



USCIS Agrees to Streamline Ability of Nonimmigrant Dependent Spouses to Secure Employment Authorization

Insights

1.25.23

Federal immigration officials just agreed to streamline the process by which certain nonimmigrant dependent spouses are able to secure employment, reverting to a previous method that should reduce processing times and accelerate job authorizations. The Department of Homeland Security's January 20 settlement of *Edakunni v. Mayorkas* ushers in policy changes to the way USCIS adjudicates applications for extension of status and extensions of work authorization (EAD) for dependent spouses in H-4 or L-2 status. The settlement confirms that USCIS will adjudicate three key immigration forms – the I-129, I-539, and I-765 – when bundled and filed together in a concurrent fashion – starting today. What do employers need to know about this positive development?

Brief History of Processing Pathway

Under immigration regulations, foreign nationals are able to work inside the United States by obtaining an H-1B or L-1 nonimmigrant visas. These workers can extend their status by filing the Form I-129. Their dependents, meanwhile, are permitted to stay in the United States under H-4 and L-2 status with the ability to extend their status by filing the Form I-539. These dependent spouses can then obtain work authorization under certain conditions by filing the Form I-765 EAD application.

Historically, USCIS would adjudicate all three of these forms together (“concurrent processing”) to extend nonimmigrant status and work authorization for the dependent spouse at the same time. During the Trump administration, however, USCIS changed its policy. The government created unnecessary processing delays by separating and adjudicating the dependent applications. It also required additional biometrics to be taken from the dependents, further adding to the complexity.

The processing delays were so egregious that dependent spouses could not renew their work authorization even if filed on the first day of filing eligibility (180 days before current expiration). This resulted in loss of employment and unnecessary stress and harm to the affected families.

Relief Arrives Today

Starting today – January 25 – the settlement requires USCIS to return to the prior processing methodology, which gives relief to dependent spouses requiring work authorization. Petitioners may obtain an extension of status for the principal H-1B/L-1 worker, H-4/L-2 dependent, and work authorization for the H-4/L-2 spouse as quickly as 15 business days when filed in premium processing for an additional fee.

Take Action

Employers should review your upcoming cases to see if cases for your employees on dependent work authorizations can benefit from this positive news. In addition, you should review pending cases to ensure action is taken to have principal and dependent cases adjudicated together. Employees whose spouses are impacted by this news should also be aware of this information in case it helps them with any gaps in work authorization. In some cases, premium processing may be added to help expedite processing.

Conclusion

We're here to help keep you updated to the ever-changing policy changes in the immigration field. We will continue to monitor further developments and provide updates, so make sure you are subscribed to the [Fisher Phillips' Insight system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Immigration Practice Group](#).

Related People



Davis C. Bae
Regional Managing Partner
206.693.5060
[Email](#)



Christopher Caravello

Associate
303.218.3642
Email

Service Focus

Immigration