



Submitted via Regulations.gov

Charles Nimick
Chief, Business and Foreign Workers Division,
Office of Policy and Strategy,
U.S. Citizenship and Immigration Services,
Department of Homeland Security,
5900 Capital Gateway Drive, Camp Springs, MD 20746

RE: DHS DOCKET NO. USCIS 2024-0002; Public Comment in Response to the Temporary Final Rule on Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants

Dear Mr. Nimick,

The Catholic Legal Immigration Network, Inc (CLINIC),¹ submits these comments regarding the Temporary Final Rule (TFR) issued on April 8, 2024, that increases the automatic extension period for Employment Authorization Documents (EADs) from 180 to 540 days. This newly issued TFR builds on a previously issued and substantively similar TFR which went into effect in May 2022. CLINIC supports this measure because it ensures that noncitizens who timely file employment authorization renewals do not experience gaps in their ability to work lawfully in the United States. However, CLINIC remains concerned about the lengthy processing times for EAD applications and urges the agency to continue its efforts to reduce processing times overall.

Embracing the Gospel value of welcoming the stranger, CLINIC has promoted the dignity and protected the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs since its founding in 1988. CLINIC's network, originally comprised of 17 programs, has now increased to 420 diocesan and community-based programs in 48 states and the District of Columbia. CLINIC is the largest nationwide network of nonprofit immigration programs. Through its affiliates, CLINIC advocates for the just and humane treatment of noncitizens by providing legal services to low-income immigrants and creating and disseminating educational materials for their local communities. CLINIC supports these efforts by conducting training, producing written materials, and providing in-depth technical assistance to member organizations regarding immigration law, including on issues regarding employment authorization.

¹ Elizabeth Carlson, Supervising Senior Attorney & Carolina Rivera, Federal Advocate & Liaison Attorney authored these comments. The authors would like to thank Nubia Torres, Director of Network Services, Karen Sullivan, Director of Advocacy, Jennifer Riddle, Director of Training and Technical Assistance, and Val Christian, Programs Assistant for their contributions to this comment.

Prior to the adoption of the original TFR in 2022, CLINIC received numerous inquiries from its affiliates regarding how best to assist clients whose EADs were due to expire even with the 180-day extension. In many cases, the noncitizen clients had filed for a renewal of employment authorization months in advance of the expiration. Even then, the lengthy processing times for EADs of ten to eleven months meant that clients were at risk of experiencing a gap in their employment authorization. Any gap in employment authorization can prove devastating for clients. It can lead to their being unable to renew a driver's license or continue working at their job. Many of the individuals experiencing the worst delays in processing were vulnerable asylum seekers who were the sole source of financial support for their families.

The failure to adjudicate EAD applications in a timely fashion was also impacting CLINIC affiliates. Most representatives at CLINIC affiliates carry a heavy caseload and have few resources, limiting how many clients they can assist. These overburdened representatives were forced to resort to time consuming measures to help their clients, such as expedite requests, assistance through the USCIS Ombudsman's office, or Congressional inquiries. These additional efforts often proved fruitless in yielding a timely response from USCIS.

I. CLINIC applauds DHS for issuing this automatic extension of work permits but expresses continued concern about lengthy processing times.

CLINIC supports this TFR as a common-sense measure while the agency works to improve its processing times. Vulnerable immigrants, especially asylum seekers, should not pay the price for the agency's failure to act in a timely fashion. These individuals will not have to worry about losing their jobs and their ability to support themselves and their families due to USCIS's failure to act on their applications within a reasonable period. Their representatives will not have to expend valuable resources on expedite requests or Congressional inquiries.

While CLINIC supports this effort, we do express our ongoing concern that EAD processing times continue to be as lengthy as they are. The agency has not been successful in implementing its stated goal of processing EAD renewals within a three-month period. Further, it is important to keep in mind that even the new policy does not completely protect noncitizens from harmful impacts related to the agency's failure to promptly adjudicate EADs. For example, many employers are not familiar with the regulations and wrongly request a work permit that is valid on its face. While this is contrary to law and while we recognize there are resources available to both employees and employers to combat this lack of understanding, the fact remains that an expired EAD plus a receipt notice is simply not a sufficient substitute for a work permit that is valid on its face. In addition, many noncitizens have also experienced issues with driver's license renewals when they lack a facially valid EAD. Even if they ultimately succeed in getting a license renewed based on an expired EAD plus receipt, the license is often valid only for six months, necessitating multiple trips to the local DMV. This creates a hardship for working individuals.

II. CLINIC Recommendations:

- USCIS should work to identify and prioritize those applicants whose work authorization will lapse if not processed. USCIS should also streamline a process for expedite requests when individuals are in danger of losing their job and require expedited processing. This streamlined procedure should also include categories not contemplated in this rule such as DACA recipients or parolees.
- USCIS should provide a clear and simple mechanism for individuals to request new receipt notices as evidence of the longer automatic extension period.
- USCIS should ensure employers and state agencies are aware of this extension and are empowered and encouraged to accept the documentation provided by the applicants.
- USCIS should continue its efforts to adjudicate cases in a timely manner.

Thank you for your consideration of these comments. Please do not hesitate to contact Karen Sullivan, Director of Advocacy, at ksullivan@cliniclegal.org, with any questions or concerns about our recommendations.

Sincerely,

A handwritten signature in blue ink that reads "Anna Gallagher". The signature is written in a cursive style with a large initial 'A'.

Anna Gallagher
Executive Director