

Navigating the U.S. Immigration Labyrinth Right Now

Labor & Employment Law Update

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The U.S. immigration system has always been something of an obstacle course. Recent developments have made it more like an intricate labyrinth with detours, hidden delays, and dead ends if you are not careful. Here are some recent developments and how they are affecting visa compliance and processing.

USCIS Budget Crisis

USCIS is a fee-driven agency. Fees pay 96% of its operating costs. It claims the coronavirus has caused a devastating budget shortfall. For four months they threatened to furlough 13,000 of their 20,000 employees. Ironically, a congressional inquiry showed USCIS had a surplus for the fiscal year.

At the end of August, Joseph Edlow, Deputy Director for policy at USCIS, said the agency would avoid the furlough, but institute other cost-cutting measures. As a result, backlogs and wait times would increase.

While things did slow down for a couple of months at the beginning of the pandemic, the number of cases has rebounded to close to pre-pandemic levels.

Moreover, USCIS was set to impose a fee rate hike effective October 2nd that it began planning last November. On average the hike would have been a 21% increase. Just yesterday, September 29th, the new fee rule was halted entirely by the United States District Court for the Northern District of California's Judge White.

COVID-Related Country Restrictions Extended Through December 2020

Health-related restrictions requiring American citizens and legal permanent residents who have traveled to certain countries to re-enter the U.S. through one of 15 specific airports have been extended through December 31, 2020. These countries include China, Iran, Ireland, the U.K., Brazil and the Schengen area, which covers 26 European countries.

A presidential proclamation that bans residents of those countries from entering the U.S. has also been extended through December 31, 2020. The president made this proclamation on the assumption that these people would compete for

jobs that Americans would take given the economic strife in the country.

The ban includes a national interest waiver which makes exceptions for medical professionals supporting the effort to combat COVID-19, spouses of U.S. citizens, lawful permanent residents, and a few other select groups.

Creative Solutions Help and Change Frequently

Among the creative solutions is alternate travel routes to establish 14 days presence in a non-banned location. Recently these diversions have included Croatia, Serbia and the Bahamas.

The Bahamas has been so flooded with people that on September 1 they instituted new travel requirements that include proof of a negative COVID test within 5 days of arrival, an approved Bahamas health visa and mandatory “vacation in place” orders for up to the first 14 days there.

Mexico is still an alternate route option for now, but their U.S. embassy is one of the busiest in the world. With a decreased staff, travelers who qualify for exceptions find appointments take longer to get or are sometimes cancelled.

It is important to monitor daily which countries allow quarantine and can act as a U.S. gateway. With COVID-19 risk driving these restrictions, it is hard to know what the future holds.

It is likely that some of our current restrictions – at least the health-related ones – may be extended into 2021 as well. Foreign nationals may have to delay further trips to see family or to start jobs in the U.S.

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