

CERTAIN H-4 DEPENDENT SPOUSES OF H-1B NONIMMIGRANTS MAY APPLY FOR EMPLOYMENT AUTHORIZATION

President Obama's immigration executive order provides an opportunity for certain H-4 dependent spouses of H-1B nonimmigrants to obtain employment authorization. Until now, H-4 nonimmigrants were not permitted to work in the United States unless they obtained their own employment-based nonimmigrant visa through employer sponsorship. The lack of employment authorization for H-4 dependent spouses often gives rise to personal and economic hardships for the families of H-1B nonimmigrants. This change will ameliorate certain disincentives that currently lead H-1B nonimmigrants to seek employment opportunities in other countries where their spouses are permitted to work.

Effective May 26, 2015, the Department of Homeland Security will provide employment authorization to certain H-4 dependent spouses of H-1B nonimmigrants who are seeking employment-based lawful permanent resident (LPR) status. To qualify, the H-4 applicant must demonstrate that his/her H-1B nonimmigrant spouse:

- is the principal beneficiary of an approved I-140 Immigrant Petition for Alien Worker; or
- has been granted an H-1B extension under the American Competitiveness in the Twenty-First Century Act of 2000. This law permits H-1B nonimmigrants seeking LPR status to work and remain in the United States beyond the six-year limit of their H-1B nonimmigrant visa.

Qualified H-4 spouses must file Form I-765, Application for Employment Authorization, with supporting evidence and the required \$380 filing fee. The U.S. Citizenship and Immigration Services will begin accepting applications on May 26, 2015. Once the USCIS approves Form I-765 and the H-4 spouse receives the Employment Authorization Document, the H-4 spouse may begin working in the United States. The USCIS will authorize a validity period that matches the H-4 spouse's remaining authorized period of admission, which

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may be as long as three years.

This provision in President Obama's immigration executive order is one of several initiatives underway to modernize, improve and clarify visa programs to grow the U.S. economy and create jobs. As stated by Leon Rodriguez, Director, USCIS, "allowing the spouses of these visa holders to legally work in the United States makes perfect sense. It helps U.S. businesses keep their highly skilled workers by increasing the chances these workers will choose to stay in this country during the transition from temporary workers to permanent resident. It also provides more economic stability and better quality of life for the affected families."