Sanctuary for Families

APPLYING FOR EMPLOYMENT AUTHORIZATION

An asylum applicant is eligible to file for an employment authorization document (EAD) when 150 days have elapsed from the time USCIS or the Immigration Court received their application. The "clock" stops whenever a delay in the processing time is caused by your client or you, specifically any adjournments of interviews or court hearings you request on behalf of your client. The Immigration Court maintains a "clock" informing applicants and USCIS of the number of days that have passed since the application was filed. You can check the number of days that have elapsed by please call 1-800-7180 and enter your client's immigration identification number (also called an "alien registration number" or "A number"), a nine-digit number that you should be able to find on any immigration-related correspondence. For affirmative cases, applicants and counsel are responsible for keeping track of the number of days that have elapsed to determine when an EAD application may be submitted. When 150 days have elapsed, you may file the application on Form I-765, under category (c)(8) for asylum applicants, with the appropriate supporting evidence. Your client should receive their EAD in about 30-60 days. The EAD will be valid for two years.[1]

Once your client receives their EAD, they may obtain a social security number and work legally until their card expires. While your client's asylum case is pending, you may apply for an EAD renewal on behalf your client. Although the first I-765 application is free, there is a fee for renewal applications. If your client cannot afford to pay the fee and your firm is unable to cover the cost, please inform your Sanctuary contact, as fee waivers are difficult to obtain on renewal requests.

Once your client is granted asylum, they are immediately eligible to work, as employment authorization is inherent in asylee status. If your client is granted asylum by USCIS, they will automatically receive an EAD, this time under category (a)(5) for asylees, by mail. If your client is granted asylum or withholding of removal by the Immigration Court, you must apply for an EAD separately, under category (a)(5) for asylees or (a)(10) for withholding grantees, though there is no fee for this first application.

For those with withholding of removal, the EAD expires after one year, and renewal is free. For asylees, the EAD expires after two years, but there is a fee for renewal. However, depending on when your client files for permanent residency status, they may file for a new EAD, under category (c)(9) as an applicant for adjustment of status, thereby avoiding the renewal fee. Once your client becomes a permanent resident (i.e. green card holder), your client will no longer need an EAD as proof of their right to work.

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[1] This applies to all category (c)(8)-based I-765 applications pending as of October 5, 2016 or filed on or after that date. USCIS, "USCIS Increases Validity of Work Permits to Two Years for Asylum Applicants" (Oct. 6, 2016), https://www.uscis.gov/news/alerts/uscis-increases-validity-work-permits-two-years-asylum-applicants.