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**Commonwealth of Pennsylvania
Magisterial District Judges Association of Chester County**

Secretary : Honorable Lori Donatelli

*President
Honorable John R. Bailey*

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Honorable Jeffrey J. Valocchi*

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Honorable Analisa
Sondergaard*

February 23, 2018

Mr. Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee

During my term on the bench, I have noticed an increase of people who are unable to pay and who fall thru the cracks of society when conducting a Payment Determination Hearing (PDHrg). This affects men, women and children regardless of the County's wealth. There have been incidents where that individual who now stands before me was once gainfully employed and had the ability to handle any debts or expenses that he or she might have incurred. As a Magisterial District Judge in Chester County, we have been given one tool that supports both the individual who is facing indigence and a smoother running court.

Chester County Magisterial District Judges have an authorized policy which allows the MDJ, at the conclusion of a PDHrg, to administer the proper adjudication by declaring one Indigent.

When I conduct a PDHrg, I refer to the Living wage calculation for Chester County, provided by the Massachusetts Institute of Technology. This resource is available for every county in the Commonwealth.

(livingwage.mit.edu/counties/42029)

Here in Chester County, a suitable living wage is roughly **\$50,000 for (1) Adult with (1) child**. Wages below this figure makes life barely sustainable.

The Living Wage Calculation for Chester County, Pennsylvania is:

<u>Hourly Wages</u>	<u>1 Adult</u>	<u>1 Adult w/1 Child</u>
Living Wage	\$11.43	\$23.06
Poverty Wage	\$5.00	\$7.00
Minimum Wage	\$7.25	\$7.25

The living wage shown is the hourly rate that an individual must earn to support his or her family, if they are the sole provider and are working full-time (2080 hours per year)...

Needless to say these statistics are quite alarming, and I strongly urge other MDJ's to do the math next time conducting a PDHrg. As importantly those who fall between the poverty wage and the living wage range typically fail to qualify for any County or Federal services.

Sadly, some will never get out of the poverty cycle if they continue in their present job. Another alarming factor in Chester County which I consider is the following:

- ❖ On any given day in Chester County, there are 34 families waiting for housing assistance
Source; Connect Points of Chester County
- ❖ Single white Males top the list for Homeless individuals in Chester County as well. (attributed to Drug addiction, mental health issues, and veteran assistance needs)
Source; Summary of the Fund for Chester County Women and Girl, 2015 Blue Print Report

With regards to our ability to proceed with the determination of Indigency, we are guided by a precedent set by past practices from two former President Judges who have given us the authority through the following "administrative orders"

- **District Court Operational regulation 20-1993-** authored by Chester County President Judge Leonard Sugerma
- **District Court Operational Regulation 2-2005-** signed by Chester County President Judge Paula Ott (this order 2-2005, replaced District Court Operational order #20, however the wording and authority was the same).

"At any time a Magisterial District Judge sitting in Chester County shall deem it appropriate, he or she may, on motion of counsel or upon his or her own motion, declare fines, costs and restitution arising out of summary prosecutions non-collectable because of the indigence of the defendant and thereafter closed the case.

The District Judge shall make note upon the file that the case was closed for the reason that the fines, costs and /or restitution are uncollectable due to the defendant's indigence." Dated March 22, 2005-President Judge Paula Ott.

As a result of this option, our court dockets tend not to be burdened with the fines and costs which will never be satisfied.

I have spoken with my peers throughout the Commonwealth, and have addressed this topic of concern in our quarterly State meeting(s) held in Harrisburg. The issue, of course, is not isolated to just Chester County but impacts the entire state.

If a Magisterial District Judge decides to explore the total picture as I have outlined, it most definitely tends to make the PDHrgs a more involved process. In reality, I have come to the realization that we need to listen to and evaluate the information of the individual who is appearing before us in its entirety. After all, and in all fairness this is the proper and thorough way to proceed.

I hope this information may be of future assistance.

