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New Rule Permanently Extends the Automatic EAD Extension Period to 540 Days

Insight — December 10, 2024

The Department of Homeland Security (DHS) is finalizing a critical regulatory change to permanently increase the automatic extension period for Employment Authorization Documents (EADs) from 180 days to 540 days for certain eligible renewal applicants. Scheduled to be published in the Federal Register on December 13, 2024, this rule represents a significant shift in employment authorization policy aimed at mitigating the risks associated with USCIS processing delays.

This change builds on temporary rules issued in 2022 and 2024, which successfully alleviated employment disruptions for thousands of workers and their employers. Here's what we know so far, based on the unpublished version of the rule.

Key Details of the Rule

- **What's Changing:** The automatic extension period for eligible EAD renewal applicants will increase from up to 180 days to up to 540 days.
- **Who's Affected:** This rule applies to noncitizen workers in a wide range of categories, including:
 - H-4 dependent spouses of H-1B visa holders
 - L-2 and E-2 dependent spouses
 - Adjustment of status applicants
 - Asylum applicants
 - Refugees
 - Temporary Protected Status (TPS) beneficiaries
- **Effective Date:** The rule will take effect **30 days after December 13, 2025 its official publication**, meaning January 12, 2025.

This change carries substantial benefits for both employees and employers. Eligible noncitizens will experience greater stability in their employment by reducing the risk of gaps in work authorization due to processing delays. Such gaps often disrupt livelihoods and create financial uncertainty for affected workers.

Employers will benefit from reduced administrative burdens, including simplified Form I-9 reverification processes and fewer disruptions caused by temporarily losing employees whose EAD renewals are pending. The extended renewal period also aids workforce retention during a time of

tight labor markets, helping businesses maintain continuity and reduce turnover costs.

This rule underscores the need for systemic solutions to address longstanding processing delays at USCIS. Temporary extensions in 2022 and 2024 demonstrated the efficacy of a 540-day renewal period in stabilizing workforces and mitigating uncertainty. Permanently codifying this extension provides much-needed predictability, especially for groups like H-4 EAD holders, where delays have historically caused significant challenges.

Employers should begin preparing to update compliance policies and HR practices to incorporate the 540-day extension into Form I-9 processes. Employees eligible for EAD renewal are encouraged to file applications as early as possible—up to 180 days before their current EAD expires—to take full advantage of the extension.

As the rule is not yet finalized, we caution that changes may occur upon its official publication. We will monitor the final version of the rule closely and provide updates to help you navigate its implications.

If finalized as currently drafted, this rule will mark a critical step toward reducing the adverse effects of processing delays on noncitizen workers and their employers. By providing greater predictability and stability, the rule supports workforce retention and operational continuity for U.S. businesses. Stay tuned for further updates as the rule progresses to final publication and implementation.

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