

Immigration Alert

DHS Extends Employment Authorization for Certain H-4 Spouses

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The Department of Homeland Security (“DHS”) announced that, effective May 26, 2015, the agency is [extending employment authorization to certain H-4 dependent spouses](#) of H-1B nonimmigrants.

Only H-4 individuals whose H-1B spouses have reached a certain stage in the employment-based immigration process are eligible to apply for work authorization. H-4 spouses will be eligible to apply for work authorization if:

- The H-1B principal nonimmigrant is the beneficiary of an approved I-140, immigrant visa petition; **or**
- The H-1B principal nonimmigrant has been granted H-1B status under section 106(a) and (b) of the American Competitiveness in the Twenty-first Century Act of 2000 (“AC 21”).

Section 106(a) of AC 21 permits H-1B nonimmigrants to extend their status beyond the 6-year maximum period if 365 days or more have passed since the filing of a labor certification or immigrant visa petition on their behalf. Section 106(b) permits these extensions in increments of one year.

Eligible H-4 dependent spouses must file Form I-765, Application for Employment Authorization, with evidence documenting eligibility, and the required \$380 fee. It typically takes United States Citizenship and Immigration Services (“USCIS”) approximately 90 days from the date of filing to issue an Employment Authorization Document (“EAD”). If an H-4 spouse doesn’t have any other type of US work authorization, he or she may not undertake employment until the EAD has been issued.

USCIS will begin accepting applications **on May 26, 2015**.

Please contact your Mintz Levin attorney directly with any questions about how your applications and services will be affected during the shutdown.



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