

PUBLICATION

Some H4 Spouses of H-1Bs Can Apply for Work Cards Beginning May 26, 2015

Authors: Lydia Mabel Arroyo-Tirado

February 25, 2015

On Tuesday, February 24, the United States Citizenship and Immigration Services (USCIS) announced that, effective May 26, 2015, USCIS will begin accepting applications for work authorization of H-4 spouses of two groups of H-1B nonimmigrant workers: those who have an approved I-140 immigrant petition, and those approved for H-1B status beyond the normal six-year maximum under the "AC21" law.

Eligibility: The DHS announcement states that H-4 dependent spouses will be eligible to apply for work authorization if they meet the following criteria. Applicants must be spouses of H-1B nonimmigrants who:

- Are the principal beneficiaries of an approved Form I-140, Petition for Immigrant Worker, or
- Are in extended H-1B status under section 106(a) and (b) of the American Competitiveness in the Twenty-first Century Act of 2000 (AC21).

Application Process: I-765 Applications for Work Authorization can be filed no earlier than May 26, 2015. DHS will permit H-4 dependent spouses either to file a "stand alone"; Form I-765 application for employment authorization or to file their Form I-765 application concurrently with their Application to Extend/Change Nonimmigrant Status (Form I-539), and if applicable their spouses' Form I-129 petition. Eligible applicants must submit the following with their application:

- Required \$380 filing fee;
- Evidence of the spousal relationship to the principal H-1B; and
- Copy of approved I-140 for principal H-1B spouse, or evidence that principal H-1B spouse has been granted H-1B extension beyond six years under the AC21 Act.

H-4 applicants under this new rule will not be allowed to commence employment until the application for employment authorization is approved. Once the application is approved, the H-4 dependent spouse will be eligible to work in the United States without restrictions, will be able to apply for a Social Security number, and in some states, apply for a driver's license.

Now is a good time to contact your Baker Donelson Immigration Group attorney to discuss this new rule. Remember, any applications received by USCIS before May 26, 2015 will be rejected.