



U.S. Citizenship
and Immigration
Services

HQRPM 70/33-P
AD07-01

Interoffice Memorandum

To: FIELD LEADERSHIP

From: Donald Neufeld /s/
Acting Deputy Associate Director
Domestic Operations Directorate

Date: September 18, 2007

Re: Guidance Clarifying the Adjudication of Form N-648, Medical Certification for Disability Exceptions

Revisions to *Adjudicator's Field Manual (AFM)* Chapters 72.2(d) (AFM Update AD07-01)

1. Purpose

This memorandum explains and clarifies review standards in the adjudication of Form N-648 (Medical Certification for Disability Exceptions) under 8 CFR 312 and also revises subchapter 72.2(d)(5) of the *Adjudicator's Field Manual (AFM)* accordingly. In addition, USCIS is revising the next edition of Form N-648 to detail and clarify eligibility requirements and to facilitate the adjudication of the form.

2. Background

On May 10, 2006, USCIS issued a memorandum entitled "Adjudication of Form N-648, Medical Certification for Disability Exceptions to the Immigration and Nationality Act (INA) Section 312 Naturalization Requirements." The May 2006 memorandum updated Chapter 72.2(d)(5) of the *Adjudicator's Field Manual (AFM)*, which provides guidance regarding adjudication of Form N-648. Naturalization applicants, who have a medically determinable physical or mental impairment that renders them unable to demonstrate a proficiency of the English language or knowledge of U.S. history and government, may submit Form N-648 in order to establish eligibility for an exception to the English and/or U.S. history and government requirements.

Since the publication of the May 2006 memorandum, USCIS Headquarters has received numerous inquiries pertaining to the adjudication of Form N-648. To address these inquiries, USCIS is issuing the following field guidance.

3. Field Guidance

The adjudicator is directed to comply with the following guidance and instructions when evaluating Form N-648. Major points of emphasis are highlighted in this section and further instructions are described in detail in section 4 of this memorandum.

A. Submission of Form N-648

8 CFR 312.2(b)(2) indicates that Form N-648 must be submitted as an attachment to the applicant's Form N-400, Application for Naturalization. Nevertheless, USCIS has routinely encountered applicants submitting multiple N-648s at different stages of the N-400 review process when USCIS has not requested or required the submission of additional N-648s. This practice generally places an undue administrative burden on the adjudicator and casts doubt on the applicant's claim to the disability exception under section 312 of the Act. Accordingly, the applicant should submit Form N-648 for consideration at the time the N-400 application is filed. Neither the submission of Form N-648 after the filing of the N-400 nor the submission of multiple Form N-648s is, by itself, sufficient grounds to reject a request for an exception to the English and/or U.S. history and government requirements. However, the submission of late or multiple Form N-648s may raise credible doubts about the veracity of the medical certifications or justify additional scrutiny to ensure the applicant is entitled to the exception unless there is evidence of changed facts or circumstances that would explain the basis for filing multiple forms.

In addition, USCIS reserves the right to require the submission of additional N-648s, if there are credible doubts as to the veracity of the medical certification.

B. Appropriate Role of the Adjudicator in Reviewing Form N-648

In reviewing the Form N-648, the adjudicator's role is to determine whether the Form N-648 contains sufficient information to establish that the applicant is eligible for a disability exception under section 312 of the Act. The adjudicator accordingly should focus on determining whether the medical professional has established and documented the nature and extent of the diagnosed medical condition and how the applicant's diagnosed condition has impaired functioning so severely that it has rendered the applicant unable to learn or demonstrate knowledge of English and/or United States history and government. To this end, the adjudicator must ensure that the Form N-648 contains:

- An explanation of the origin, nature, and extent of the medical condition which is established and documented by medically acceptable clinical or laboratory diagnostic techniques, including a list of the medically acceptable clinical or laboratory diagnostic tests employed in reaching the diagnosis.

- An explanation of how the applicant's diagnosed medical condition or impairment so severely affects the applicant that it renders him/her unable to learn or demonstrate English proficiency and/or knowledge of United States history and government;
- An attestation that the disability has lasted, or is expected to last, 12 months or longer; and
- An attestation that the disability is not the direct effect of the illegal use of drugs.

