



Delays in Adjudicating and Printing EAD and Green Cards:

We at Hallett McCann Law Group have been hearing plenty of stories from people who have received an I-797 notice that their green card applications or work permit applications had been approved, and months later, they still haven't received any document or card from USCIS.

If this has happened to you, then you are in a distinguished group of about 115,000 people who are also waiting for their green card or work permit.

So what's the story? Why the backlog?

In January 2017, the Department of Homeland Security ("DHS") eliminated from the immigration regulations the requirement that the agency adjudicate EAD applications within 90 days of receipt. From that point forward, our office has witnessed a steady increase in adjudication processing delays and document production delays.

In June 2020, USCIS ended a contract it had with an outside company (to print EAD employment authorization document) cards and green cards. USCIS's plan was to hire federal employees to print the cards in-house, but that plan has stalled according to USCIS – citing their budget shortfall.

As a result, a lawsuit was filed in federal court in Ohio during the summer months. This lawsuit was filed on behalf of an Indian family who had been waiting months to receive cards for already approved petitions. Likewise, this lawsuit was filed as a proposed *class action*, which means that, if approved, thousands of other people in similar positions could join the lawsuit.

In response to this litigation, USCIS reluctantly agreed to temporarily accept I-797 approval notices as proof of work authorization, as they work their way through the backlog. On Wednesday, September 23, 2020, USCIS published the following guidelines for working in accordance with an I-797 approval notice and establishing employment authorization:



HALLETT McCANN LAW GROUP
WHEN YOUR BUSINESS TRANSCENDS BORDERS

Form I-9 Announcements

Employment Authorization Document (EAD) Delays Due to COVID-19

Wednesday, Sept. 23, 2020

Issuance of certain Employment Authorization Documents (Form I-766, EADs) may be delayed due to the COVID-19 global pandemic. To complete [Form I-9](#), new employees who are waiting for their EAD and current employees who require reverification may present certain Forms I-797, *Notice of Action*, as a [List C #7](#) document issued by the Department of Homeland Security that establishes employment eligibility, even though the notice states it is not evidence of employment authorization.

For the notice to be acceptable, it must include a Notice Date from Dec. 1, 2019, through and including Aug. 20, 2020, and indicate that USCIS has approved the employee's [Form I-765, Application for Employment Authorization](#). Both new and current employees may present this notice to complete Form I-9 until Dec. 1, 2020. New employees will also need to present an acceptable List B identity document.

By Dec. 1, employers must reverify employees who presented this notice as a List C document. These employees must present new evidence of employment authorization -- either their new EAD or any other acceptable documentation they choose -- from either List A or List C.

As always, Hallett McCann Law Group is here to assist you if additional concerns arise regarding EAD and green card documentation.