transmittal memo indicating the case

number and name of each inmate along with the amount included for each inmate so that the court may properly post those amounts to the inmate's court account.

The check will be sent to the Clerk of Court monthly by the 10th of the following month.

6. Both the court and the institution shall carefully monitor payments so that collection may be terminated when full payment is made.

7. If an inmate who is making monthly payments is released from custody or transferred to another institution, the original institution shall notify court when the inmate account is closed and shall advise the court of forwarding address of the inmate.

Effective: July 12, 1996

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