

USCIS Lengthens Work Permit Automatic Extensions and Expands Premium Processing Options

Labor & Employment Law Update

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When Ms. Ur M. Jaddou became the new US Citizenship and Immigration Services (USCIS) Director in August 2021, she inherited a huge backlog of visa and document applications. While the Biden Administration signaled early that it intended to improve the situation, applicants awaiting rulings continued to wait. With Director Jaddou's appointment, we in the immigration community hoped to finally see some movement.

USCIS has announced a few measures to ease the backlog of Employment Authorization Document (EAD) cards. These may feel like baby steps. But they are steps in the right direction.

Work Permit Automatic Extension Period Lengthened to 540 Days

On May 4, 2022, the Department of Homeland Security (DHS) issued a temporary final rule entitled "Temporary Increase of Automatic Extension Period of Employment Authorization and Documentation for Certain Renewal Applicants."

The temporary rule increases the automatic extension period for employment authorization and Employment Authorization Documents (EAD) from 180 days to 540 days for certain EAD renewal applicants. This is welcome relief for EAD card holders awaiting renewal approvals and their employers. The foreign nationals can keep working, and their employers can keep them on the payroll. Employers tracking EAD card extensions will want to note this rule memo and continue tracking their EAD card holders' extension period.

While EAD card holders can exhale and worry less about their renewal, both they and their employers will be looking to USCIS to get to the approvals as soon as possible.

Premium Processing Expands to Executives and Managers

In addition to lessening the urgency behind the stacks of EAD renewals with the temporary rule above, USCIS is extending its premium processing option to the immigrant petition for executives and managers.

The immigrant petition for executives and managers has never been premium-processing eligible before now. This is something the immigration community has been requesting for years. To see it come through is a big win!

USCIS began phasing in this option on June 1, 2022. For executives and managers, premium processing will take 45 days and cost \$2,500.

Premium Processing on the Horizon for Other Applications

Though USCIS has not specified a timetable yet, it has announced its intention to extend premium processing to form I-539, application to extend/change nonimmigrant status; and form I-765, application for employment authorization. This implementation will be phased in during fiscal year 2022.

Premium processing for the I-539 will cost \$1,750 and be processed within 30 days. The cost of premium processing for the I-765 has been set at \$1,500 and will be processed within 30 days as well.

USCIS is phasing the categories in to clear their backlog first and to collect revenue to ensure that premium processing of some applications does not adversely affect the processing time of other benefits.

What a welcome reprieve for these categories as the processing waits have been super long.

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