

DONALD S. BEYER JR.  
8TH DISTRICT, VIRGINIA

JOINT ECONOMIC COMMITTEE  
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(CHAIR, SPACE AND AERONAUTICS SUBCOMMITTEE)

**Congress of the United States**  
**House of Representatives**  
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December 9, 2021

The Honorable Ur M. Jaddou  
Director  
U.S. Citizenship and Immigration Services (USCIS)  
Camp Springs, MD 20588

Dear Director Jaddou:

Our country has a diverse heritage woven by people from all across the globe. This heritage is reflected throughout the Commonwealth of Virginia — which boasts the 17<sup>th</sup> highest foreign-born population out of the 50 states — and particularly so in Northern Virginia, which two-thirds of the state’s immigrant population join me in calling home.<sup>i</sup> In my district specifically, immigration-related requests make up a plurality of my office’s constituent casework; we have processed more than 1,000 such requests to date this year alone.

The men and women of USCIS have long been essential partners to me and my staff. This has never been more apparent or appreciated than during the ongoing COVID-19 pandemic, when the USCIS team has continued to work closely, consistently, and commendably with my own team to serve the needs of a diverse constituency in the face of unprecedented challenges.

I write today to request that USCIS make faster processing of Forms I-765 one of the agency’s top priorities this month and into the new year. Many immigrants, in my district and beyond, rely upon the timely processing of these applications to be able to go to work each day. Until 2016, there was a regulatory requirement that USCIS process such applications within 90 days. When the Department of Homeland Security (DHS) opted to remove this requirement five years ago, it acknowledged “concerns that [doing so] would cause gaps in employment authorization for certain foreign workers, lead to longer adjudication times, ultimately lead to job losses, and cause hardship for many beneficiaries” — but underscored that “[a]lthough DHS is eliminating the 90-day processing timeframe for Forms I-765 from the regulatory text, USCIS continues to be committed to the processing goals it has established for Form I-765.”<sup>ii</sup>

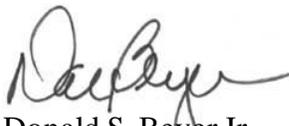
Unfortunately, with no hard and fast processing deadlines, the amount of time that USCIS uses to process Forms I-765 can and does vary widely. At the agency’s Potomac Service Center in Arlington, for example, the estimated processing time cited by USCIS on its website<sup>iii</sup> currently ranges up to 9.5 months; at some of the agency’s other field offices, estimated processing times range up to a year or more. Such delays are detrimental not only to those who depend upon USCIS for their employment authorization, but to the employers and families who depend upon them in turn.

USCIS now has a backlog of roughly 1.4 million Forms I-765 pending agency review.<sup>iv</sup> Last month, columnist Catherine Rampell put a human face on this startling figure, profiling Dr. Helen Muradyan — an immigrant from Armenia and a second-year resident physician in Southern California — in *The Washington Post*. Despite a desperate need for doctors and medical professionals nationwide amid the COVID-19 pandemic, USCIS processing delays resulted in Dr. Muradyan’s termination from a community hospital and health clinic “operating at 150 percent of capacity” after the agency took longer than six months to renew her employment authorization.<sup>v</sup> In my district, too, Amazon was recently forced to furlough a constituent whose Form I-765 was and is still awaiting USCIS approval. This is but one more example among many.

There is no question that USCIS has had to weather strong headwinds these past five years, simply in the course of conducting its day-to-day operations — first from the Trump Administration, which deliberately sought to stymie the agency’s good work, and then from the COVID-19 pandemic, which continues to present new and novel difficulties all its own. My office’s experience with USCIS suggests that the agency is working to overcome these obstacles with aplomb. But I ask that USCIS prioritize the processing of Forms I-765 and fix what is a growing backlog on this front moving forward, recognizing the devastating effects that failing to do so could have on both an increasing number of individual immigrants as well as the businesses that depend on them. Further, I ask that USCIS consider employing auto-renewal for Form I-765 until a decision is made. Auto-renewal is provided for many visa categories, and I feel this is the appropriate action to take, with the underlying status still in place until a decision can be made.

America’s standing as a proud and welcoming nation of immigrants is integral to our modern fabric. I thank you for your time and swift attention to this matter and ask that you provide a response on USCIS’s employment of an auto-renewal option no later than January 9, 2022. Please do not hesitate to let me know if and how I and my team can be of help to you.

