

Citizenship and Immigration Agency to Suspend H4, L2 Biometrics Starting May 17, Alleviating Backlogs

MAY 5, 2021

Attorneys hail the suspension which will do away with lengthy processing of H-4 and L-2 EAD applications.



The U.S. Citizenship and Immigration Services (USCIS) is expected to suspend the in-person biometrics requirement for H-4, L-2, and E spousal nonimmigrants seeking employment authorization documents (EADs). The agency revealed its plans in a filing with a federal court hearing a lawsuit

challenging lengthy processing delays affecting these categories of EAD applicants. Reuters reported on May 4 that the roll out could start as early as May 17.

The fingerprinting rule was imposed in 2019 under the administration of former President Donald Trump, which required that the spouses of work-visa holders be fingerprinted and photographed in order to obtain work permits, causing months-long delays in processing their applications.

Immigration attorneys have hailed suspension which they say will alleviate some of the lengthy processing backlogs facing H-4 and L-2 EAD applicants. The process to obtain work authorization should not put families at the risk of immense loss of income and instability, they say. An estimated 100,000 H-4 holders, the vast majority of them Indian women, have employment authorization.

“This is a welcome measure for H-1 and L visa families,” attorney [Diya Mathews](#), a partner at Chugh law firm, told American Kahani. “We have seen the anxiety and struggles that immigrant families went through in the past couple of years as they were being held to ransom by the biometric appointment. Hardworking individuals have had to live with uncertainty not knowing if their work authorizations would come through in time, if their employers could hold their jobs while they wait on these biometric appointments, if they can afford to buy a home, etc.” she added. “USCIS can now stop diverting precious resources to unnecessary procedures. With the rescinding of this unnecessary requirement, I hope that USCIS will now honor the premium processing timelines for dependents and EADs as well.”

“USCIS can now stop diverting precious resources to unnecessary procedures. With the rescinding of this unnecessary requirement, I hope that USCIS will now honor the premium processing timelines for dependents and EADs as well.”

[Min Kim](#), a partner at Chugh law firm told American Kahani that “USCIS’s planned suspension is intended to help the agency somewhat reduce the unprecedented and burdensome processing delays in EAD adjudications by such qualifying spouses.” Kim continued: “Currently, such spouses, particularly in the H-4 and L-2 visa categories, have to wait 6-8 months at times in order to receive a decision on their EAD work authorization applications. This removal of requiring biometrics for such EAD applications is intended to last for approximately one year in order to help USCIS catch up on some of these EAD adjudications and to reduce the processing delays involved.”

Min expected that the USCIS suspension of the biometrics requirement for such EAD applications will only extend to EAD applications if they remain pending beyond May 17, and those that have not yet received a biometric service appointment notice in connection with the filing, or those filed on or after May 17. “ However, until the official USCIS announcement of the biometrics suspension is released by the government, EAD applicants in H-4, L-2 and E status who receive a biometrics appointment notice should still plan to attend their scheduled biometrics in processing their EAD applications as otherwise, not attending the scheduled appointment will risk the EAD application being denied,” she said.

A March 22 lawsuit, filed in the Western District Court of Washington, claims that a 2019 rule requiring applicants to schedule an interview and submit to a screening had made it impossible for many visa holders’ spouses to avoid gaps in their employment when their one-year work authorization expired. The lawsuit was filed by the American Immigrant Lawyers Association (AILA) and the law firm Wasden

Banias. Jonathan Wasden of Wasden Banias, who represents the plaintiffs, told Reuters that agency's move "is a necessary first step to restoring sanity to (work authorization) adjudication times."

The spouses of H-1B and L-1 visa holders, who themselves are often highly educated and skilled, are respectively eligible for H-4 and L-2 derivative visas and temporary work authorization under the Immigration and Nationality Act. The INA requires DHS to process applications to renew spouses' status and their work permits within 30 days. The lawsuit says that while staffing at DHS field offices increased nearly 30 percent between 2016 and 2020, it de-prioritized work authorization applications, leading to significant delays. The 40 named plaintiffs say that they and many other H-4 and L-2 visa holders have already lost their jobs, or will soon, because of those delays. They moved last month for a preliminary injunction requiring USCIS to process their applications immediately.

In an amicus brief on April 30 backing that motion, the U.S. Chamber of Commerce and tech firms including Alphabet Inc's Google said the delays in issuing work permits will have a broad impact on businesses and the U.S. economy. Lapses in work authorization require companies to expend significant resources on recruiting, hiring, and training replacements, they said.