Respectfully,



John R. Bailey
President
Magisterial District Judges Association of Chester County

Attachments: District Court Operational Regulation No. 20-1993
District Court Operational Regulation 2-2005
District Court 15-4-03 Payment Determination Hearing (Rule 456)
District Court 15-4-03 Non-Collectible Form-Indigence

IN RE: DISTRICT JUSTICE'S ABILITY TO DECLARE FINES NON-COLLECTABLE AND CLOSE CASES

DISTRICT COURT OPERATIONAL REGULATION NO. 20 - 1993

At any time a District Justice sitting in Chester County shall deem it appropriate, he or she may, on motion of counsel or upon his or her own motion, declare fines, costs and restitution arising out of summary prosecutions non-collectible because of the indigency of the defendant and thereafter close the case.

The District Justice shall make note upon the file that the case was closed for the reason that the fines, costs and/or restitution were uncollectible due to the defendant's indigency.

This order replaces ADMINISTRATIVE REGULATION NO. 104 - 1987. It will now be listed as a DISTRICT COURT OPERATIONAL REGULATION.

DATE

8/4/93

PRESIDENT JUDGE

IN RE: MAGISTERIAL DISTRICT JUDGE'S ABILITY TO
 DECLARE FINES NON-COLLECTABLE (UNABLE TO PAY)
 AND CLOSE CASES

DISTRICT COURT OPERATIONAL REGULATION 2 - 2005

It is hereby ORDERED and DECREED that OPERATIONAL
REGULATION NO. 20 – 1993 is replaced by OPERATION REGULATION
2-2005.

At any time a Magisterial District Judge sitting in Chester County shall
deem it appropriate, he or she may, on motion of counsel or upon his or her own
motion, declare fines, costs and restitution arising out of summary prosecutions
non-collectable because of the indigence of the defendant and thereafter closed
the case.

The District Judge shall make note upon the file that the case was closed
for the reason that the fines, costs and/or restitution are uncollectible due to the
defendant's indigence.

March 22, 2005
DATE

Paul Masloff
PRESIDENT JUDGE

COMMONWEALTH OF PENNSYLVANIA



COUNTY OF CHESTER

WEST WHITELAND TOWNSHIP
EAST WHITELAND TOWNSHIP

JOHN R. BAILEY

MAGISTERIAL DISTRICT JUDGE

Magisterial District 15-4-03
Whiteland Business Park
748 Springdale Dr. Suite 110
Exton, PA 19341-2882

OFFICE:
TEL (610) 594-7728
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PAYMENT DETERMINATION HEARING
Pursuant to Pa. R. Crim.P.No. 456(c)

Date: _____
Docket# _____

Defendant Name: _____
Defendant Address: _____

INCOME

Employed: () NO () YES Where _____
Welfare/Disability/Soc. Sec: \$ _____
Other Income (rent, interest, gifts): _____

EXPENSES

Rent or Mortgage: \$ _____
Car/Other Expenses: \$ _____
Dependents _____
Debts: _____

ASSETS

Real Estate: () NO () YES _____
Vehicles: () NO () YES _____
Money in Bank/Savings () NO () YES _____
Stocks & Bonds: () NO () YES _____
Furniture/Appliances: \$ _____

After hearing and upon the basis of sworn testimony of the defendant, I find that the defendant (is) (is not) without financial means to pay the fine and cost for which he/she has defaulted in payments.

Defendant Signature _____ MDJ Signature _____

(If applicable) Pursuant to Chester County Administration Regulation No 2-2005 I hereby declare fines, costs and restitution arising out of this summary prosecution non-collectible because of the indigence of the defendant. This file shall be closed.

MDJ Signature _____

COMMONWEALTH OF PENNSYLVANIA



WEST WHITELAND TOWNSHIP
EAST WHITELAND TOWNSHIP

County of CHESTER
JOHN R. BAILEY

DISTRICT JUDGE
Magisterial District 15-4-03
WHITELAND BUSINESS PARK

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EXTON, PA 19341-2882

IN THE DISTRICT COUR OF 15-4-03 OF PENNSYLVANIA

COUNTY OF CHESTER

AND NOW, this _____ day of _____, 20____, I deem it appropriate and declare the fines
and costs against _____,

summary docket number(s) listed below to be non-collectible because of the indigence of the
defendant and thereafter close the case(s).

This Order will be done on the authority of District Court Operational Regulation 2-2005,
so ordered by the Honorable Paula Fransisco Ott, President Judge, Court of Common Pleas,
County of Chester, March 22, 2005.

DATE: _____