C. Making Medical Determinations

The adjudicator is not a physician and should not be placed in the position of making a medical determination. Hence, the adjudicator should not engage in medical determination practices reserved for and performed by a licensed medical professional.

D. Questioning the Veracity of the Medical Determination

As mentioned in previous guidance, the adjudicator should assume that the medical professional's diagnosis is valid in the absence of credible doubt. As a general rule, USCIS does not want an applicant with a disability to submit extensive medical reports or medical background information regarding the applicant's condition.

E. Procedures for Cases of Suspected Fraud

The adjudicator should not presume the existence of fraud merely based on the number of applicants who seek a medical examination from a particular medical professional. Because applicants of an immigrant community commonly seek the care and services of medical professionals who share the same language, culture, ethnicity, and/or nationality, this practice is not, in and of itself, an indication of fraud.

If the adjudicator has reason to suspect fraud, the adjudicator should consult with the Office of Fraud Detection and National Security (FDNS) according to the current fraud referral policy. All referrals to FDNS should be based on fraud indicators that can be articulated.

In the event that FDNS is unable to provide a final response within a period of 120 days from the date of the initial interview, the adjudicator should proceed with the adjudication of the application.

F. Explain the Reasons for N-400 Denial Decisions Based on the Deficiency of an N-648

Every denial that is based in whole or in part on credible doubts about or the deficiencies of an N-648 must explain the reasons why the credible doubts and deficiencies are preponderant over favorable medical evidence submitted on behalf of the applicant. Merely stating that the applicant has failed to meet the requirements for the waiver is insufficient.

G. Maintain a Local Field Office Point-of-Contact (POC)

Finally, to facilitate communication with USCIS external customers and stakeholders, each district or field office should maintain a point-of-contact (POC) for the N-648 program. Such POC should be an adjudicator with expert knowledge of N-648 adjudications or a supervisory adjudications officer who is responsible for administration of the N-648 program within the district or field office. The POC will be responsible for overseeing N-648 training and quality assurance within the district or field office and conducting liaison with community-based organizations, medical associations, and medical professionals interested in the N-648 process.

If the adjudicator has credible doubts about the veracity of the medical certification, the adjudicator should seek supervisory guidance and approval as a general practice before requesting the applicant's medical records. Furthermore, the adjudicator is encouraged to consult with the N-648 supervisory adjudications officer or POC, as needed, before requiring the applicant to complete a supplemental disability determination.

4. Adjudicator's Field Manual (AFM) Update

The *Adjudicator's Field Manual (AFM)* is updated accordingly, and subchapter 72.2(d)(5) of the *AFM* is revised as follows:

(5) Adjudication Guidelines for the Form N-648 Waiver

(A) Submission and Validity of the Form N-648

8 CFR 312.2(b)(2) indicates that Form N-648 must be submitted as an attachment to the applicant's Form N-400, Application for Naturalization. Notwithstanding, USCIS routinely encounters instances where USCIS has not required the submission of more than one Form N-648 and yet the N-400 applicant submits multiple Form N-648s upon and after initially filing his or her N-400. This practice can cast doubt on the credibility of the applicant's claim to the disability exception, especially if the adjudicator discovers discrepancies between and among the N-648s. The submission of Form N-648 after the filing of the Form N-400 or the submission of multiple Form N-648s is not, by itself, sufficient grounds to reject a request for an exception to the English and/or U.S. history and government requirements. However, the submission of late or multiple Form N-648s may be considered in determining whether there are credible doubts about the veracity of the medical certification or justify additional scrutiny to ensure the applicant is entitled to the exception unless there is evidence of changed facts or circumstances that would explain the basis for filing multiple forms. In addition, USCIS reserves the right to require the submission of additional N-648s, if there are credible doubts about the veracity of the medical certification.

A properly submitted Form N-648 will remain valid indefinitely unless the adjudicator determines that the N-400 applicant doesn't qualify for the exemption.