Sincerely,



Donald S. Beyer Jr.  
Member of Congress

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<sup>i</sup> “A Profile of Immigrant Virginians.” *Virginia Department of Social Services*, [www.dss.virginia.gov/files/division/cvs/ona/immigrant\\_services/reports\\_and\\_information/background\\_paper\\_a\\_profile\\_of\\_immigrant\\_virginians.pdf](http://www.dss.virginia.gov/files/division/cvs/ona/immigrant_services/reports_and_information/background_paper_a_profile_of_immigrant_virginians.pdf). Accessed 1 Dec. 2021.

<sup>ii</sup> United States, Department of Homeland Security. “Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers.” *Federal Register*, vol. 81, no. 223, 18 Nov. 2016, pp. 82,398-82,492, <https://www.govinfo.gov/content/pkg/FR-2016-11-18/pdf/2016-27540.pdf>. Accessed 1 Dec. 2021.

<sup>iii</sup> *Check Case Processing Times*. U.S. Citizenship and Immigration Services, [egov.uscis.gov/processing-times](http://egov.uscis.gov/processing-times). Accessed 1 Dec. 2021.

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<sup>iv</sup> “Number of Service-wide Forms by Quarter, Form Status, and Processing Time: Fiscal Year 2021, Quarter 3.” *U.S. Citizenship and Immigration Services*, [www.uscis.gov/sites/default/files/document/data/Quarterly\\_All\\_Forms\\_FY2021Q3.pdf](http://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2021Q3.pdf). Accessed 1 Dec. 2021.

<sup>v</sup> Rampell, Catherine. “The missing immigrant workers.” *The Washington Post*, 22 Nov. 2021, [www.washingtonpost.com/opinions/2021/11/22/legal-immigrant-workers-paperwork-renewal-backlog](http://www.washingtonpost.com/opinions/2021/11/22/legal-immigrant-workers-paperwork-renewal-backlog). Accessed 1 Dec. 2021.



**U.S. Citizenship  
and Immigration  
Services**

January 19, 2022

The Honorable Donald S. Beyer Jr.  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Beyer:

Thank you for your December 9, 2021 letter to the U.S. Citizenship and Immigration Services (USCIS) and especially for your note of appreciation for the “men and women of USCIS [who] have long been essential partners,” especially “during the ongoing COVID-19 pandemic, when the USCIS team has continued to work closely, consistently, and commendably with my own team to serve the needs of a diverse constituency in the face of unprecedented challenges.” Like you, I am proud of the USCIS workforce in the face of so many challenges over the last few years and I want to thank you for your kind note of appreciation which I will be sure to share with our staff.

In your letter, you express concern about the impact of Employment Authorization Document (EAD) renewal processing timelines. USCIS is very much aware of the severe challenges that the COVID-19 pandemic has posed for workers and we have and will continue to take steps to do what we can to help. You further suggested in your letter that USCIS should prioritize the adjudication of Forms I-765, Application for Employment Authorization (Form I-765) and offer auto extensions of employment authorization while a renewal application is pending.

Thank you for your suggestions. USCIS appreciates the concerns you have raised and is looking at all available options to reduce backlogs and processing times and militate against the potential that applicants may experience gaps in employment authorization while an EAD renewal application is pending. As you may know, USCIS has made changes to help prevent gaps in employment authorization and documentation, including the November 12, 2021 policy alert revising its interpretation of 8 CFR 274a.13(d) to allow for the automatic extension of EAD validity dates for certain individuals in E, L-2, and H-4 derivative spousal status if the EAD renewal was properly filed before expiration and the individual has an unexpired Form I-94. The November 12, 2021 Policy Alert also clarifies that E and L dependent spouses are employment authorized incident to their status and therefore they are no longer required to request employment authorization by filing Form I-765 but may continue to file Form I-765 if they choose to receive an EAD.<sup>1</sup>

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<sup>1</sup> Note, however, that until such time as USCIS can implement changes to the I-94 to distinguish E and L spouses from E and L children, E and L spouses would still need to rely upon an EAD as evidence of employment

Additionally, on December 28, 2021, USCIS provided guidance specific to healthcare workers with expiring or expired EAD renewal applications on how to request expedited processing by calling the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833). More information on how to request such expedited processing and expedited processing in general is available on the USCIS website at <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>.

