

MARCH 7, 2017 BULLETIN TO ALL IMMIGRATION CLIENTS

Temporary Suspension of Premium Processing Service for All H-1B Petitions

On March 3, 2017, the United States Citizenship and Immigration Services (USCIS) announced that it will temporarily suspend the premium processing service for all H-1B nonimmigrant visa petitions beginning on April 3, 2017. The suspension may last up to six (6) months and will apply to all H-1B petitions filed on or after April 3, 2017. **This includes all H-1B cap-subject petitions filed for the 2018 Fiscal Year** (i.e., both regular and master's advanced degree cap petitions), as well as all cap-exempt H-1B petitions.

As background, the USCIS premium processing service allows the petitioner to use Form I-907 to request an expedited adjudication on a petition for an additional fee of \$1,225. USCIS will then issue a decision on the petition within 15 calendar days. While the premium processing service is suspended for H-1B petitions, USCIS will reject any Form I-907 filed with an H-1B petition. USCIS will, however, continue to adjudicate premium processing H-1B petitions if the petitioner filed the associated Form I-907 with an H-1B petition before April 3, 2017. USCIS will also refund the premium processing fee if: (i) the petitioner filed the Form I-907 for an H-1B petition before April 3, 2017; and (ii) USCIS did not adjudicate the case within the 15 calendar-day processing period. Please note that this temporary suspension applies only to H-1B petitions, and does not affect any other nonimmigrant classification requests filed on Form I-129 (i.e., L-1A/B, O-1, H-3, TN, E-2).

The purpose of this temporary suspension of the premium processing service for H-1B petitions is to reduce the processing times for H-1B petitions overall. Specifically, USCIS plans to process long-pending H-1B petitions, which have experienced long-term delays due to the high volume of incoming petitions and significant surge in premium processing requests for H-1B petitions over the past few years. USCIS will also use the temporary premium processing suspension to prioritize the adjudication of those H-1B extension petitions that are nearing the 240 day mark (pursuant to the immigration rule that allows an H-1B employee, whose employer has filed a timely H-1B extension, to continue working for up to 240 days while the H-1B extension petition is pending) of the extension period.

While the premium processing service is suspended for H-1B petitions, petitioners may submit a request to USCIS to expedite the adjudication of an H-1B petition if one or more of the following criteria are met: (i) severe financial loss to the company or employee; (ii) emergency situation; (iii) the petitioner is a nonprofit organization whose request is in furtherance of the cultural and social interests of the United States; (iv) in a Department of Defense or national interest situation (this type of request must come from an official U.S. government entity and state that delay will be

detrimental to the U.S. government); (v) based on a USCIS error; or (vi) for a compelling interest of USCIS. The petitioner must meet one (i) of the listed criteria, and should also submit documentary evidence in support of the expedite request. Requests to expedite the adjudication of an H-1B petition will be reviewed on a case-by-case basis by USCIS and will be based solely on the discretion of the USCIS Officer.

Please note that USCIS has previously suspended the premium processing service for certain H-1B petitions in the past, including implementing a temporary suspension of the premium processing service for H-1B extension petitions (in 2015) as well as temporarily suspending the premium processing service on all H-1B cap-subject petitions (in 2013). We will continue to provide updates regarding the exact time period for which the premium processing service for H-1B petitions will be suspended and will notify you of any changes in the suspension period.

Please contact any member of the Cohen & Grigsby Immigration Department if you have any questions regarding the above at 412.297.4900. To receive future bulletins and news alerts, please send an e-mail to bulletins@cohenlaw.com

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