



February 7, 2022

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Policy Alert

SUBJECT: Updating General Guidelines on Maximum Validity Periods for Employment Authorization Documents based on Certain Filing Categories

Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating guidelines in the [USCIS Policy Manual](#) regarding validity periods for Employment Authorization Documents (EADs) for asylees and refugees, noncitizens with withholding of deportation or removal, noncitizens with deferred action,¹ parolees, and Violence Against Women Act (VAWA) self-petitioners.

Background

Noncitizens in the United States must obtain employment authorization before they may lawfully work in the country. Whether or not a noncitizen is authorized to work in the United States depends on the noncitizen's immigration status and circumstances. While employment authorization for certain noncitizens is automatically provided by virtue of their immigration status or circumstances, other noncitizens must affirmatively apply for employment authorization and USCIS may grant employment authorization as a matter of discretion. In many cases, USCIS issues an EAD to serve as evidence of employment authorization. USCIS also has the discretion to assign the validity period for certain categories of employment authorization.²

Currently, USCIS guidance generally provides for a 1-year validity period for initial and renewal EADs issued to asylees and refugees, noncitizens with withholding of deportation or removal, and VAWA self-petitioners. Additionally, the guidance currently provides that, in some cases, initial and renewal EADs are issued for noncitizens with deferred action³ and parolees⁴ for a validity period shorter than the duration of the underlying deferred action or parole period, requiring some applicants to file multiple Applications for Employment Authorization ([Form I-765](#)) to obtain employment authorization to cover their entire period of deferred action or parole.

¹ Not including [Deferred Action for Childhood Arrivals](#).

² See [8 CFR 274a.12\(a\)](#) ("USCIS may, in its discretion, determine the validity period assigned to any document issued evidencing an alien's authorization to work in the United States."). See [8 CFR 274a.12\(c\)](#) ("USCIS, in its discretion, may establish a specific validity period for an employment authorization document, which may include any period when an administrative appeal or judicial review of an application or petition is pending, unless otherwise provided in this chapter.")

³ Not including [Deferred Action for Childhood Arrivals](#).

⁴ See [8 CFR 212.5](#).

In the interest of reducing the burden on both the agency and the public, USCIS has revised its guidelines to state that initial and renewal EADs generally may be issued with a maximum validity period of up to 2 years for asylees and refugees, noncitizens with withholding of deportation or removal, and VAWA self-petitioners; or up to the end of the authorized deferred action or parole period to applicants in these filing categories. Through this publication, USCIS will begin to address some of the EAD-related comments that USCIS received in response to the Request for Public Input,⁵ specifically, increasing maximum EAD validity period guidelines, where feasible, given current processing times and issuing clarifying guidance that will help prevent gaps in employment authorization and documentation. Replacement EADs will not be affected by this update; USCIS will continue to issue replacement EADs with the same validity date as the original EAD.⁶

This guidance, contained in Volume 10, Part A of the Policy Manual, is effective immediately. Therefore, USCIS will apply the updated validity period guidelines to EADs issued for impacted categories on or after February 7, 2022. EADs issued before February 7, 2022, are not affected. USCIS will continue to issue replacement EADs with the same validity dates as the original EAD. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Provides general guidance on the adjudication of Form I-765 as it relates to determining eligibility, reviewing evidence, and issuing a decision; and adds charts outlining EAD validity timeframes for [8 CFR 274a.12\(a\)](#) and [8 CFR 274a.12\(c\)](#) categories.
- Updates the maximum validity period for initial and renewal EADs from 1 year to 2 years for employment authorization based on [8 CFR 274a.12\(a\)\(3\)](#) (admitted as a refugee), [8 CFR 274a.12\(a\)\(5\)](#) (granted asylum), [8 CFR 274a.12\(a\)\(10\)](#) (withholding of deportation or removal), and [8 CFR 274a.12\(c\)\(31\)](#) (VAWA self-petitioner).
- Updates the maximum validity period for initial and renewal EADs for employment authorization based on [8 CFR 274a.12\(c\)\(11\)](#) (parole) and [8 CFR 274a.12\(c\)\(14\)](#) (non-DACA deferred action) to the end date of the authorized parole or deferred action period.
- Removes guidance related to the exercise of discretion as it relates to the general adjudication of Form I-765, and specific guidance related to the adjudication of Form I-765 based on a pending application for adjustment of status under INA 245 and deferred action, to remove redundancy and avoid confusion since these topics are sufficiently addressed in the general Form I-765 adjudication guidance.

Citation: Volume 10: Employment Authorization, Part A, Employment Authorization Policies and Procedures, Chapter 4, Adjudications [[10 USCIS-PM A.4](#)].

⁵ See [86 FR 20398](#) (Apr. 19, 2021).

⁶ Applicants file for a replacement EAD if their card has been lost, stolen, mutilated, or when the previously issued card contains erroneous information, such as a misspelled name.