COVID-19 has dramatically impacted processing times for many benefit types, with USCIS experiencing the downstream effects of office closures; limited-capacity operations; the financial impacts of a severe, though temporary, drop in fee receipts; a hiring freeze, which led to staff attrition; and changes in filing patterns. Despite those challenges, USCIS began exceeding 2020 case completions during 2021, and September 2021 completions exceeded those in 2019.

Furthermore, although posted processing times have a lag in showing progress, USCIS has significantly reduced processing times for applicants for change of status to or extension of stay in H-4 status, and USCIS has reduced the total number of pending cases from a pandemic high of over 104,000 to approximately 52,000. Likewise, USCIS has reduced pending volumes for the (c)(26) category of Form I-765 (H-4 EADs) from a July 2021 high of approximately 50,000 to a December 2021 high of approximately 31,000. This progress has been achieved through policy changes, such as suspending the collection of biometrics for certain Form I-539, Application to Extend/Change Nonimmigrant Status, applicants, including those seeking an extension of stay in or change of status to H-4, as well as dedicating significant agency resources to the processing of EAD applications. In addition, the new expedite criteria for healthcare workers who have pending EADs that may expire within 30 days would be applicable to any H-4s in the healthcare field.<sup>2</sup>

While our recent 180-day automatic extension and expedite criteria announcements, along with processing efficiencies, have helped to reduce processing times for H-4 EAD renewal applications and prevent potential gaps in employment authorization, I share your concern over the length of time it is taking to adjudicate employment authorization requests and have made it a priority to implement additional solutions that promote efficiency in our adjudications of these requests while maintaining the integrity and quality of the immigration system.<sup>3</sup> We anticipate

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authorization to present to employers for completion of Form I-9. Until the notation on Form I-94 issued to E and L dependent nonimmigrants is revised, Form I-94 solely indicating E or L nonimmigrant status is insufficient evidence of employment authorization under List C of Form I-9.

<sup>2</sup> U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *How to Make an Expedite Request*, (Dec. 28, 2021), <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>

<sup>3</sup> For additional information see, U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *USCIS Extends Flexibilities to Certain Applicants Filing Form I-765 for OPT* (February 26, 2021), <https://www.uscis.gov/newsroom/alerts/uscis-extends-flexibilities-to-certain-applicants-filing-form-i-765-for-opt>; U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *F-1 Students Seeking Optional Practical Training Can Now File Form I-765 Online* (April 12, 2021), <https://www.uscis.gov/news/news-releases/f-1-students-seeking-optional-practical-training-can-now-file-form-i-765-online>; U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *Employment Authorization for Certain Adjustment Applicants* (June 9, 2021), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210609->

that these efforts will allow us to further reduce the number of pending employment authorization requests and more efficiently issue EADs to eligible applicants. As a result, over the coming months, our processing times should continue to show measurable progress

Combined with these policy changes, USCIS is continually reviewing its operational procedures to ensure efficiency. For example, while USCIS is moving toward an increasingly electronic environment, paper-based processing sometimes requires the physical separation of an application from the requests for ancillary benefits. We will review this process to ensure that it is in fact providing a more efficient process than keeping the physical cases together throughout the process.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,



Ur M. Jaddou  
Director

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[EmploymentAuthorization.pdf](#); U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *Rescinding Guidance on Discretionary Employment Authorization for Parolees* (Aug. 12, 2021), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210812-EmploymentAuthorizationForParolees.pdf>; U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *All Temporary Protected Status (TPS) Applicants May Now File Forms I-821 and I-765 Online* (Nov. 29, 2021), <https://www.uscis.gov/newsroom/alerts/all-temporary-protected-status-tps-applicants-may-now-file-forms-i-821-and-i-765-online>; U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *All Temporary Protected Status (TPS) Applicants May Now File Forms I-821 and I-765 Online* (Nov. 29, 2021), <https://www.uscis.gov/newsroom/alerts/all-temporary-protected-status-tps-applicants-may-now-file-forms-i-821-and-i-765-online>; U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *How to Make an Expedited Request* (Dec. 28, 2021), <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>