

OVERVIEW OF USCIS DEPENDENT IMMIGRATION PROCESS FOR H-4 (WITHOUT SPOUSAL I-140), F-2, O-3, P-4, R-2 AND TD 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.

Some dependents may qualify for work authorization. However, the following dependent categories are ineligible for work authorization and, in turn, are ineligible for an Employment Authorization Document (EAD): F-2, O-3, P-4, R-2, TD. H-4 dependent spouses may only apply for work authorization if their H-1B spouse is the beneficiary of an approved I-140.

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.

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 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 dependent application 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. We will forward that approval notice to the applicant.

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
- I-20 (for F-2 visa applicants and individuals applying for new visa statuses from F-2 status)
- 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**
 - ⇒ **I-20 (for F-2 applicants and individuals applying for new visa statuses from F-2 status)**

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: No. 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 are ineligible for work authorization, and thus, ineligible for a SSN.

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 a visa stamp. 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.