



News & Types: Client Advisories

UPDATED INFORMATION Regarding EAD Extensions for Certain E, and L Dependent Spouses [Update to the Masuda Funai November 12, 2021, Client Alert]

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Practices: Immigration

On May 11, 2022, U.S. Citizenship and Immigration Services (USCIS) released updated information related to their November 12, 2021, Policy Alert regarding the automatic extension of employment authorization for certain H-4, E, and L dependent spouses.

The November Policy Alert indicated that L-2 and certain E spouses were authorized to work simply by virtue of their L-2 or E status (“incident to status”), meaning that these individuals would no longer be required to apply for EADs prior to working in the United States. However, at that time, E or L spouses needed to continue to rely upon an EAD as evidence of employment authorization to present to employers for completion of Form I-9 until USCIS and Customs and Border Protection (CBP) could implement changes to the Form I-94 to distinguish E and L spouses from E and L children who are not eligible for EADs.

In April 2022, USCIS began mailing notices to E and L spouses over the age of 21 holding unexpired Forms I-94 issued before January 30, 2022. The updated information released on May 11, 2022, indicates that this notice, along with an unexpired Form I-94 reflecting E-1, E-2, E-3, E-3D, E-3R, or L-2 nonimmigrant status, is sufficient to demonstrate employment authorization as a List C document on Form I-9.

The updated information also clarifies that Form I-94 admission code designations E-1S, E-2S and E-3S for E nonimmigrant spouses and L-2S for nonimmigrant L spouses are acceptable to demonstrate employment authorization as a List C document on Form I-9.

E or L spouses who did not receive the above notice by April 30, 2022, or who are employment authorized based on their status and under the age of 21, can email E-L-married-U21@uscis.dhs.gov to request a notice. Individuals who received their Form I-94 at the time of their entry into the United States should visit <https://i94.cbp.dhs.gov/I94/#/home> to retrieve a copy of the Form I-94 with the admission code.

If you have questions about employment authorization for E or L spouses, you are encouraged to contact our attorneys.