(B) Successful Completion of English Proficiency and/or U.S. History and Government Test(s) during the N-648 Review Process

If an applicant submits to or the adjudicator administers the English proficiency and/or U.S. history and government test(s) at any time during the N-648 review process and the applicant passes such test(s), then the applicant will have satisfied the requirements of section 312 of the Act. In this instance, the adjudicator should indicate in the record of proceeding that the applicant has passed the required test(s) and that the N-648 is no longer required.

(C) Medical Professionals Authorized to Complete the Form N-648

(1) General. Under [8 CFR 312.2](#), the following medical professionals who are licensed to practice in the United States (including Guam, Puerto Rico, and the Virgin Islands) are eligible to sign a [Form N-648](#) diagnosis and medical opinion on behalf of an applicant: 1) medical doctors, 2) doctors of osteopathy, and 3) clinical psychologists. The medical professional must certify under penalty of perjury that his or her statements are true and correct and agree to the release of all pertinent medical records upon consent of the applicant and as requested by USCIS.

(2) Role of the Medical Professional. The medical professional completing the N-648 must have general experience in the area of the applicant's disability and must be qualified to diagnose the applicant's disability and/or impairment(s). A doctor who is a general practitioner and not a specialist may complete the form if his or her experience or other qualifications permit him or her to make the disability and/or impairment(s) assessment. The medical professional must also be able to attest to the origin, nature, and extent of the medical condition and explain how the medical condition affects the applicant's ability to demonstrate English proficiency and/or knowledge of U.S. history and government. In particular, the medical professional should establish and certify the applicant's diagnosis, explaining in plain English and layman's terms how the medical professional diagnosed the anatomical, physiological, or psychological impairment and explaining how the diagnosed condition affects the applicant's ability to learn or demonstrate English proficiency and/or knowledge of U.S. history and government. The medical professional should also cite the medically acceptable clinical or laboratory diagnostic tests or other diagnostic methods used and the results and conclusions drawn from these diagnostic tests which assisted the medical professional in reaching the definitive diagnosis.

(D) Role of the Adjudicator in Reviewing Form N-648

(1) Primary Focus of the Adjudicator. The adjudicator is responsible for determining whether the applicant meets the requirements of Section 312 of the Immigration and Nationality Act. In reviewing the Form N-648, the adjudicator's role is to determine whether the Form N-648 contains sufficient information to establish that the applicant is eligible for a disability exception. Therefore, the adjudicator should focus on determining whether the medical professional has established and documented the nature and extent of the diagnosed medical condition and how the applicant's diagnosed condition has impaired

functioning so severely that it has rendered applicant unable to learn or demonstrate knowledge of English and/or United States history and government.

To this end, the adjudicator must ensure that the Form N-648 contains:

- An explanation of the origin, nature, and extent of the medical condition which is established and documented by medically acceptable clinical or laboratory diagnostic techniques, including a list of the medically acceptable clinical or laboratory diagnostic tests used in diagnosing the condition.
- An explanation of how the applicant's diagnosed medical condition or impairment so severely affects the applicant that it renders him/her unable to learn or demonstrate knowledge of English and/or United States history and government.
- An attestation that the disability has lasted, or is expected to last, 12 months or longer; and
- An attestation that the disability is not the direct effect of the illegal use of drugs.

(2) Making Medical Determinations. The adjudicator is not a physician and should not be placed in the position of making a medical determination. Accordingly, the adjudicator should not:

- Require or recommend that an applicant complete specific medical, clinical, or laboratory diagnostic techniques, tests, or methods;
- Develop and substitute his or her own diagnosis of the applicant's medical condition in lieu of the medical professional's diagnosis;
- Use questionnaires or tests to challenge each applicant's diagnosed medical condition as a routine practice; and
- Request or require an applicant's medical records solely to question whether there was a proper basis for the medical professional's diagnosis.

(3) Questioning the Veracity of the Medical Certification. The adjudicator should assume that the medical professional's diagnosis is unless there is credible doubt about the veracity of the medical certification. As a general rule, USCIS does not want an applicant with a disability to submit extensive medical reports or medical background information regarding the applicant's condition.

