



OCTOBER 2022 CHANGES TO USCIS FORM N-648 AND TO THE USCIS POLICY MANUAL

By Peggy Gleason

On October 19, 2022, USCIS announced revisions to Form N-648 (Medical Certification for Disability Exceptions).¹ Overall, the changes are very positive and will lessen the burden on both applicants and the medical professionals who complete the form. This form is presented by naturalization applicants who are seeking a waiver of the English and/or civics requirement based on a disability or impairment that causes an applicant to be unable to learn or demonstrate knowledge of English and/or civics. USCIS also announced major revisions to the USCIS Policy Manual guidance.

The new Form N-648 (revision dated 8/19/22) must be used by all applicants for a disability waiver who are filing on or after November 21, 2022.

The USCIS Policy Manual has also been changed with respect to disability waivers and oath waivers.² Feedback comments on the Policy Manual revisions can be filed to the USCIS website at policyfeedback@uscis.dhs.gov by November 21, 2022.

The new Form N-648 is almost identical to the proposed version that ILRC and our partners in the New Americans Campaign (NAC) commented on in November 2021.³ At that time, we expressed our support for nearly all the changes and urged USCIS to implement the proposed

¹ USCIS, *Form and Policy Updates Remove Barriers to Naturalization for Applicants with Disabilities* (Oct. 19, 2022) <https://www.uscis.gov/newsroom/news-releases/uscis-form-and-policy-updates-remove-barriers-to-naturalization-for-applicants-with-disabilities>.

² The revised sections in the USCIS Policy Manual are Volume 12: Citizenship and Naturalization, Part E, English and Civics Testing and Exceptions, Chapter 3, Medical Disability Exception (Form N-648) [12 USCIS-PM E.3] and Part J, Oath of Allegiance, Chapter 2, The Oath of Allegiance [12 USCIS-PM J.2] and Chapter 3, Oath of Allegiance Modifications and Waivers [12 USCIS-PM J.3].

³ ILRC, *Naturalization Working Group Advocacy Comment on the N-648* (Nov. 5, 2021) https://www.ilrc.org/sites/default/files/resources/final_n-648_nwg_letter_re_docket_id_uscis-2008-0021.pdf.

changes as soon as possible, while also changing the policy guidance to concur with the new form.

This alert summarizes the key changes to the Form N-648 and the USCIS Policy Manual. We will publish a comprehensive practice advisory on all the changes on our website soon.

I. Key Form Changes

Below is a list of key changes to the Form N-648:

- The new Form N-648 is much shorter and has been cut nearly in half from the previous version, from 9 pages to just over 4 pages.
- Part 1 (Applicant Information) has been shortened. The new form no longer requests the applicant's social security number or email address.
- The number of questions in Part 3 (Information About Disabilities and/or Impairments) has been greatly reduced and simplified to just key information. In particular, the question in the prior version about the applicant's daily life activities has been deleted. Also, questions about the description of the disabilities, cause of the disabilities, dates of diagnosis, dates of onset, date/location the doctor first examined the applicant, frequency of treatment, if the doctor is the one who regularly treats the applicant, duration of treatment, name of regularly treating medical professional, and explanation of why this doctor is certifying the form instead of the regularly treating medical professional have all been deleted. In our comments, we had objected to the burden that these redundant questions posed and pointed out that inquiries into activities of daily living (working, attending school, taking public transportation) were irrelevant. These inquiries often led to adjudicators substituting their judgement on disability for that of the certifying medical professional.
- Also in Part 3, the previous questions about the clinical diagnosis and the connection between the disability/impairment and inability to meet the testing requirements have been combined in the first question.
- **WARNING:** A new section has been added: Part 4 (Ability to Understand Oath of Allegiance) where the medical professional is asked if the applicant is able to understand and communicate an understanding of the oath. The USCIS Policy Alert explains that the intent of this question is to streamline the oath waiver process by eliminating the need for a separate oath waiver request.⁴ In our comments, we expressed concern about this change because

⁴ USCIS, Policy Alert, *Revision of Medical Certification for Disability Exceptions (N-648)* (Oct. 19, 2022) <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20221019-N-648MedicalCertification.pdf> .

the inclusion of this question in the N-648 may lead to many unnecessary oath waiver requests. We are concerned that the certifying medical professional will have no actual knowledge of what the oath contains or what an oath waiver entails, nor how an oath may legally be modified or simplified for an appropriate applicant. Under current USCIS Policy Manual guidance, if an oath waiver is requested, the applicant will need to have a qualifying U.S. citizen relative who is also a primary caregiver or a court-ordered legal guardian, surrogate or designated representative who can act on their behalf.⁵ Many applicants do not have one of the limited U.S. citizen relatives currently allowed by the USCIS to act for them in this process, nor do they have the time or funds available to go through a lengthy court-ordered guardian or representative process. ILRC will advocate for removal of this question. For now, advocates should be aware of it and discuss the content of the oath, the separate process of the oath waiver, and the consequences of a “no” answer with the medical professional.

