

The H-1B Premium Processing Suspension – What It Means for Your Business

Article By:

Labor and Employment Practice

On March 3, the ***United States Citizenship and Immigration Services (USCIS)*** announced that they will be temporarily suspending “premium processing” for all H-1B petitions received on or after April 3, 2017. The suspension may last up to six months. Premium processing provides expedited processing for certain employment-based petitions and applications. Specifically, USCIS guarantees 15-calendar-day processing to those petitioners or applicants who choose to use this service. April 3 is also the first day that employers may file H-1B petitions under this fiscal year’s quota, or annual cap. Thus, **no cap-subject H-1B petitions may apply for expedited processing.**

The suspension of premium processing has occurred at various times in the past and does not affect the substantive petition. In other words, **only the timing of the processing is affected** – the adjudication itself is not affected. Given the current climate of immigration-related issues in the United States, there are numerous rumors floating about that further changes to the H-1B are forthcoming. While legislation regarding the H-1B and other nonimmigrant visa programs has been proposed, **no changes to the H-1B visa system, beyond the suspension of premium processing, have been implemented.**

Foreign national students who are working for U.S. employers pursuant to Optional Practical Training **under their F-1 visas remain eligible for “cap-gap” protection.** Under cap-gap protection, as long as an F-1 student’s H-1B visa petition is filed prior to the expiration of their employment authorization document, they may continue to work for their U.S. employer while the H-1B petition is pending with USCIS. This protection of status remains until either the H-1B petition is denied, or through September 30 if the H-1B petition is approved. (The H-1B validity period begins on October 1.)

Foreign nationals who are changing from one H-1B employer to another H-1B employer may still do so despite the suspension of premium processing. As soon as the H-1B petition is filed by the new employer, the foreign national may begin working with the new employer. The foreign national does not have to wait for the approval of the H-1B petition to transfer employers. Thus, the suspension of premium processing will have little effect on those cases. However, if a foreign national is switching from a cap-exempt employer (such as a public university or non-profit research institutions) to a cap-subject employer, the H-1B petition will have to go through the H-1B lottery.

Foreign nationals extending their H-1B status are similarly unaffected by the suspension of premium

processing. Foreign nationals with pending H-1B extensions are allowed to continue working for their employers for 240 days after their present H-1B status expires. The employment authorization of these foreign nationals is automatically extended 240 days as long as the H-1B extension petition is filed prior to the expiration of the foreign national's current status. However, **foreign nationals with a pending H-1B extension or change-of-employer petition may have to delay travel until their H-1B petition is approved if their current H-1B visa has expired.**

Thus, while the suspension of premium processing will slow down the USCIS's processing of H-1B petitions, the overall effects of the suspension remain limited. Vedder Price will continue to closely monitor the situation and keep our clients abreast of this and any other immigration changes.

© 2025 Vedder Price

National Law Review, Volume VII, Number 66

Source URL: <https://natlawreview.com/article/h-1b-premium-processing-suspension-what-it-means-your-business>