Notwithstanding, credible doubts may arise when the adjudicator establishes or has reason to believe that:

- The medical professional completing the Form N-648 is under investigation by FDNS, Immigration and Customs Enforcement, or other law enforcement agency, or a state medical board;
- The medical professional has a pattern of submitting Form N-648 with similar or “boiler plate” language that does not appear to reflect a case-specific analysis;
- Form N-648 was submitted more than six (6) months after it was completed by the medical professional;
- Form N-648 was completed by someone other than the certifying medical professional;
- Evidence in the record or other credible information available to the adjudicator indicates fraud or willful misrepresentation;
- The medical professional failed to conduct a personal examination of the applicant in the course of diagnosing the applicant’s medical condition; or
- The medical professional neglected to conduct specific medical, clinical, or laboratory diagnostic techniques that are considered standard methods in diagnosing the applicant’s medical condition.

If the adjudicator finds or has reason to believe the medical determination is suspect at the time of the naturalization interview, the adjudicator may question the applicant about the facts pertaining to the applicant’s medical care, job duties, community and civic affairs, and/or other daily living activities. In particular, the adjudicator’s line of inquiry should focus on eliciting facts about the applicant’s activities and conduct, which may reveal the applicant’s functional capacity or inability to demonstrate English proficiency and/or knowledge of U.S. history and government. If the applicant’s conduct and responses are inconsistent with the description of the applicant’s diagnosed condition as described on the Form N-648 and other supporting documentation, the adjudicator may have a justifiable basis for doubting the authenticity of the medical determination.

If the adjudicator has credible doubts about the veracity of the medical certification, the adjudicator should refer to (E)(5)(c) below for guidance on requesting medical records and requiring a supplemental disability determination.

(4) Maintaining a Point-of-Contact (POC) for N-648 Process. To facilitate communication with USCIS external customers and stakeholders, each district or field office should maintain a point-of-contact (POC) for the N-648 program. Such POC may be an adjudicator with expert knowledge of N-648 adjudications or a supervisory adjudications officer who is responsible for administration of the N-648 program within the district or field office. The POC will be responsible for overseeing N-648 training and quality assurance within the district or field office and conducting liaison with community-based organizations, medical associations, and medical professionals interested in the N-648 process.

(E) Review of Form N-648

(1) Completion of Form N-648. An adjudicator must first review the **Form N-648** to ensure that it is properly completed.

(2) Nexus between Medical Impairment and Applicant's Ability to Learn or Demonstrate English Proficiency and/or Knowledge of United States history and government. The adjudicator must evaluate each **Form N-648** individually and determine, based on all the information, whether the applicant has proven by preponderance of evidence that the anatomical, physiological, or psychological abnormality described has so severely impaired the applicant's functioning that the applicant is unable to demonstrate English proficiency and/or knowledge of U.S. history and government. Consequently, the adjudicator should focus on determining whether the medical professional has established the connection between the nature and extent of the diagnosed medical condition and the applicant's inability to demonstrate English proficiency and/or knowledge of U.S. history and government. Accordingly, **Form N-648** must include a sufficiently thorough explanation in plain English and layman's terms of (a) how the medical professional diagnosed the disability or impairment, and (b) how the diagnosed disability or impairment renders the applicant unable to demonstrate English proficiency and/or knowledge of U.S. history and government.

The adjudicative standards used to evaluate disability exceptions under section 312 of the Act apply to any mental impairments cited on **Form N-648**. Advanced aging, in and of itself, is not a medically determinable physical or developmental disability or mental impairment. The diagnosed mental disability must result in an impairment of functioning so severe that the applicant is unable to learn or demonstrate English proficiency and/or knowledge of U.S. history and government.

(3) Medical, Clinical, or Laboratory Diagnostic Techniques. There are no key words, phrases, or a specific test that will, by itself, demonstrate a sufficient nexus between the applicant's medical impairment and the applicant's ability to learn or demonstrate English proficiency or knowledge of U.S. history and government. Likewise, there are no lists of conditions, symptoms, or complications that will always be caused by or linked to certain disabilities or impairments. The medical professional, however, should include a list of all medically acceptable clinical or laboratory diagnostic techniques or other diagnostic methods and the results and conclusions of these diagnostic tests which assisted the medical professional in determining and concluding that the applicant has a disability that so severely renders him/her unable to learn or unable to demonstrate English proficiency and/or knowledge of U.S. history and government.

