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📅 Thursday, March 5, 2009

### FAQs on Conditional Permanent Residence

My experience answering questions on Avvo is showing me that certain questions frequently. I blogged about one area lately here, regarding Affidavits of Support:  
<http://martinvisalaw.blogspot.com/2009/03/faqs-on-affidavit-of-support.html>. Also related to family-based immigration is the popular subject of conditional permanent residence.

#### What is conditional permanent residence?

Conditional permanent residence (CPR) is granted to a foreign national who applied for permanent residence (green card) based on a marriage that is less than 2 years old at the time of the PR interview. This provision is designed to reduce marriage fraud. Towards the end of the 2 year CPR period, the couple needs to file a petition to remove the conditions. If approved, the



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About Me



Elaine Martin

Experienced, trusted, creative immigration solutions. Elaine has dedicated her practice to immigration law since 1997. Elaine worked with the world's largest immigration law firm for more than eight years, advising businesses of all sizes, ranging from multinational Fortune 500 corporations to start-up ventures and sole proprietorships. In addition, she was responsible for all individual client casework, providing services in family-based immigration petitions. Elaine brings valuable personal experience and passion to her work as an immigration lawyer - she

foreign national then gets “full” permanent residence.

#### [How do I remove the conditions on permanent residence?](#)

You and your spouse need to file an I-751, Petition to Remove the Conditions on Residence, within the 90 days before the CPR expires. This means, normally, that the couple files the petition 21 months or later (but no more than 24 months) after CPR was granted.

The I-751 is filed with USCIS, accompanied by evidence that the marriage was entered in good faith. This evidence can include copies of documents in joint names of the couple, e.g., insurance papers, bank statements, credit card statements, leases, mortgages, joint tax returns, birth certificates for any children of the marriage, etc.

After you file the petition, you and your spouse might be called for interview. CIS has discretion to waive the interview if the agency doesn't think that an interview is needed. If there is no interview, your case will be approved and you will get your new green card in the mail.

#### [Will CIS remind me that I need to file the I-751?](#)

No, CIS will not send any reminders that your CPR is about to expire. You need to track this expiration date very carefully yourself.

#### [What if I am late filing the I-751?](#)

Failure to file will result in loss of your resident status. Late filings are permitted with sufficient explanation of the reason(s) for being late in filing.

#### [What if my case has not been approved and my conditional green card expires?](#)

The receipt for the I-751 filing should include a note automatically extending the permanent residence for one year. This allows the foreign national to continue to work and travel as a permanent resident. If the I-751 is still not decided at the end of that one year

immigrated to the United States from Ireland in 1994.

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extension, the foreign national can visit their local CIS district office to request an I-551 stamp in their passport. This I-551 stamp is further evidence of permanent residence and, like the I-751 receipt notice, is as good as a green card for work and travel.

### What if the marriage has ended or my spouse refuses to sign the I-751?

You may request a waiver of the joint petitioning requirements if:

- You entered into your marriage in good faith but the marriage ended by annulment or divorce.
- You entered into your marriage in good faith but during the marriage you were battered by, or subjected to extreme cruelty committed by your spouse.
- You are a widow or widower of a marriage that was entered into in good faith.

Terminating your permanent resident status and leaving the US would cause extreme hardship.

You can claim multiple grounds for a waiver, if more than one reason applies. If applying for a waiver, you can file the I-751 at any time, not just within the 90-days before CPR expires. If you are requesting a waiver, you need to provide the following documents in addition to proof that the marriage was genuine:

Widow/er: a copy of the death certificate

Marriage terminated: a copy of the divorce decree or other document terminating or annulling the marriage.

You or permanent resident child were battered or subjected to extreme cruelty: include:

A. Evidence of the physical abuse, such as copies of reports or official records issued by police, judges, medical personnel, school officials and representatives of social service agencies, and evidence that the marriage was genuine, as described above.

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B. Evidence of the abuse, such as copies of reports or official records issued by police, courts, medical personnel, school officials, clergy, social workers and other social service agency personnel. You may also submit any legal documents relating to an order of protection against the abuser or relating to any legal steps you may have taken to end the abuse. You may also submit evidence that you sought safe haven in a battered women's shelter or similar refuge, as well as photographs evidencing your injuries.

C. A copy of your divorce decree, if your marriage was terminated by divorce on grounds of physical abuse or extreme cruelty.

Extreme hardship if PR not approved: include evidence that your removal would result in hardship significantly greater than the hardship encountered by other aliens who are removed from this country after extended stays. The evidence must relate only to those factors that arose since you became a conditional resident.

Where can I get more information?

[CIS website](#)

Photo by [dlisbona](#). (If this couple hasn't filed the I-751 by now, they really have a problem!)

Posted by Elaine Martin at [11:45 AM](#) [1 comments](#)  [Links to this post](#)

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