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DHS Enters into EAD Settlement Agreement with H-4 and L-2 Spouses

11/10/2021

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Practices: Immigration

Spouses of H-1B and L nonimmigrants have long faced significant hardships due to extreme delays in processing times by the U.S. Citizenship and Immigration Services (USCIS) of their employment authorization documents (EADs). Today, the Department of Homeland Security (DHS) and USCIS entered into a settlement agreement as a result of litigation which provides some relief to H-4 and L-2 spouses and their applications for employment authorization.

Under the terms of the settlement agreement, within 120 days, USCIS will amend the receipt notices issued for EAD extensions to indicate that timely filed H-4 EAD extensions are deemed to automatically extend the EAD for 180 days from the “card expires” date on the face of the EAD. One limitation on this is that the automatic extension cannot go beyond the expiration date of the individual’s H-4 status. This is a reversal of previous USCIS policy that prohibited H-4 spouses from benefitting from automatic extension provisions which apply to certain other types of EAD applicants.

For L-2 spouses, under the terms of the settlement, USCIS will issue additional guidance clarifying that L-2 spouses are authorized to work simply by virtue of their L-2 status (“incident to status”), meaning that these individuals are no longer required to apply for EADs prior to working in the United States.

While this settlement does not directly reduce USCIS EAD processing times, it does significantly decrease the burden of the USCIS processing delays for H-4 and L-2 spouses. Additional litigation regarding E-2 EAD processing delays and Adjustment of Status (AOS) EAD processing delays is currently pending.

We will be posting additional information on our website about how the USCIS will be implementing this settlement when it becomes available.