



uscis: approval notices may (temporarily) evidence authorization to work in us

David S. Rugendorf
MSK Client Alert

August 20, 2020

Faced with logistical difficulties in producing work authorization documents (EAD cards), a growing backlog of applications and related litigation, the USCIS announced yesterday (August 19, 2020) that it would, in limited circumstances, allow paper I-797 approval notices to suffice as evidence of employment authorization, even though these notices explicitly state that they are not valid as evidence of same.

US employers are required to verify the work-authorized status of all new hires within three (3) days of employment through the completion of Form I-9. The Form I-9 requires that new employees produce documentation evidencing both identity and US work authorization. Among the list of acceptable documents that establish both identity and work authorization is a government-issued photo ID card commonly known as an EAD card. Traditionally, a new employee may produce the actual card to satisfy the I-9's requirements: a USCIS I-797 approval notice indicating the grant of an application for work authorization is not sufficient. This summer, due to the COVID-19 pandemic and for other reasons, the government has been unable to produce the cards, resulting in a growing number of individuals who have been approved for work authorization but have no way to evidence it.

[View Full Alert](#)

attorneys

David S. Rugendorf

practice areas

immigration