



Frequently Asked Questions

June 12, 2008

USCIS to Issue Two-Year Employment Authorization Documents (EADs) *New EADs Limited to Certain Individuals Who Have Applied for LPR Status*

What is an EAD?

Certain aliens who are temporarily in the United States may file a Form I-765, *Application for Employment Authorization*, to request an Employment Authorization Document (EAD), which authorizes them to work legally in the U.S. during the time the EAD is valid.

Who is eligible for an EAD that is valid for two years?

The two-year EAD is available to pending adjustment applicants (i.e., those who have filed a Form I-485, *Application to Register Permanent Residence or Adjust Status*) who have filed for an EAD under Section 274.a.12(c)(9) of Title 8, Code of Federal Regulations (8 C.F.R.) and who are currently unable to adjust status because an immigrant visa number is not currently available. USCIS will continue to grant EADs that are valid for one-year for adjustment applicants who have an available immigrant visa number and are filing for employment authorization under 8 C.F.R. Section 274a.12(c)(9).

When will applicants expect to receive the new two-year EAD?

USCIS expects to implement this initiative for cases pending on June 30, 2008. Applicants filing Form I-765 under 8 C.F.R., Section 274.a.12(c)(9) should begin to receive their two-year EAD a couple of weeks after the anticipated June 30, 2008 implementation date.

Where can someone get more information on the new EADs?

For further information, please review the USCIS Update on the new two-year EAD posted online at: <http://www.uscis.gov>.

Will applicants get a two-year EAD when they file an I-765 with their I-485 adjustment of status application?

Generally no. Initial EAD filings will generally receive an EAD that is valid for one-year because they are usually submitted with the Form I-485 that can only be filed when there is an immigrant visa number immediately available to the individual. Applicants are only eligible for a two-year EAD if their immigrant visa availability date retrogresses (i.e., when actual demand for visa numbers exceeds forecasted supply) after the Form I-485 is filed. If an immigrant visa number is available, USCIS will grant the one-year EAD.

How will USCIS decide whether to issue an EAD valid for one or two years?

USCIS will decide whether to renew an EAD for either a one or two-year validity period based on the most recent Department of State Visa Bulletin available at http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html. If an applicant's visa number has retrogressed and is unavailable, USCIS may issue a renewal EAD valid for two years. USCIS will continue to issue the EAD in one-year increments when the Department of State Visa Bulletin shows an employment-based preference category is current as a whole or the applicant's priority date is current.

If I am filing for a replacement EAD under 8 C.F.R., Section 274.a.12(c)(9), how long is the EAD valid?

If an individual requests to replace an EAD that has not expired, USCIS will issue a replacement EAD that is valid through the same date as the previously issued EAD. However, if the previous EAD has expired, USCIS will process the request for a renewal EAD and determine the appropriate validity period based on the Department of State Visa Bulletin and the applicant's priority date.

If USCIS determines that an applicant has filed multiple Forms I-765, the agency may deny the applications for the replacement or renewal EAD.

Why is USCIS changing the validity period for some EADs?

USCIS views this change as a way to better serve its customer base, and in particular, persons who are waiting to become lawful permanent residents and are impacted by the lack of immigrant visa numbers.

On July 30, 2004, USCIS published an interim rule, "Employment Authorization Documents," at 69 Federal Reg. 45555. This interim rule authorized USCIS, in its discretion, to issue EADs with validity periods other than one year based on certain criteria deemed appropriate by the Department of Homeland Security.

I filed my Form I-765 more than 90 days ago and I have not received a decision, who should I contact?

If you have not received a decision within 90 days of the USCIS receipt date and you have properly filed your EAD application, you may apply to obtain an interim EAD by appearing in person at your local USCIS District Office. You must bring proof of identity and any notices that you have received from USCIS in connection with your application for employment authorization.

If I believe I have received an EAD with the wrong validity period or other incorrect information who should I contact?

If you believe that you have received the wrong validity period, you should contact the USCIS National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TTY).

For additional information, or if your application has been approved and you have not received your EAD, please contact the USCIS National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TTY)