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CHELLIE PINGREE  
CONGRESS OF THE UNITED STATES  
1ST DISTRICT MAINE

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CONSERVATION AND FORESTRY

November 17, 2021

The Honorable Alejandro Mayorkas  
Secretary  
Department of Homeland Security  
301 7th Street SW  
Washington, D.C. 20528-0150

Ur M. Jaddou  
Director  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue NW  
Washington, D.C. 20001

Dear Secretary Mayorkas and Director Jaddou,

I am writing to express my serious concern for H-4 visa holders in my district and across the country who are at risk of losing or have already lost their jobs as a result of unacceptable USCIS processing delays for the required H-4 (I-539) renewals that provide eligibility for an employment authorization document (EAD).

Due to the Trump administration's changes to visa processing and the extraordinary stress on USCIS service centers resulting from the COVID-19 pandemic, H-4 renewals are taking significantly longer than usual to process and applicants are now waiting about 21 months for their I-539 petitions to be adjudicated. USCIS states that EAD renewal applications should not be submitted more than six months prior to their current card's expiration date, making it impossible for H-4 holders to maintain employment while the I-539 renewal awaits processing.

While I am aware of the recent decision to allow a 180-day automatic extension of employment authorization for H-4 holders who timely file their I-765 EAD renewal application and continue to hold H-4 status beyond the expiration date of their EAD, this unfortunately will not provide enough validity for H-4 workers to remain in their jobs legally as the H-4 renewals are simply taking too long.

The result of these delays is that all those with H-4 status have lost or will lose their ability to work. Despite doing everything right and in a timely manner, my constituents are losing their employment and source of income through no fault of their own. These delays not only hurt these individuals and their families, but also threaten the \$7.5 billion that H-4 workers contribute to the U.S. economy.

I strongly urge you to pursue an immediate policy change to address this issue. Specifically, I urge USCIS to automatically extend employment authorization to H-4 petitioners whose I-539 renewal is pending and has been determined to be bona fide and meriting a favorable exercise of

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discretion until such time as the I-539 is adjudicated and the underlying eligibility for a new EAD is determined, and should be contingent upon verification of the H-1B principle's renewal.

If we bring individuals to the U.S. to do highly skilled work with the promise that their spouses will have the opportunity to start or continue their careers here as well, we owe them and their employers the security that their employment and sources of income will not be interrupted due to delays within the USCIS system. The current delays are causing undue hardship, and I ask that you address this problem with the utmost urgency to ensure more people's lives and livelihoods are not disrupted by USCIS backlogs.

Sincerely,



Chellie Pingree  
Member of Congress



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

January 12, 2022

The Honorable Chellie Pingree  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Pingree:

Thank you for your November 17, 2021 letter to the Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS). Secretary Mayorkas asked that I respond on his behalf.

USCIS understands the importance of continuous employment authorization both for individuals and the businesses and organizations that employ them. We are 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 Employment Authorization Document (EAD) renewal application is pending, including as you noted in your letter our recent announcement automatically extending H-4 associated EADs if the H-4 EAD renewal was properly filed before expiration and the individual has an unexpired Form I-94.<sup>1</sup>

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, Application for Employment Authorization, (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, USCIS recently announced new expedite criteria for healthcare workers who have

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<sup>1</sup> U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *Employment Authorization for Certain H-4, E, and L Nonimmigrant Dependent Spouses*, PA-2021-25 (Nov. 12, 2021), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20211112-EmploymentAuthorization.pdf>.

pending EADs that may expire within 30 days, and this 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 that streamlining these cases 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.

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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<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-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>