(4) Consideration of Federal Agency Reports and Determinations. The adjudicator should consider any authoritative federal agency report or determination in the applicant's record file that addresses the applicant's diagnosed medical condition. To illustrate, if the Social Security Administration has granted the applicant a disability benefit based on the applicant's diagnosed medical condition, then such determination may validate the medical

professional's diagnosis. Likewise, if a Department of State's report of the applicant's medical condition is consistent with the medical professional's diagnosis, then such report may authenticate the applicant's diagnosed condition.

(5) Issuance of Form N-14 to Address the Deficiencies of the N-648.

(a) Discontinued Use of N-648B, Notice of Incomplete N-648 Medical Certification For Disability Exception. The adjudicator should use Form N-14 in lieu of the N-648B to address deficiencies in the N-648. Use of the N-648B is hereby discontinued.

(b) Clarification of the Medical Professional's Assessment. If the medical professional's assessment is unclear and/or if an applicant's request for a disability exception is otherwise deemed to be insufficient, the adjudicator must request additional information to clarify the assessment and address any deficiencies. Such request may include asking the medical professional to explain the medical, clinical, or laboratory diagnostic techniques used to diagnose the applicant's medical condition, to explain the applicant's medical condition in plain English and layman's terms, and/or to explain how the applicant's diagnosed condition renders the applicant unable to demonstrate English proficiency or knowledge of U.S. history and government.

In the case of minor deficiencies to the N-648, the adjudicator may request additional information without requiring the applicant to submit a new N-648. In the case of major deficiencies, the adjudicator may require the applicant to submit a new N-648. The burden is on the applicant to obtain the information from the medical professional who completed the N-648.

(c) Request for Medical Records and Requirement of Supplemental Disability Determination. USCIS has the authority to request the release of the applicant's medical records if there is credible doubt as to the veracity of the medical certification. The adjudicator may only request and review medical records to determine the veracity of the certifying medical professional's claims on the **Form N-648** regarding how the medical professional reached the diagnosis, which may include verifying the completion and results of any medically acceptable clinical or laboratory diagnostic techniques used to diagnose the impairment. As noted above, the adjudicator may not request medical records solely to question whether there was a proper medical basis for the noted impairment.

USCIS also reserves the right to refer the applicant to another authorized medical professional, at the applicant's expense, when USCIS has credible doubts about the veracity of the medical certification. See 8 CFR 312.2(b)(2).

If the adjudicator has credible doubts about the veracity of the medical certification, the adjudicator should seek supervisory guidance and approval as a general practice before requesting the applicant's medical records. Furthermore, the

adjudicator is encouraged to consult with the N-648 supervisory adjudications officer or POC, as needed, before requiring the applicant to complete a supplemental disability determination.

If an applicant is required to complete a supplementary disability determination, each district or field office must provide the applicant with the contact information of the appropriate state medical board, which maintains a list of licensed and board-certified medical professionals in the appropriate specialty area, such as psychiatrist, neurologist, or psychologist. See **Appendix 72-13 Attachment A** and **Appendix 72-13 Attachment B**.

(6) Examination. Under 8 CFR 312.5, an applicant should receive two opportunities to meet the requirements of section 312 of the Act. If the adjudicator finds that the Form N-648 is insufficient to establish eligibility for an exception from the English and/or U.S. history and government requirements for naturalization, the adjudicator must give the applicant a choice to either proceed with testing or to be rescheduled for re-examination. The adjudicator must explain to the applicant that rescheduling the examination will constitute a refusal to submit to testing, which is considered the equivalent of failing the test for purposes of the two opportunities under 8 CFR 312.5. If the applicant refuses to submit to testing, the adjudicator must note on the application, "Applicant refused testing." This notation will help to ensure that the applicant is only scheduled for one additional chance to meet the requirements of section 312.

