

January 28, 2019 Publication

Topics

Immigration

Related People

Dustin J. O'Quinn
oquinnd@lanepowell.com

Related Practices & Industries

Immigration

USCIS Resumes Premium Processing for Last Year's Cap Cases Today

Immigration Legal Update

The U.S. Citizenship and Immigration Service (USCIS) will [resume premium processing](#) for Fiscal Year 2019 cap cases today - Monday, January 28.

On April 2, 2018, U.S. employers were eligible to file FY2019 H-1B petitions. Those petitions were subject to the annual cap of 85,000 H-1B visas. On April 6, 2018, USCIS announced that it had reached the cap. We later learned that in those five days USCIS received 190,098 H-1B petitions for those 85,000 available. USCIS executed a random lottery to select the 85,000 petitions it would review. Some of those petitions have not yet received a final notice of approval or denial because of lengthy processing times. USCIS temporarily suspended premium processing so that it could attempt to get through that backlog faster.

Premium processing is a service in which the USCIS promises to provide a response to a petition in 15- calendar days for an additional government fee of \$1,410. So many employers elected to request premium processing that the agency could not address its regular processing cases, and their wait times lengthened. Therefore, USCIS suspended premium processing for FY2019 cap-subject H-1B petitions on March 20, 2018. Several months later, on September 11, 2018, USCIS expanded that suspension beyond only cap-subject H-1B petitions. The expansion applies to all H-1B petitions that are filed at the Vermont and California Service Centers. The only exclusions are petitions that are exempt from the annual cap on H-1Bs and H-1B petitions that are filed at the USCIS Nebraska Service

Center, (H-1B petitions for an extension of H-1B status where there has been no change in employment).

USCIS noted that these suspensions of premium processing were expected to last at least until February 19, 2019. However, now those employers who still have cap cases pending from last April, may file a request for the premium processing on those cases. The other H-1B categories are still subject to the suspension on premium processing.

Many employers are preparing for the Fiscal Year 2020 H-1B filing deadline of April 1, 2019. We are still unsure of the availability of premium processing for this year's cap.