

# OVERVIEW OF USCIS DEPENDENT IMMIGRATION PROCESS FOR H-4 (WITH SPOUSAL I-140) AND J-2 DEPENDENTS



**MELTZER HELLRUNG**  
IMMIGRATION SOLUTIONS

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A nonimmigrant dependent is the spouse or child under 21 years of age of a visa holder who qualifies for nonimmigrant status simply based on a relationship to the principal visa holder. The information below outlines the application process for nonimmigrant dependents currently residing in the United States. This process does not apply to individuals living outside the United States.

Individuals in H-4 status may only apply for work authorization if the H-1B principal is the beneficiary of an approved I-140. Individuals in H-4 status may not begin working until their application for employment authorization is approved. Authorized dates of employment for H-4 dependents are noted on the Employment Authorization Document (EAD) and usually match the validity dates of the spouse's H-1B approval notice. Children of H-1B beneficiaries are not authorized to work.

Individuals in J-2 status may apply for work authorization upon admission into the U.S. in J-2 status or approval of a change of status application. Individuals in J-2 status may not begin working until their application for employment authorization is approved. Authorized dates of employment for J-2 dependents are noted on the EAD and usually match the dates on the Form DS-2019. Children of J-1 beneficiaries are not authorized to work.

### USCIS Filing for Dependents



#### 1 Open a Case with Meltzer Hellrung

Meltzer Hellrung reaches out to the applicant(s) to complete an online questionnaire and provide the required documentation. If Meltzer Hellrung prepared a previous application on behalf of the applicant(s), we will ask for the applicant(s) to log in to Voyager to update their profile and provide any missing or updated documents.

#### 2 Preparation of Relevant Forms

Meltzer Hellrung will prepare Form I-539 and I-539A, as applicable, along with Form I-765 (Application for Employment Authorization).

#### 3 Applicant Review of Relevant Forms

We will send the prepared forms to the applicant for review and will make corrections, as needed.

#### 4 I-539 and I-765 Filing with U.S. Citizenship and Immigration Services (USCIS)

Once the applicant approves the forms, Meltzer Hellrung will file the application(s) with USCIS. If an H-1B application is being filed on behalf of the H-1B principal, the I-539 and I-765 dependent applications will be filed together with the H-1B principal's application. USCIS will issue receipt notices in relation to the filing(s) within 30 days. Dependents will receive notices at their listed mailing address while H-1B-related notices will be mailed directly to the employer, not the H-1B principal.

#### 5 USCIS Reviews Application

Processing times vary based on the Service Center processing the application(s). For H-4 dependents, if the application is filed with a principal beneficiary's application, it will typically be adjudicated at the same time as the principal beneficiary's application.

USCIS may need more information after its initial review. If this happens, USCIS will issue a Request for Evidence (RFE) before issuing a final decision. Should an RFE be issued, USCIS provides about three months to respond. Meltzer Hellrung will send clients a list of documents needed to respond to an RFE, should one be issued.

#### 6 USCIS Issues Decision

Applicants will be notified of any communication received by Meltzer Hellrung from USCIS regarding the status of their case.

If the application is approved, USCIS will send the I-797 approval notice to the applicant, as well as Meltzer Hellrung's office, within 30 days. If an EAD was requested, the physical card will be sent to Meltzer Hellrung's office, and Meltzer Hellrung will forward it to the applicant at their desired address.

If the application is denied, we will discuss the options with the applicant, including filing an appeal, motion, or refiling the application. Motions and appeals must be submitted within 33 days of the denial.

### Dependent Status - Checklist:



- Complete copy of current passport with U.S. visa stamps
- All prior and current I-797 approval notices
- Most recent I-94
- Copies of both the J-1's and the J-2's most recent DS-2019 forms, if applicable

- A written statement requesting J-2 work authorization
- Copy of marriage certificate, with English translation, if applicable
- Copy of children's birth certificate(s), with English translation, if applicable
- Documentation regarding the status of applicant's spouse or parent
  - ⇒ Copy of biographic page of passport and most recent U.S. visa stamp
  - ⇒ Most recent I-94
  - ⇒ Last 2 pay stubs
  - ⇒ Current I-797 Approval Notice
- Signature pages for the forms provided by Meltzer Hellrung

## Frequently Asked Questions (FAQ)



**Q: Can I leave the US while the application is pending?**

**A:** If you travel abroad while a change of status application (I-539) is pending, USCIS considers the application abandoned and will deny it. You can file a new application upon return from travel or apply for a new visa stamp via consular processing.

**Q: Can I apply for a social security number (SSN)?**

**A:** Yes. Generally, only noncitizens authorized to work in the U.S. by the Department of Homeland Security (DHS) can obtain a SSN. If you are a dependent under any of the above mentioned visa categories, you may apply for work authorization. Thus, you are eligible for a SSN once work authorization is granted.

**Q: Do I need a visa stamp to travel internationally once the I-539 has been approved?**

**A:** If you do not already have a valid visa stamp in the same category as the category granted in the I-539, you will need to apply for a visa stamp at a U.S. consulate or embassy in order to re-enter the United States after international travel. Please note Canadian citizens do not require visa stamps. A new visa stamp is not required prior to international travel.



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Meltzer Hellrung challenges conventions to deliver better outcomes.

Founded with the belief that immigration can be a strategic advantage, we understand the complexities of immigration and respond with innovative solutions to meet business and talent needs. Our unique solution – skilled immigration professionals delivering responsive service to clients through Voyager®, our proprietary immigration management platform, delivers the best immigration experience to companies, employees and their families.