- Part 5 (Interpreter Information and Certification) distinguishes between in-person interpretation and telephonic interpretation and has clear instructions on how to complete this section when a telephonic interpreter was used.
- In Part 6 (Applicant’s (Patient’s) Attestation/Release of Information), the signature box notes that an applicant can make a mark if they are unable to sign. This is a clarification that we requested in our comments.
- Part 7 (Medical Professional’s Certification) has been simplified, with key information enumerated at the beginning.
- The N-648 Instructions state that the disability waiver form “should” be submitted concurrently with the N-400. The previous guidance stated that the N-648 “must” be submitted when they file the N-400. Applicants who have changed circumstances or changes in representation may have legitimate reasons for filing an N-648 after the filing of the N-400.
- The Instructions also specify that USCIS may accept an N-648 where the medical professional conducted the medical examination through telehealth. This change has long been urged by advocates, especially since this population of applicants is vulnerable and has been severely impacted by the COVID-19 pandemic. Since the pandemic, many medical professionals began utilizing telemedicine instead of in-person examinations but prior USCIS guidance required an in-person exam for disability waivers.

⁵ This limited list of persons who can act in place of a disabled applicant for an oath waiver are listed in the USCIS Policy Manual (USCIS-PM) at 12 USCIS-PM J.3(C)2.

II. Key USCIS Policy Manual Changes

In addition to the form changes, the USCIS Policy Manual guidance on disability waivers and oath waivers has undergone major revisions that make it consistent with the substance and spirit of the new Form N-648. The previous version of the USCIS Policy Manual exceeded the requirements of the statute and regulations, imposing new requirements on disability waiver applicants and encouraging denial of applications. The new guidance is much fairer and offers more flexibility for applicants in meeting the N-648 requirements.

Below is a list of key USCIS Policy Manual changes in 12 USCIS-PM E.3:

A. Flexibility on N-648 Filing Date and Supplemental Information

The new guidance states that while the N-648 should be submitted as an attachment to Form N-400, “USCIS should accept a Form N-648 submitted after the applicant files the naturalization application”⁶ with none of the strict conditions imposed by the previous guidance.

If the first N-648 is not sufficient, the applicant can submit an updated form with additional information rather than a new N-648. “The resubmitted form must be signed and dated by the same medical professional who signed the original Form N-648.”⁷ The form will be accepted even if the form edition is now expired and no longer in use. “USCIS will also accept a letter or other medical documentation addressing the Form N-648 deficiencies, if it is signed and dated by the same medical professional who signed the Form N-648.”⁸

B. Flexibility in Determining when the Form N-648 is Sufficient

If information is missing from the N-648, the guidance states that “the officer should review any extra documents provided by the medical professional to determine if the information completes the Form N-648.”⁹ In a similar vein, the guidance states, “Before determining that a Form N-648 is insufficient due to missing information, officers should review all sections to confirm that the information needed does not appear in a different section of the form.”¹⁰ The N-648 may not be found insufficient solely because the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Diseases (ICD) codes are missing “if the medical professional has provided a sufficient description of the clinical diagnosis.”¹¹ Similarly, the officer

⁶ 12 USCIS-PM E.3(B)1.

⁷ 12 USCIS-PM E.3(G)2.

⁸ 12 USCIS-PM E.3(G)2.

⁹ 12 USCIS-PM E.3(E).

¹⁰ 12 USCIS-PM E.3 n.24.

¹¹ 12 USCIS-PM E.3 n.20.

“should not determine that the form is insufficient solely because the date of last examination is missing on the form if the date can be confirmed during the naturalization interview.”¹²

Furthermore, an officer is instructed to review the Form N-648, “in its totality and may determine that the Form N-648 is sufficient, even if some of the questions have incomplete responses.”¹³ The officer can make the sufficiency determination despite incomplete answers if the file and testimony establish that the applicant is eligible.¹⁴ Also, the guidance states if the applicant’s or interpreter’s signatures are missing on the form, the officer may allow the applicant or the interpreter to sign the form at the interview (if the interpreter was the same one used during the medical professional’s examination).¹⁵

C. Telehealth

In Part E, the new policy guidance states that USCIS may accept a Form N-648 certified by a licensed medical professional who completed a telehealth exam. The medical professional must adhere to their state telehealth laws and requirements. Prior guidance stated that at least one “in-person” examination was required by the medical professional, and despite the trend to remote medical examinations during the COVID-19 pandemic, advocates reported that USCIS insisted on in-person examinations. This new guidance on telehealth exams thankfully replaces the prior in-person requirement.

D. Reasons for Credible Doubt are Reduced

In the prior version of the USCIS Policy Manual, this section was titled “Credible Doubt, Discrepancies, Misrepresentation and Fraud,” and it had an expansive list of fifteen different circumstances that could justify a USCIS adjudicator’s denial of a disability waiver. The list has now been shortened to six circumstances that may give rise to credible doubt, and the section now deletes “discrepancies, misrepresentation, and fraud” from the title.

