



USCIS to Grant Employment Authorization to Spouses of Certain H-1B Workers

February 26, 2015

U.S. Citizenship & Immigration Services (“USCIS”) announced Tuesday, February 24th that spouses of certain H-1B workers will be eligible to apply for employment authorization effective May 26, 2015. Those eligible are spouses of H-1B workers who are pursuing U.S. permanent resident status based on employment and:

- i) are principal beneficiaries of an approved Immigrant Petition for Alien Worker, I-140; or
- ii) have been granted H-1B extensions beyond the maximum six-year period allowed because a labor certification application or an I-140 was filed for them at least 365 days before they will have exhausted their sixth year stay in H-1B status.

H-1B employees are permitted to work in the U.S. generally for a maximum of six years. If they seek employment-based lawful permanent resident status and certain criteria are met, however, the six years can be extended. When H-1B workers become eligible for permanent resident status so do their spouses, allowing the spouses to obtain employment authorization, but that can take several years because of per-country limitations on the number of new permanent residents allowed each year.

The change is expected to reduce economic burdens on H-1B workers and their families as well as help U.S. businesses retain skilled workers who might have otherwise been discouraged to stay in the U.S. as a result of the long wait. Eligible spouses can submit their applications for employment authorization on Form I-765 to USCIS beginning on May 26, 2015.

Employers should expect to receive questions from their H-1B workers about this development. They should also expect increased requests for sponsorship from those who have not yet started the permanent residence process.

If you have questions, please contact your Lathrop Gage attorney or the attorney listed above.