

USCIS Will Return to Bundling Processing of I-129, I-539, and I-765 Applications

As the result of a settlement of a class action lawsuit (*Edakunni, et al. v. Mayorkas*) challenging H-4 and L-2 adjudication delays, US Citizenship and Immigration Services (USCIS) announced on January 20, 2023, that it has agreed to resume bundling the adjudication of Form I-539 and I-765 for the spouses and minor children of H-1B and L-1 nonimmigrants **when those forms are filed concurrently** with the underlying I-129 Petition for Nonimmigrant Worker filed on behalf of the principal beneficiary. Per the settlement agreement, the bundling will apply to cases filed under both regular and premium processing. This is expected to begin on January 25, 2023, and will be in effect for two years. The class action lawsuit was filed as the result of processing times for H-4, L-2, and EADs that had been taking up to two years, resulting in spouses and family members having no documentation of their status and spouses losing their continued employment eligibility.

Prior to March 2019, USCIS would generally adjudicate the L-2, H-4, and H-4 Employment Authorization Document (EAD) filed by the dependent at the same time as the H-1B or L-1 petition for the principal employee. If premium processing were used, adjudications would take place within 15 days. After March 2019, the wait times grew significantly after USCIS changed its policies and required I-539 applicants to supply biometrics. In addition, USCIS no longer adjudicated the family's applications at the same time as the principal. This led to H-4 visa extensions eventually taking up to two years to process compared to a previous average of fewer than four months.

In November 2021, L-2 spouses gained relief from these exorbitant processing times when USCIS implemented a new process wherein L-2 spouses no longer need to apply for work authorization. Spouses of L-1 visa holders are now granted "L-2S" status, which grants automatic work authorization incident to status.

Hopefully, these changes will begin to take effect right away and provide relief to these nonimmigrant family members.

We will continue to monitor any changes in USCIS policies and advise accordingly.



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