

H-4 EMPLOYMENT AUTHORIZATION

Certain dependent **spouses** of H-1B status holders are eligible to apply for work authorization. H-4 dependent children are NOT eligible for employment authorization, only qualified spouses.

Not all H-4 dependent spouses are eligible. The H-1B spouse must be the recipient of:

1. **APPROVED** I-140 Immigrant Petition for Alien Worker
OR
2. Post-6th-year of H-1B stay, gained by AC21 regulations*

LIST OF DOCUMENTS INCLUDED IN THE I-765 (EAD) APPLICATION TO USCIS?

- [Form I-765](#), Application for Employment Authorization;
 - Code For #18 on Form I-765 is (C)(26)
 - H-4 is person listed under Item Number 1. / H-4 signs the form
- Filing fee (payable to *US Department of Homeland Security*) See: [Form I-765](#)
- **Two color photos** that meet US passport specifications
- **Copies of all previous EAD's issued by USCIS** (OPT; J-2 EAD etc.)
- **Copy of H-4 visa stamp** (if applicable)
- **Copies of biography page of passport and proof of H-4 status:**
(I-94 departure record [paper or electronic print out] or Form I-797A Approval Notice granting H-4 status with I-94 departure record attached)
- Copy of **marriage certificate**
- **Copies of H-1B spouse's biography page of passport and proof of H-1B status** (I-94 departure record [paper or electronic] or Form I-797A H-1B Approval Notice with I-94 departure record attached)
- Proof of principal H-1B qualifying for H-4 dependent employment benefit with either an **approved I-140** or 6+ years of H-1B under AC21 rules
- **Copies of 3 most recent pay statements** issued by **H-1B**-sponsoring employer.

DO NOT E-FILE THIS APPLICATION. USCIS IS NOT YET ABLE TO PROCESS BY E-FILE

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 then** the 90-120 day adjudication period for the I-765 **will begin**. The 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 is approved.

Employment authorization should be granted for the length of the approved H-4 status. **Apply to renew the EAD 120 days in advance of expiration to avoid a break in US work authorization. THE H-1B MUST BE EXTENDED AS PART OF THE H-4 EXTENSION, SO PLAN PLAN PLAN AHEAD TO AVOID A BREAK IN WORK AUTHORIZATION.**

The EAD is mailed to the address listed on the I-765. The US Postal Service cannot forward immigration mail. The EAD will be returned to USCIS. You must maintain a correct, current address with USCIS so they can re-send it if it is returned to them by the US Postal Service. You can update your address online at www.uscis.gov on Form AR-11. It is important that BOTH the H-1B AND the H-4 complete separate Forms AR-11.

*AC21 regulations allow certain H-1B visa holders to remain in H-1B status beyond 6 years due to per country limitations or because of ETA 9089 labor certifications or I-140s pending longer than 365 days.