

March = Last Call for H-1B Cap Cases

Article By:

David Grunblatt

Mazal Gavrielov

Erica Loomba

Valarie H McPherson

Praveena N Swanson

Jennifer Wexler

We are in the final weeks of H-1B Cap Season for Fiscal Year 2018. So, it's initiate your H-1B Cap case now or never!

Employers must initiate new H-1B Cap cases with their lawyers, and a filing with the Department of Labor is required before the H-1B petition can be filed with USCIS. So, time is running out if employers want to ensure that their cases can be filed with USCIS during the 5-day filing period (April 3 to April 7).

Background:

The H-1B category allows qualified professionals to enter the U.S. for employment in a specialty occupation. Only a limited number may be granted each fiscal year (which runs from October 1 through September 30). Under current immigration law, only 65,000 new H-1B petitions may be granted each fiscal year, with an additional 20,000 available for those individuals with advanced degrees from a U.S. academic institution.

For Fiscal Year 2017, USCIS received 236,000 H-1B petitions during the filing period. For the prior year, USCIS received approximately 233,000 H-1B petitions. It is anticipated that this trend will continue and even more cases will be filed this year.

This increased volume could result in a fatal delay. Specifically, the H-1B petition is a two-step process which requires a Labor Condition Application (LCA) be filed and certified by the Department of Labor prior to filing the petition with the United States Citizenship and Immigration Service

(USCIS). Therefore, in order to ensure that the LCA is received in time to file with USCIS during the 5-day filing period (April 3 to April 7), employers must initiate their final H-1B cases as soon as possible. The increased demand has resulted in a surge of LCAs being filed in March and slower processing at the DOL. As such, employers cannot delay in starting H-1B cap cases.

We encourage employers to reach out to our Immigration & Nationality Group if they have questions. We will continue working with our clients to ensure that H-1B petitions are prepared and ready for filing by April 3.

Suspension of Premium Processing:

USCIS announced on Friday, March 3, 2017, that starting April 3, 2017, premium (expedited) processing for H-1B petitions will be suspended for up to 6 months. This temporary suspension applies to all H-1B petitions, including FY2018 H-1B Cap cases. In years past, USCIS has suspended premium processing for H-1B Cap cases temporarily to allow for the lottery selection process. Therefore, we have no indication that the process and timetable for selection of H-1B Cap petitions for processing petitioners will be any different this year. However, notification of the selection, which started on April 12 last year, will be sent via regular mail and not electronically. As such, we can anticipate at least a one-week delay in notification this year. Of course, additional announcements could be forthcoming.

© 2025 Proskauer Rose LLP.

National Law Review, Volume VII, Number 77

Source URL: <https://natlawreview.com/article/march-last-call-h-1b-cap-cases>