

PUBLICATION

Some Big Changes for USCIS this Week: Premium Processing Expanded, Extended Receipts for Permanent Residents, some Relief for H and L Family Members, and More "Flexibility" for Responses

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U.S. Citizenship and Immigration Services (USCIS) has announced several important changes this week: expansion of premium processing for several employment-based categories; resumption of concurrent processing of spousal extensions filed with premium-processed H and L petitions; new receipt notices with longer automatic status extensions for petitions to remove conditions from permanent residence for immigrant spouses and investors; and another extension of the "COVID flexibility" policy allowing more time for responses to USCIS notices.

Premium Processing Expanded to all Multinational Manager and National Interest Waiver I-140 Petitions

In June 2022, USCIS began phasing in a 45-day premium processing option for certain I-140 petitions for Multinational Executives and Managers (EB-1) and Professionals with Advanced Degrees/Exceptional Ability seeking a National Interest Waiver (EB-2) with pending cases filed on or before certain cutoff dates in 2021. As of January 30, 2023, all I-140 petitioners in these specific EB-1 and EB-2 categories can file an upgrade request or make an initial filing with premium processing. Note that this premium processing requires USCIS to adjudicate or issue a Request for Evidence within 45 calendar days (vs. the 15 calendar days enjoyed by other types of I-140 and I-129 filings), but it still will provide welcome relief in the lengthy processing times (averaging over 12 months) of the past.

For a full list of filings eligible for 15-day or 45-day premium processing, please see the table at <https://www.uscis.gov/forms/all-forms/how-do-i-request-premium-processing>.

Note: USCIS will soon expand premium processing for students seeking Optional Practical Training (OPT) and STEM OPT extensions. This will provide great relief to students awaiting employment authorization following graduation. More details about this coming benefit are available at <https://www.uscis.gov/newsroom/alerts/uscis-announces-final-phase-of-premium-processing-expansion-for-eb-1-and-eb-2-form-i-140-petitions>.

USCIS to Resume Concurrent Adjudications of H-4 and L-2 Family Members with the Principal Worker

As a result of a settlement agreement in the *Edakunni v. Mayorkas* class action, USCIS has agreed to bundle adjudications of the I-539 (application to extend/change status) and I-765 (application for employment authorization) for H-4 and L-2 derivative family members with the principal's I-129 petition when the applications are filed together.

This bundling occurred with filings made prior to March 2019, but since that time, the filings for family members were separated and family members could wait years for approval of the extension of their status even when the principal worker's extension was approved within 15 days under premium processing. H-4 spouses eligible

for work authorization require a separate employment authorization document (EAD), requested on Form I-765, and the processing times for renewals and H-4 extensions made it challenging to pursue employment with even the most flexible employers.

Per the settlement agreement, bundling will occur beginning January 25 and be in effect for two years. The combined adjudication will apply to cases filed using regular or premium processing where the family members' applications are filed concurrently with the principal worker's I-129 petition.

Extended Receipts for I-829 and I-751 Filings

Conditional Permanent Residents who file to remove their conditions after two years will now enjoy the benefit of a receipt notice evidencing a **48-month** extension of the validity of their permanent resident cards with a timely filed I-829 or I-751 Removal of Conditions on Permanent Residency.

In the past, these receipt notices provided proof of a 24-month extension. Because of the lengthy processing times (per USCIS average: I-829 = 61 months and I-751 = between 14 and 32.5 months), most applicants were required to endure an annoying process to obtain annual I-551 stamps at local USCIS offices to maintain evidence of their permanent resident status for work, travel, driver's license, and other purposes. The good news is that these local office appointments will be required a lot less frequently, but the bad news is the 48-month receipt notices suggest that the lengthy processing times are not going to improve anytime soon.

The new 48-month receipt notices are being issued for I-829 filings as of January 11 and will be issued for I-751 filings beginning January 25, 2023. USCIS will automatically issue new receipt notices to conditional permanent residents who previously received shorter receipt notices and whose applications are still pending.

For more information, go to <https://www.uscis.gov/newsroom/alerts/uscis-extends-green-card-validity-for-conditional-permanent-residents-with-a-pending-form-i-751-or>

COVID-flexibility Policy is Extended

USCIS has again extended its COVID-19 flexibilities for responding to certain government requests or notices issued before March 23, 2023. These flexibilities provide an additional 60 calendar days beyond the due date listed in the request or notice as long as such request/notice was issued between March 1, 2020, and **March 23, 2023**. Similarly, USCIS considers a Form I-290B Notice of Appeal or Motion or Form N-336 Request for Hearing on Decision in Naturalization to be timely filed if it is filed up to 90 days from the issuance of the decision (vs. 30 days) and the decision was made between November 1, 2021 and **March 23, 2023**.

USCIS anticipates that this will be the final extension of these flexibilities, which have been in place since March 2020.

For more information, go to <https://www.uscis.gov/newsroom/alerts/uscis-extends-covid-19-related-flexibilities-1>.

January has been a busy month, but more changes on the horizon are expected as increased filing fees are proposed and we head into the H-1B lottery season. Please contact a member of the [Baker Donelson Immigration Team](#) for more details about how these changes could affect your immigration matters.