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DHS Eliminates 540-Day Automatic EAD Extension for Certain Applicants

On October 30, 2025, the Department of Homeland Security (DHS) published an interim final rule (IFR) that significantly changes the automatic extension policy for employment authorization documents (EADs). Effective immediately, the maximum 540-day automatic extension for certain EAD renewal applicants has been eliminated. This IFR applies to foreign nationals who file EAD renewal applications on or after October 30, 2025. This change, however, does not impact EADs that were already automatically extended before October 30, or those extended by law or separate Federal Register notice.

The DHS issued the IFR with immediate effect, invoking exceptions to the usual notice and comment period in the Administrative Procedure Act. As a result, there was no advance opportunity for public feedback before the IFR's implementation.

Who Is Affected

The IFR impacts several categories of EAD holders, including:

- Adjustment of status applicants (C09)
- Refugees and asylees (A3 and A5)
- Individuals with pending asylum or withholding of deportation/removal applications (C08)
- VAWA self-petitioners and their qualifying children (A31)
- H-4 dependent spouses with unexpired H-4 I-94s (C26)
- Temporary Protected Status (TPS) recipients (A12 or C19)—though TPS EADs may still be eligible for auto-extensions if announced in a separate Federal Register notice.

Importantly, spouses of L and E nonimmigrants are not affected, as they are authorized to work “incident to status” and do not require an EAD for employment, provided their underlying spousal status remains valid.

Similarly, the IFR does not affect F-1 students seeking STEM OPT extensions who continue to receive a 180-day automatic extension under existing rules.

Key Implications

For those subject to the IFR, there will no longer be any automatic extension of work authorization after the EAD expiration date if the renewal application is filed on or after October 30, 2025. Work authorization will lapse the day after the current EAD expires and will only resume once a new EAD is approved and issued, unless the individual qualifies for a separate basis of work authorization.

Background

Previously, U.S. Citizenship and Immigration Services regulations provided a 180-day automatic extension for timely EAD renewal applicants in certain categories. In 2022, this was temporarily increased to 540 days to address processing delays and made permanent in late 2024. The new IFR rescinds these provisions entirely and does not reinstate any auto-extension period.

Employer Guidance and Recommended Actions

Employers can no longer accept an expired EAD plus a Form I-797C receipt notice as valid proof of continued work authorization for renewals filed on or after October 30, 2025.

Employers with employees holding EADs should expect potential gaps in work authorization, even when renewal applications are filed on time. USCIS allows renewal filings up to 180 days before expiration, so early filing is essential.

USCIS will be updating the I-9 Central resource and the Handbook for Employers (M-274) to reflect these changes and provide employers with updated instructions for employment eligibility verification.

We advise all employers to encourage employees to submit EAD renewal applications as early as possible to minimize any risk of a lapse in work authorization. In most cases, renewal applications can be filed up to six months before the EAD expiration date. Given that EAD processing times may exceed six months, timely filing is crucial.

Contact Us

If you have questions about how this new IFR may affect your employment authorization or require assistance with your EAD renewal, please contact our office. We are closely monitoring further developments and are here to support you through any changes to your immigration status or work authorization. You may also reach out to the firm's [National Employment Law Group](#) or visit us at www.KutakRock.com.

