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Immigration

Employment Authorization Granted to Certain H-4 Dependent Spouses of H-1B Nonimmigrants Seeking Employment-Based Lawful Permanent Residence

Legal Update

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By Immigration Group

U.S. Citizenship and Immigration Services (USCIS) announced on February 24, that effective May 26, 2015, employment authorization will be granted to certain H-4 dependent spouses of H-1B nonimmigrants who are seeking employment-based lawful permanent resident (LPR) status. The regulations were amended to allow these H-4 dependent spouses to accept employment in the U.S.

H-4 employment eligibility was an important element of President Obama's immigration executive actions announced in November 2014, and is one of several initiatives underway to "modernize, improve and clarify visa programs to grow the U.S. economy and create jobs."

Eligible individuals include certain H-4 dependent spouses of H-1B nonimmigrants who:

- Are the principal beneficiaries of an approved Form I-140, Immigrant Petition for Alien Worker; or
- Have been granted H-1B status under AC21 that permits H-1B nonimmigrants seeking lawful permanent residence to work and remain in the U.S. beyond the six-year limit on their H-1B status.

Under the rule, eligible H-4 dependent spouses must file Form I-765, Application for Employment Authorization, with supporting evidence and the required \$380 fee in order to obtain employment authorization. USCIS will begin accepting applications on May 26, 2015. Once USCIS approves the Form I-765 and the H-4 dependent spouse receives an EAD, he or she may begin working in the U.S. for any employer.

For more information about this rule and filing procedures, please contact Fredrikson & Byron's Immigration Group.