

# H-4 EMPLOYMENT AUTHORIZATION

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Certain H-4 dependent **spouses** of H-1B employees are eligible to apply for work authorization. (**Not all H-4 dependent spouses are eligible.**) H-4 spousal eligibility applies only if:

1. the H-1B employee **has an APPROVED** I-140 Immigrant Petition for Alien Worker  
**OR**
2. the H-1B employee is employed in their post-6th-year of H-1B stay, gained by AC21 regulations (106a) and (106b)
  - a. AC21 regulations allow certain H-1B visa holders to remain in H-1B status beyond 6 years due to per country Green Card limitations or because of ETA 9089 Labor Certifications or I-140s pending longer than 365 days.

See: [Employment Authorization for Certain H-4 Dependent Spouses](#)

**Note:** H-4 dependent children are not eligible for employment authorization, only qualified spouses.

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## LIST OF DOCUMENTS TO INCLUDE WITH THE I-765 (EAD) APPLICATION

1. [Form I-765](#), Application for Employment Authorization;
  - a. Employment eligibility code on Form I-765 is **(C)(26)**
2. All H-4 Approval Notices, if any
3. Two color passport photos (US standards)
  - a. Write first and last name on back of photos, plus current I-94 number
  - b. place photos on top of application or in an envelope
4. Passport photo/biography page (from passport book)
5. Most recent I-94 arrival page (do not include travel history)
6. Most recent visa stamp, if any (even if expired)
7. **Copy of marriage certificate** (to prove relationship to H-1B spouse)
  - a. If marriage certificate is in a foreign language, create an identical mirrored image of the original document with the English translation
  - b. Request Translation Affidavit form from our office for the Notary Official's signature
8. Copies of ALL previous EAD cards issued by USCIS (this includes any OPT; J-2 EADs, etc.)
9. **INSERT A COVER PAGE INDICATING "SUPPORTING DOCUMENTS FOR H-1B SPOUSE" and include:**
  - a. **Copy of spouse's I-140 Approval Notice**
  - b. Copy of spouse's current H-1B Approval Notice
  - c. passport photo/biography page (from passport book)
  - d. Most recent I-94 arrival page (do not include travel history)
10. Filing fee (payable to **US Department of Homeland Security**)
  - a. place filing fee on top of application ([Form G-1450 for Credit/Debit Card Authorization](#))

**WITH THE EXCEPTION OF PASSPORT PHOTOS, MAKE A COPY OF EVERYTHING FOR YOUR PERSONAL FILE**

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If a dependent spouse holds a status other than H-4, he/she can file an I-539 Application to change to H-4 Status concurrently with the I-765 Application for Employment Authorization. The I-539 will be adjudicated first, and the I-765 will be adjudicated afterwards. The I-765/EAD application will not be considered by USCIS to be in the I-765 queue until the I-539 Application to Change to H-4 Status has been approved.

Employment authorization should be granted for the length of the approved H-4 status. When time to renew, we recommend submitting the new I-765 at least 90 days in advance of expiration to avoid a break in US work authorization. **Note: The H-1B work authorization must be extended as part of the H-4 extension + (C)(26) work authorization, so be sure to plan ahead.**

The EAD will be mailed to the address listed on the I-765. **Note:** The US Postal Service cannot *forward* immigration mail to a new address that is not printed on the original mailed document. So, if you move after mailing your I-765 application, you must contact USCIS to notify them of your new address; otherwise the Postal Service must return the EAD to USCIS. You can **update your address online with USCIS** at [www.uscis.gov](http://www.uscis.gov) (type **Form AR-11** in the search bar). It is important that BOTH the H-1B employee AND the H-4 spouse complete separate Forms AR-11.