If an applicant fails the test or chooses to reschedule, the adjudicator must issue a Form N-14, which must include a detailed explanation of the deficiencies and inconsistencies in the Form N-648 and, if appropriate, request the applicant to obtain another evaluation from an authorized medical specialist for a supplemental determination. The adjudicator must schedule the applicant for re-examination within 45 days of responding to the N-14 or filing the new N-648.

If the applicant fails to submit the new N-648, then the adjudicator should proceed with the adjudication based on the N-648 form contained in the applicant's record file.

(7) Denial of N-400. If upon re-examination, the adjudicator determines that an applicant is not eligible for a disability exception and the applicant fails to pass the English and/or U.S. history and government tests, the Form N-400 must be denied. The merits and deficiencies of the Form N-648 may be reviewed in the context of a hearing on the denial of the Form N-400 under section 336 of the Act. An applicant may submit additional documentation for review at the 336 hearing.

Every denial that is based in whole or in part on credible doubts about or deficiencies of an N-648 or its supporting certification must explain the reasons why the credible doubts and deficiencies outweigh any favorable medical evidence submitted on the applicant's behalf. Merely stating that the applicant has failed to meet the requirements for the waiver is insufficient. See 8 CFR 316.14(b)(1) and 8 CFR 336.1(b).

(F) Procedures for Cases of Suspected Fraud

Because applicants of an immigrant community commonly seek the care and services of medical professionals who share the same language, culture, ethnicity, and/or nationality, this practice is not, in and of itself, an indication of fraud.

If the adjudicator has reason to suspect fraud, the adjudicator should consult with the Office of Fraud Detection and National Security (FDNS) according to the current fraud referral policy. All referrals to FDNS should be based on fraud indicators that can be articulated.

After conferring with FDNS and consulting with the appropriate N-648 supervisory adjudications officer or POC, if appropriate, the adjudicator may issue a Form N-14 to the applicant, requiring the applicant to obtain another medical evaluation from an authorized medical professional for a supplemental disability determination. A new Form N-648 must then be completed and filed, and the applicant must be scheduled for re-examination within 45 days of filing the new Form N-648.

If Form N-14 is issued for the purpose of obtaining another medical evaluation for supplemental disability determination, the adjudicator must include the contact information for the specific state medical association and category of specialized medical professional that the applicant should contact in order to complete the new Form N-648. The information for the state medical associations and the categories of specialized medical professionals are attached in Appendix 72-13 Attachment A and Appendix 72-13 Attachment B. An applicant's failure to appear at the re-examination or failure to submit a new Form N-648 may result in denial of the Form N-400.

In the event that FDNS is unable to provide a final response within a period of 120 days from the date of the initial interview, the adjudicator should proceed with the adjudication of the application.

(G) Reasonable Accommodations and Modifications under the Rehabilitation Act

(H) Procedures for Waiver of the Oath of Allegiance

In addition, current subchapter 72.2(d)(6), "N-648B: Notice of Incomplete Medical Certification for Disability Exception," is deleted and subchapters 72.2(d)(7) through (d)(10) are renumbered accordingly as follows:

(6) Notice to Appear, Order to Show Cause, and Removal Order

(7) Fingerprint Rap Sheets

(8) N-650 or N-650A: N-400 Clerical Processing Worksheet

(9) N-650B: N-400 Adjudication Processing Worksheet

AD07-01 [INSERT DATE]	Chapters 72.2(d)(5), (6), (7), (8), and (9)	This memorandum revises sections of subchapter 72.2(d)(5), (6), (7), (8), and (9) of the <i>Adjudicator's Field Manual</i> .
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5. Use

This memorandum is intended solely for the instruction and guidance of USCIS personnel in performing their duties relative to adjudications. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner. In addition, the instruction and guidance in this memorandum is in no way intended to and does not prohibit enforcement of the immigration laws of the United States.

6. Contact Information

Questions regarding this memorandum may be directed to Mark Phillips, USCIS Office of Regulations and Product Management (RPM), through appropriate supervisory channels.

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cc: USCIS Headquarters Directors
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