



it's here: h-4 spouse work authorization is now a reality (for some)

MSK Client Alert

February 24, 2015

For some time now, H-1B workers and their families have been waiting for the government to announce that certain H-4 visa holders are eligible for work authorization. The long-awaited announcement came today, as US Citizenship and Immigration Services Commissioner León Rodríguez has announced the new policy, *effective May 26, 2015*.

On and after its effective date, spouses of certain H-1B workers (in H-4 visa status) will be able to apply for Employment Authorization (EAD), by filing the required form and paying the filing fee, currently set at \$380. The H-4 spouse cannot work until the application is approved at USCIS.

In order to be eligible for this new benefit, one of two conditions must be met. The H-4 visa holder must be the spouse of an H-1B worker who either:

- Is the beneficiary of an **approved** Form I-140 immigrant petition OR
- Is in the United States in lawful H-1B status past the six year limit on H-1B stays, because he or she is the beneficiary of a labor certification or immigrant petition pending for more than one year.

Other H-4 visa holders, including children of H-1B workers, are not eligible for this benefit. At present, the spouses of L-1 and E visa holders are eligible for work authorization, which they may apply for upon immediate entry into the United States. H-4 visa holders are not eligible immediately upon entry to the United States, but must meet one of the two conditions described above.

Should you have any questions regarding the eligibility of an employee spouse for this benefit, please contact an MSK immigration attorney. We would be happy to assist you with these matters.

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