

Employment Authorization Document for Certain H-4 Dependent Spouses

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U.S. Citizenship and Immigration Services ("USCIS") [announced](#) that effective May 26, 2015 it will be extending eligibility for U.S. employment authorization to certain H-4 spouses of foreign nationals in H-1B status pursuing employment-based lawful permanent residence. Currently, family members of H-1B workers are permitted to enter the United States in H-4 status as dependents of the H-1B worker, but they are not authorized to work. This change permits spouses in H-4 status to apply for an unrestricted work card provided that the principal H-1B employee:

1. Is the beneficiary of an approved Form I-140, Immigrant Petition for Alien Worker; or
2. Has been granted H-1B status under sections 106(a) and (b) of the American Competitiveness in the Twenty-First Century Act of 2000 (AC21), which permits H-1B employees seeking permanent residency to extend their H-1B status beyond the usual six-years.

Specifically, sections 106(a) and (b) of AC21 apply to H-1B employees if 365 days or more have passed since the filing of a labor certification application, Form ETA 9089, or 365 days or more have passed since the filing of the Form I-140, Immigrant Petition for Alien Worker.

Eligible H-4 dependent spouses will be required to file Form I-765, Application for Employment Authorization with evidence documenting that they meet the above criteria and pay the required \$380 fee. It typically takes USCIS approximately 90 days from the date of filing to issue an Employment Authorization Document ("EAD").

USCIS will begin accepting applications on May 26, 2015.

If you have any questions about obtaining employment authorization on behalf of an H-4 visa holder, please contact Attorney [Silas Ruiz-Steele](#), Chair of the [Immigration Law Group](#), at 610-898-7153 or sruizsteele@barley.com.

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