

Settlement of Class Action Lawsuit by USCIS: Solves H-4 and L-2 Lengthy Delays for Obtaining Employment Authorization EAD's

USCIS announced on November 10, 2021, that it has settled a class-action lawsuit filed in Washington State that focused on lengthy adjudication times for processing H-4 spouses' extensions of employment authorization documents (EAD), as well as L-2 spouses seeking employment authorization initially and/or renewals of EAD's.

A brief summary of the new, improved policies includes:

1. H-4 spouses already approved for an EAD, who timely file for EAD renewal, will receive an automatic 180-day extension of the expiring EAD. Note that first-time EAD applicants, in the H-4 spousal category, are excluded and will not see any change in their current processing times or procedures.
2. L-2 spouses will be acknowledged as having employment authorization implicit within their L-2 status. This is a historic recognition by USCIS. This means, long term, that L-2 spouses will no longer need to even obtain EAD's in order to be authorized to work in the U.S. However, during the 120-day implementation period of the settlement, L-2 spouses who already hold an EAD, which is expiring within the 120 days, will need to have timely filed for an EAD extension. For those timely-filed EAD renewal applicants, an automatic 180-day extension of their employment authorization will apply. For L-2 spouses seeking first-time employment authorization, there will be a slight delay in implementing the policy so that they may be unable to commence employment based on their implicit employment authorization until I-94 record formatting has been updated by USCIS to indicate "L-2 spouse" rather than merely "L-2" as is the current I-94 formatting.

We will provide updates as they become available. Please feel free to contact any attorney in our immigration law group at Jaffe if you should have questions.

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