

ALERTS

The Impact of the DACA Rescission

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On September 5, 2017, the Trump Administration formally announced its intent to end the Deferred Action for Childhood Arrivals program, also known as DACA. What follows is a practical guide on the impact of this latest decision for DACA beneficiaries and their employers.

What is DACA?

DACA was initiated via executive order in 2012 as an administrative relief from deportation for young undocumented immigrants who were brought to the United States as children. DACA allowed qualifying applicants to apply for work authorization (EAD) and in some cases travel authorization (Advance Parole). Once granted these temporary benefits, DACA recipients were required to renew their documents via USCIS.

What is the impact for first-time DACA applicants?

USCIS is no longer accepting initial requests and will reject all applications for initial issuance of DACA received after September 5, 2017. Therefore if an applicant does not have DACA, the program is no longer available to them. First-time applicants who filed their request for DACA prior to September 5th will have their applications processed.

What is the impact for current DACA beneficiaries?

EAD (Work Permit) Renewals:

Individuals with DACA EADs set to expire prior to March 5, 2018 are eligible to apply for a two-year renewal of their documents, however that renewal must be received at USCIS by October 5, 2017.

Individuals with DACA EADs that expire after March 5, 2018 are not eligible to apply for a renewal of their documents, however their documents will remain valid until the current expiration date.

Advance Parole (AP) Travel Authorization:

As of September 5, 2017, USCIS is no longer processing or approving any AP requests associated with DACA. Applications submitted after September 5th will be returned to the applicant with the filing fee. Applications not approved before September 5th will be returned to the applicant with the filing fee.

DACA beneficiaries with current AP documents should be advised that even with a valid AP document, entering the U.S. may be challenging. Entry to the U.S. is at the discretion of US Customs and Border Patrol. Given the current status of the DACA program, it is highly advisable to speak with an attorney before departing the U.S.

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We urge any company representative or foreign national seeking guidance on this issue to contact an MVA team member.