

MEANS TEST (calculation required for each case in addition to schedules)

Means test doesn't apply if **12 X D's + spouse's** (spouse excluded if separated) **gross CURRENT MONTHLY INCOME** (average of all sources **last 6 mos.**, incl. household expenses paid by another, excl. Social Security Act income) at or below **annual MEDIAN FAMILY INCOME** for D's state and household size per latest release by **Bureau of Census** (up to 4 members; if > 4, census median for 4 people + \$575/mo./person over 4 . . .)
[\[http://www.usdoj.gov/ust/eo/bapcpa/20080317/bci_data/median_income_table.htm\]](http://www.usdoj.gov/ust/eo/bapcpa/20080317/bci_data/median_income_table.htm)

Medians for Illinois, Texas, and Mississippi (lowest) as of March 2008

	1 person	2 people	3 people	4 people
Illinois	\$44,673	\$56,545	\$66,607	\$77,634
Texas	\$36,285	\$51,355	\$53,803	\$61,511
Mississippi	\$30,424	\$38,919	\$43,587	\$54,501

If D + spouse have **MORE than median family income**, presumptive "abuse" per § 707(b) if the following means test equation is satisfied [and **Ch. 13 disposable income** (5-year min. required plan) = per this equation!]:

- 1) Debtor's** (but non-filing spouse's only to extent used for household expenses!) **current monthly income** (above)
- 2) minus** 1) **IRS National** (food, clothing, misc., + 5% if necessary), **Local** (housing and transport, + add'l home energy costs if needed), and "**Other Necessary Expenses**" (e.g., child care, health care/ins., life ins., taxes, court-ordered payments), and **charitable contributions—but not counting debt repayment** (see nos. 5) and 6) below) [\[http://www.usdoj.gov/ust/eo/bapcpa/meanstesting.htm\]](http://www.usdoj.gov/ust/eo/bapcpa/meanstesting.htm): **all figures = \$/mo.**

National Standards—Auto-Allowed Living Expenses for Food, Clothing, and Household Items/Services:

	Number of Persons				
	One	Two	Three	Four	Over Four
Baseline	507	961	1151	1370	+262
Extra 5% for food/clothing (if "necessary")	18	34	42	50	+10
Out-of-pocket healthcare (per household member)	under 65 = 57		over 65 = 144		

Local Standards—Actual Rent/Owner & Utilities expenses [if *mortgage*, deduct monthly pmts & see 5), below]:

	1 occupant		2 occupants		3 occupants		4 occupants		5+ occupants	
	utilities	own/rent	utilities	own/rent	utilities	own/rent	utilities	own/rent	utilities	own/rent
Cook County, IL	438	1000	514	1175	542	1238	604	1380	614	1402
Harris County, TX	415	763	487	897	513	945	572	1054	581	1071
Hinds County, MS	355	574	417	674	440	710	490	792	498	805

Local Standards—Actual expenses for **Transportation:**

- a) "Ownership" costs = \$489/car** (≤ 2) nationwide—[if *secured purchase*, deduct monthly pmts & see 5), below]
+ b) Operating Costs: by Census Region and Metropolitan Statistical Area:

	public transport (nationwide)	per car (≤ 2) (local variation)
Chicago, IL	163	217
Houston, TX	163	263
Jackson, MS	163	201

- 3) minus** 2) **actual care expenses for elderly or disabled** household member or immediate family;
 3) if eligible for Ch. 13, **actual admin expense of Ch. 13** per EOUST schedules (up to 10% plan pmts) [\[http://www.usdoj.gov/ust/eo/bapcpa/20080317/bci_data/ch13_exp_mult.htm\]](http://www.usdoj.gov/ust/eo/bapcpa/20080317/bci_data/ch13_exp_mult.htm);
 4) actual (**primary and secondary**) **education** expense for minor children to **\$1650/year/child**;
 5) 1/60 total **secured debt due w/in 5 yrs** + "cure" and "adequate assurance" \$;
 6) 1/60 total **priority unsecured claims**;

Unlimited 5-year home mortgage + secured vehicle payments here

- 4) times 60 is not less than** both 1) greater of **25% of unsecured debt or \$6575** (\$109.58 "disposable"/month) and 2) **\$10,950** (\$182.50 "disposable"/month)

5) BUT presumption of abuse can be rebutted by SPECIAL CIRCUMSTANCES [adjusted expenses or income, perhaps for hospitalization, job loss, divorce, and other common bankruptcy triggers—**judicial discretion = key!**]