

"Green Cards" Quicker for H-1Bs

Beginning March 2, 2009, U.S. Citizenship and Immigration Services (USCIS) will expand its premium processing service to include certain Form I-140 immigrant worker petitions. Specifically, premium processing will now be available to foreign beneficiaries who have reached, or will reach (within sixty days), their limitation of stay in H-1B nonimmigrant visa status.

Premium processing service requires USCIS to adjudicate a petition (or request further evidence) within fifteen days of its receipt at a USCIS processing center - for an additional \$1,000.00 fee to USCIS. This service greatly expedites the adjudication process for many I-140 petitions, which typically languish for many months before USCIS issues a decision.

On March 2nd, USCIS will begin accepting the Form I-907 request for premium processing, for those I-140 petitions filed on behalf of foreign beneficiaries who, upon the Form I-907 filing date:

1. are the beneficiary of a Form I-140 petition filed in an immigrant visa preference category designated for premium processing service;
2. have reached the six-year limitation of their H-1B visa stay (or will reach the end of their six-year limit within 60 days of filing);
3. are only eligible for a further H-1B extension upon approval of their Form I-140 petition; and
4. are ineligible to extend their H-1B status under a certain provision of the law.

In order to prove that a particular I-140 petition qualifies for premium processing, the petitioner must file certain documents satisfying the criteria set forth above, with the appropriate USCIS processing center. Those Form I-907 premium processing requests that do not meet the applicable criteria will be rejected and returned to the petitioner, along with the \$1,000.00 premium processing fee. But the filed I-140 petition will be processed according to standard, non-premium processing procedures. Properly filed Forms I-907 and I-140 will enjoy fifteen-day premium processing service.

In truth, inclusion of many of these types of I-140 petitions within the premium processing program has been in place for some time. But now, it appears as if USCIS is adding a nuance to its position. Specifically, USCIS will now include those foreign beneficiaries whose sixth year of H-1B visa status has already ended.

Thus, it is conceivable a person who no longer holds H-1B visa status may still qualify for premium processing of a Form I-140 petition. Foreign beneficiaries who previously exhausted their six years of H-1B visa eligibility and now hold a different visa status (such as an F-1, B-1 or H-4 visa holder), and even those who may have already left the U.S., suddenly may find a quicker path to U.S. lawful permanent resident ("green card") status.

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