



## Business Immigration Reporter

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### USCIS Announces H-1b Filing Details

The USCIS announced it will accept H-1b petitions for fiscal year 2016 beginning April 1, 2016. The congressionally mandated cap on H-1b visas remains at 65,000. As every year, the first 20,000 H-1b petitions filed for individuals with U.S. master's degree or higher are exempt from the 65,000 cap.

The USCIS expects to receive more petitions than what it is allowed to issue under the cap and the USCIS will notify the public within five days of April 1, 2015 with a preliminary count. As it does every year, the agency will utilize a lottery system to randomly select the number of petitions required to meet the cap.

Although H-1b petitions and applicants may avail themselves of premium processing when filing their H-1b petitions, The USCIS will first prioritize on data entry of cap-subject petitions and then begin adjudicating premium processing cases on or before May 11, 2015. Cases will be considered accepted on the date USCIS takes possession of a properly filed petition with the correct fee.

The statement that USCIS has to "take possession" of an H-1b petition to consider it properly filed is somewhat peculiar because the term "taking possession" is not in the statutory or regulatory definition of properly filed. Properly filed means a signed petition accompanied by the requisite fees and delivered to the USCIS timely.

For more H-1 b filing instructions visit [HERE](#)

### Employment Authorizations for Certain H-4 visa Holders

The Department of Homeland Security (DHS) appears to be making good on one of the promises made by the President when he announced immigration executive action last fall. USCIS Director Leon Rodriguez announced yesterday that the DHS will extend work authorization to certain H-4 dependant spouses of H-1b visa holders who are seeking employment-based permanent residence in the United States. Individuals who come within the purview of this benefit are certain H-4 dependent spouses of H-1B non-immigrants who:

- Are the principal beneficiaries of an approved Form I-140, Immigrant Petition for Alien Worker; or
- Have been granted H-1B status under sections 106(a) and (b) of the American competitiveness in the Twenty-first Century Act of 2000 as amended by the 21st Century Department of Justice Appropriations Authorization Act. The Act permits H-1B non-immigrants seeking lawful



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permanent residence to work and remain in the United States beyond the six year limit on their H-1b status.

The new rule will go into effect on May 26, 2015. Note, not all H-4 dependent spouses will qualify for this benefit. If you are an H-4 spouse and you require additional clarification on the parameters of this new rule, you can go to [www.uscis.gov](http://www.uscis.gov) or reach out to me directly.

## **April 2015 Visa Bulletin**

Employment based immigration is subject to annual numerical limitations in all categories. Some categories have more applicants than others and some so many that the category becomes oversubscribed and as a result falls behind, which can create long waiting periods before immigrant visa numbers become available for beneficiary workers in these categories and before they can immigrate to the United States.

Because of the economic downturn between 2008 and 2012, fewer employers filed labor certification applications and immigrant petitions for foreign workers. This circumstance seems to manifest itself favorably in the issuance of immigrant visa numbers now, as the visa numbers appear to be catching up to the slumping demand of years past. This means waiting times for otherwise highly oversubscribed visa categories have decreased significantly.

Specifically, the employment-based third category for all chargeability areas has advanced significantly, to October 1, 2014. Although the same category has retrogressed for applicants from India, the Eb-2 category for both India and China has advanced significantly.

If you are an employer who has petitioned for an immigrant worker and you have been waiting for priority dates to advance, take a look at the April 2015 Visa Bulletin to see whether your potential foreign employee is ready to immigrate to the United States. The April 2015 visa Bulletin is [HERE](#)

## **The Impact of Immigrant Women on the U.S Economy**

According to the American Immigration Council there are approximately 13.1 million immigrant women workers in the United States. Working immigrant women comprise seven percent of all U.S. workers, but unfortunately, a disproportionately large number of immigrant women work in low-wage occupations.

About half of immigrant women workers come from Latin America and about one third are from Asia. Most live in California, New York, Texas, Florida, and New Jersey and their top five occupations are housekeepers, nursing and home health aid, cashiers, registered nurses, and janitors.

The wages immigrant women workers earn are low, with a quarter of them earning approximately \$12,000.00 per year or less. While there are many immigrant women workers who are high earning professionals, the majority earns poverty level wages and has no benefits. Some of this may be a function of many immigrant women being undocumented, which brings with it vulnerability and exploitation by some employers.

So, here's a salute and thank you to immigrant women workers for their sacrifices and contributions to our economy and a reminder that immigrant women workers too are entitled to equality, economic opportunity, and equal pay.

## **Business Immigration Case Law**

The United States District Court for the Western District at Seattle held that the USCIS was wrong in denying an H-1b petition for a part-time health care manager with

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a bachelor's degree in management. The Judge held that the USCIS abused its discretion and granted the H-1b petition.

The United States District Court for the Eastern District of Missouri upheld USCIS' revocation of an I-360 religious worker petition. The Judge found the church's and applicant's statements concerning the circumstances surrounding a site visit not credible and doubted the veracity of remuneration paid to the applicant. They affirmed the petition revocation.

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