This temporary employment authorization may be provided to certain nonimmigrants who are the beneficiaries of approved employment-based immigrant visa petitions and their qualifying spouse and children, and who are caught in the continually expanding backlogs for immigrant visas and face compelling circumstances. This stopgap measure is intended to address certain particularly difficult situations, including those that previously may have forced individuals on the path to lawful permanent residence to abruptly stop working and leave the United States. Read our Policy Manual for more detailed information, as well as our resource on Options for Nonimmigrant Workers Following Termination of Employment.

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| To establish… | You can submit… |

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| Your E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant status | A copy of your current Form I-797 approval notice for Form I-129, Petition for a Nonimmigrant Worker; or A copy of Form I-94, Arrival/Departure Record, showing your admission as an E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant. Note: If you are filing for a (c)(35) or (c)(36) renewal EAD, you do not need to be in a valid nonimmigrant status at the time you file your renewal application.  Instead, your EAD must be valid at the time you file your EAD renewal application. |

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| Your identity | A government-issued identification document with photo, such as: A copy of the biometric page of your passport; A birth certificate with photo ID; A visa issued by a foreign consulate; or A national identity document with photo. |

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| That an immigrant visa is not authorized for issuance to you based on your priority date, preference category, and country of chargeability according to the Final Action Date in effect on the date you file Form I-765 | A copy of an approval notice for Form I-140 filed for you; or Other evidence showing the priority date assigned to an approved Form I-140 filed for you. |

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| That compelling circumstances exist that justify USCIS using its discretion to issue you an independent grant of employment authorization (see our Policy Manual for more details) | Medical documentation to show you or your dependent are facing a serious illness or disability; Evidence that your employer has retaliated against you; Evidence of other substantial harm to you or your dependents, which could include your priority date, school or higher education enrollment records, mortgage records, long-term lease records, or documentation regarding home country conditions, as applicable; Evidence of significant disruption to the employer; or Other evidence that demonstrates you are experiencing compelling circumstances. |

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| That you have not been convicted of a felony, or two or more misdemeanors | Certified copies of all arrest reports, court dispositions, sentencing documents, and any other relevant documents. |

* Category (c)(35) is for principal beneficiaries of approved Form I-140s who are in the United States in E-3, H-1B, H-1B1, L-1, or O-1 nonimmigrant status and are applying for an initial grant of employment authorization based on “compelling circumstances,” or a renewal of such authorization.
* Category (c)(36) is for qualifying dependent spouses and children of a principal beneficiary granted employment authorization under category (c)(35).

USCIS may grant employment authorization and issue an Employment Authorization Document (EAD) in these two categories for up to one year if we determine that there are compelling circumstances that justify issuing employment authorization.

NOTE: USCIS considers an applicant with a valid EAD based on compelling circumstances to be in a period of authorized stay by the Secretary of Homeland Security. If you receive a compelling circumstances EAD, and begin working based on this EAD, you will be in a period of authorized stay, but you will no longer be maintaining your nonimmigrant status. However, you generally will not accrue unlawful presence in the U.S. while the EAD is valid or, if you filed a non-frivolous application on time, while your application is pending.

You are eligible to apply for an initial EAD under category (c)(35) if you:

* Are in the United States in E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant status, including in any applicable grace period, on the date you file the application for employment authorization;
* Are the principal beneficiary of an approved Form I-140;
* Can establish that an immigrant visa is not authorized for issuance to you based on your priority date, preference category, and country of chargeability according to the Final Action Date in effect according to the Department of State’s Visa Bulletin on the date you file your application for employment authorization; and
* Can demonstrate that compelling circumstances exist that would justify USCIS using its discretion to issue you an independent grant of employment authorization.

If you want to renew an EAD under category (c)(35), please see the Renewing Your Employment Authorization section below.

Your family members may also apply for employment authorization under category (c)(36). If approved, the validity period for their EADs may not extend beyond the period authorized for you, the principal beneficiary.

You must file Form I-765, Application for Employment Authorization, to request an initial grant of employment authorization under category (c)(35) or (c)(36). You must receive an EAD from USCIS before you can begin working under this employment authorization.

Carefully follow these steps to prevent your application from being rejected and returned to you:

Your E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant status

* A copy of your current Form I-797 approval notice for Form I-129, Petition for a Nonimmigrant Worker; or
* A copy of Form I-94, Arrival/Departure Record, showing your admission as an E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant.

Note: If you are filing for a (c)(35) or (c)(36) renewal EAD, you do not need to be in a valid nonimmigrant status at the time you file your renewal application.  Instead, your EAD must be valid at the time you file your EAD renewal application.

Your identity

A government-issued identification document with photo, such as:

* A copy of the biometric page of your passport;
* A birth certificate with photo ID;
* A visa issued by a foreign consulate; or
* A national identity document with photo.

That an immigrant visa is not authorized for issuance to you based on your priority date, preference category, and country of chargeability according to the Final Action Date in effect on the date you file Form I-765

* A copy of an approval notice for Form I-140 filed for you; or
* Other evidence showing the priority date assigned to an approved Form I-140 filed for you.

That compelling circumstances exist that justify USCIS using its discretion to issue you an independent grant of employment authorization (see our Policy Manual for more details)

* Medical documentation to show you or your dependent are facing a serious illness or disability;
* Evidence that your employer has retaliated against you;
* Evidence of other substantial harm to you or your dependents, which could include your priority date, school or higher education enrollment records, mortgage records, long-term lease records, or documentation regarding home country conditions, as applicable;
* Evidence of significant disruption to the employer; or
* Other evidence that demonstrates you are experiencing compelling circumstances.
* Certified copies of all arrest reports, court dispositions, sentencing documents, and any other relevant documents.

Note: You must also submit two identical two-by-two-inch passport style color photographs of yourself.

Your nonimmigrant status at the time the principal beneficiary applies for (c)(35) employment authorization

* A copy of your current Form I-797 approval notice for Form I-129, Petition for a Nonimmigrant Worker, or a copy of your current Form I-797 approval notice for Form I-539, Application to Extend/Change Nonimmigrant Status; or
* A copy of Form I-94, Arrival/Departure Record, showing your admission as a nonimmigrant.

Note: If you are filing for a (c)(36) renewal EAD, you do not need to be in a valid nonimmigrant status at the time you file your renewal application. Instead, your EAD must be valid at the time you file your EAD renewal application.

Your identity

A government-issued identification document with photo, such as:

* A copy of the biometric page of your passport;
* A birth certificate with photo ID;
* A visa issued by a foreign consulate; or
* A national identity document with photo.

That the principal beneficiary has an approved Form I-765 under (c)(35)

* A copy of an approval notice for Form I-765 filed by the principal beneficiary; or
* Other evidence showing the approved Form I-765 filed by the principal beneficiary.

That you have not been convicted of a felony, or two or more misdemeanors

* Certified copies of all arrest reports, court dispositions, sentencing documents, and any other relevant documents.

Your relationship to the principal beneficiary

* A copy of your marriage certificate, if you are applying as the spouse of a principal beneficiary with compelling circumstances, and, if applicable, copies of documents showing the legal termination of all other marriages by you or your spouse.
* A copy of your birth certificate, if you are applying as the child of principal beneficiary with compelling circumstances.

Note: You must also submit two identical two-by-two-inch passport style color photographs of yourself.

If you submit any documents containing a foreign language to USCIS, you must also submit a full English language translation that the translator has certified as complete and accurate. The translator must also certify that they are competent to translate from the foreign language into English.

You will not be authorized to work under a compelling circumstances EAD until USCIS approves your Form I-765. If we approve your Form I-765 for an EAD under compelling circumstances, we will grant your employment authorization for one year. You are only authorized to work through the expiration date on your EAD.

You may apply to renew your employment authorization in one-year increments if you are:

* The principal beneficiary of an approved Form I-140:  
   File your renewal application before your current EAD expires and  
  Can establish either 1 or 2 below:
* File your renewal application before your current EAD expires and
* Can establish either 1 or 2 below:
* File your renewal application before your current EAD expires and
* Can establish either 1 or 2 below:
* The dependent spouse or child:  
   File your renewal application before your current EAD expires;  
  Can establish that:  
   The principal beneficiary’s renewal EAD was approved (you may file your renewal application with the principal’s application but your application will not be approved until the principal’s application is approved), and  
  Your relationship to the principal beneficiary continues.
* File your renewal application before your current EAD expires;
* Can establish that:  
   The principal beneficiary’s renewal EAD was approved (you may file your renewal application with the principal’s application but your application will not be approved until the principal’s application is approved), and  
  Your relationship to the principal beneficiary continues.
* The principal beneficiary’s renewal EAD was approved (you may file your renewal application with the principal’s application but your application will not be approved until the principal’s application is approved), and
* Your relationship to the principal beneficiary continues.
* File your renewal application before your current EAD expires;
* Can establish that:  
   The principal beneficiary’s renewal EAD was approved (you may file your renewal application with the principal’s application but your application will not be approved until the principal’s application is approved), and  
  Your relationship to the principal beneficiary continues.
* The principal beneficiary’s renewal EAD was approved (you may file your renewal application with the principal’s application but your application will not be approved until the principal’s application is approved), and
* Your relationship to the principal beneficiary continues.
* The principal beneficiary’s renewal EAD was approved (you may file your renewal application with the principal’s application but your application will not be approved until the principal’s application is approved), and
* Your relationship to the principal beneficiary continues.

That you are experiencing compelling circumstances that would justify USCIS using its discretion to issue you an independent grant of employment authorization.

Please note that you cannot file the renewal application more than 180 days before your current EAD expires.

If you are working in the United States under a compelling circumstances EAD and your immigrant visa priority date becomes current, you generally would not be eligible to file Form I-485, Application to Register Permanent Residence of Adjust Status. Instead, you would need to request USCIS to notify the Department of State’s National Visa Center (NVC) if your immigrant petition is approved so that you may process your immigrant visa application abroad. For more information on immigrant visa processing, please see the NVC Processing web page.

If you are working in the United States under a compelling circumstances EAD and a new Form I-129 petition is filed on your behalf, you would not be granted a change of status or extension of stay. After the petition is approved for a new work-authorized classification, you would need to apply for a visa and/or admission from outside the United States to begin working.

Some unauthorized practitioners may try to take advantage of you by claiming they can file an EAD application. These same individuals may ask that you pay them to file such forms. To learn the facts about how to protect yourself and your family from scams, please visit uscis.gov/avoidscams.