

## ALERTS

## New Suspensions on H-1B Premium Processing

08.2018

USCIS announced that it will continue the current suspension of premium processing service for H-1B cap-subject petitions through an estimated date of February 19, 2019. In addition, as of September 11, 2018, USCIS will expand the suspension of premium processing services to all H-1B petitions filed at the Vermont and California Service Centers, excluding certain cap-exempt filings.

### *Continued Suspension of Premium Processing for Cap-Subject H-1B Petitions:*

Earlier this year, USCIS announced all H-1B petitions subject to the Fiscal Year (FY) 2019 cap would not be eligible for 15-day, premium processing service. This did not apply to non-cap subject H-1B petitions such as petitions for extension or amendment of H-1B status. The Service anticipated the suspension for cap-subject petitions would last until September 10, 2018. However on August 28, 2018, the Service announced this suspension would be extended through an estimated date of February 19, 2019.

### *New Suspension of Premium Processing for Other H-1B Petitions:*

On August 28, 2018, USCIS also announced it would expand the suspension of premium processing to include H-1B petitions that were previously eligible for premium processing services, including petitions for extension or amendment of H-1B status.

This suspension takes effect on September 11, 2018 and applies to all H-1B petitions filed at the Vermont and California Service Centers, excluding the following cap-exempt filings:

- Cap-exempt petitions that are filed exclusively at the California Service Center because the employer is cap exempt or because the beneficiary will be employed at a qualifying cap exempt institution, entity, or organization; or
- Those petitions filed exclusively at the Nebraska Service Center by an employer requesting a "Continuation of previously approved employment without change with the same employer" (Box b. on Part 2, Question 2, Page 2 of the current Form I-129) with a concurrent request to:
- Notify the office in Part 4 so each beneficiary can obtain a visa or be admitted. (Box on Part 2, Question 4, Page 2 of the current Form I-129); or
- Extend the stay of each beneficiary because the beneficiary now holds this status. (Box c. on Part 2, Question 4, Page 2 of the current Form I-129).

## NEW SUSPENSIONS ON H-1B PREMIUM PROCESSING

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### *Who is Not Impacted:*

The suspension of premium processing only applies to petitions for H-1B visa classification. It does not apply to any other nonimmigrant classifications filed on Form I-129, such as L-1 or O-1.

USCIS will continue premium processing H-1B petitions that are not currently suspended if the petitioner properly filed Form I-907 "Request to Premium Process" before September 11, 2018.

The Service will refund the premium processing fee if the petitioner filed Form I-907 for an H-1B petition before Sept. 11, 2018 and the Service did not take adjudicative action on the case within the 15-calendar-day processing period.

### *How To Expedite During the Suspension:*

A petitioner may submit a request to expedite an H-1B petition provided they can demonstrate there is an urgent need for adjudication based on at least one of the following criteria:

- Humanitarian reasons
- Nonprofit organization whose request is in furtherance of the cultural and social interests of the United States
- Department of Defense or national interest situation (These particular expedite requests must come from an official U.S. government entity and state that delay will be detrimental to the government.)
- Severe financial loss to company or person
- Emergency situation
- USCIS error; or
- Compelling interest of USCIS

If you have any questions regarding this latest USCIS update or other H-1B visa issues, please contact an MVA Immigration Team Member.