Advocates objected to this section of the previous guidance because it created a de facto presumption of fraud in an array of circumstances, thereby altering the burden of proof on applicants, which properly should be a preponderance of the evidence in benefits applications.

The current version of the USCIS Policy Manual has deleted some of the most objectionable grounds for alleged credible doubt, such as not including an explanation of the doctor-patient relationship if the doctor is not the regularly treating physician, or where the medical professional

¹² 12 USCIS-PM E.3 n.21.

¹³ 12 USCIS-PM E.3(G).

¹⁴ 12 USCIS-PM E.3(G).

¹⁵ 12 USCIS-PM E.3 n.13.

did not explain the diagnostic techniques used, or where previous medical exams did not identify the condition in Form I-693. The prior version of the USCIS Policy Manual also found “credible doubt” if an applicant failed to justify a late filing of an N-648, a basis that is deleted in the current version.

In the current USCIS Policy Manual, the list of examples of credible reasons to doubt the validity of the form in Part 4 has been shortened to these six:

- The medical professional who completed the Form N-648 is under investigation for immigration fraud, Medicaid fraud, or other fraud schemes;
- The officer determines that the applicant was not examined by the certifier;
- The interpreter used is known or suspected to be involved in fraud by FDNS (USCIS’s fraud investigation office, Fraud Detection and National Security), ICE, or other federal, state, or local agency or state medical board;
- The evidence in record indicates fraud;
- The applicant provided multiple N-648s with different diagnoses and information;
- And any other articulable grounds that supported by the record.¹⁶

These last three grounds are particularly vague and may potentially lead to unfair denials. However, the tone of the current Policy Manual in this section is much less punitive than the prior version, which took a “fraud first” approach to the disability waiver. Twice, the new guidance states that “in general, USCIS should accept the medical professional’s diagnosis.”¹⁷ In addition, this section states that if fraud is suspected, the officer should consult with a supervisor to determine whether to refer a case to FDNS. Also, any such findings by an officer must be explained in a Notice of Intent to Deny or a denial notice. This section also provides instructions that adjudicators must provide the applicant an opportunity to explain any inconsistencies or discrepancies.

E. Increased Transparency and Communication with the Applicant

¹⁶ 12 USCIS-PM E.3(F)4.

¹⁷ 12 USCIS-PM E.3(F)4; 12 USCIS-PM E.3(G).

The USCIS Policy Manual revisions appear to improve transparency and communication with the applicant regarding the sufficiency of Form N-648. For example, before requesting a supplemental Form N-648, the officer must “[e]xplain to the applicant, through an RFE, the reasons for doubting the veracity of the information on the original Form N-648.”¹⁸ “The officer must provide the applicant an opportunity to address any specific discrepancies or inconsistencies during the interview.”¹⁹ If the form is insufficient, “The officer must explain why they found the form insufficient in the applicant’s preferred language, using an interpreter if needed.”²⁰

If an applicant submits more than one Form N-648 and there are significant discrepancies between the documents, “...the officer must provide the applicant with an opportunity to explain discrepancies.”²¹

This is not a complete list of all the changes in the new policy guidance. Advocates working with disability waiver applicants are encouraged to read the new USCIS Policy Manual material in its entirety.²²

III. Conclusion

Overall these changes are good news for naturalization applicants seeking a disability waiver. While concerns remain about the inclusion of “credible doubt” criteria, USCIS clearly intends to increase access to the waiver for eligible applicants.

ILRC will submit comments about the revisions to the USCIS Policy Manual and encourages concerned partners to do so as well. Feedback comments on the Policy Manual revisions can be filed to the USCIS website at policyfeedback@uscis.dhs.gov by November 21, 2022, but USCIS will consider them even if received after that date. We will post our comments on the ILRC website as soon as they are finalized.

¹⁸ 12 USCIS-PM E.3(F)4.

¹⁹ 12 USCIS-PM E.3(F)4.

²⁰ 12 USCIS-PM E.3(G)2.

²¹ 12 USCIS-PM E.3(B)2.

²² For an alert describing the overall changes with links to all the affected sections of the USCIS Policy Manual see USCIS, Policy Alert, *Revision of Medical Certification for Disability Exceptions (N-648)* (Oct. 19, 2022) <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20221019-N-648MedicalCertification.pdf>



San Francisco

1458 Howard Street
San Francisco, CA 94103
t: 415.255.9499
f: 415.255.9792

ilrc@ilrc.org
www.ilrc.org

Washington D.C.

600 14th Street NW
Suite 502
Washington, DC 20005
t: 202.777.8999
f: 202.293.2849

Austin

6633 East Hwy 290
Suite 102
Austin, TX 78723
t: 512.879.1616

San Antonio

500 6th Street
Suite 204
San Antonio, TX 78215
t: 210.760.7368

About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend