

H-4 EMPLOYMENT AUTHORIZATION

Certain H-4 dependent **spouses** of H-1B employees are eligible to apply for work authorization. (**Not all H-4 dependent spouses are eligible.**) H-4 spousal eligibility applies only:

1. if the H-1B employee **has an APPROVED** I-140 Immigrant Petition for Alien Worker
OR
2. if the H-1B employee is employed in their post-6th-year of H-1B stay, gained by AC21 regulations (106a) and (106b)
 - a. AC21 regulations allow certain H-1B visa holders to remain in H-1B status beyond 6 years due to per country Green Card limitations or because of ETA 9089 Labor Certifications or I-140s pending longer than 365 days.

See: [Employment Authorization for Certain H-4 Dependent Spouses](#)

Note: H-4 dependent children are not eligible for employment authorization, only qualified spouses.

LIST OF DOCUMENTS TO INCLUDE WITH THE I-765 (EAD) APPLICATION

1. [Form I-765](#), Application for Employment Authorization;
 - a. Employment eligibility code on Form I-765 is **(C)(26)**
2. All H-4 Approval Notices, if any
3. Two color passport photos (US standards)
 - a. Write first and last name on back of photos, plus current I-94 number
 - b. place photos on top of application or in an envelope
4. Passport photo/biography page
5. Most recent I-94 arrival page (do not include travel history)
6. Most recent visa stamp (even if expired)
7. **Copy of marriage certificate** (to prove relationship to H-1B spouse)
 - a. If marriage certificate is in a foreign language, create an identical mirrored image of the original document with the English translation and have it notarized
8. Copies of ALL previous EAD cards issued by USCIS (this includes any OPT; J-2 EADs, etc.)
9. **INSERT A COVER PAGE INDICATING "SUPPORTING DOCUMENTS FOR H-1B SPOUSE" and include:**
 - a. **Copy of spouse's I-140 Approval Notice**
 - b. Copy of spouse's current H-1B Approval Notice
 - c. passport photo/biography page,
 - d. Most recent I-94 arrival page (do not include travel history)
10. Filing fee (payable to **US Department of Homeland Security**)
 - a. place filing fee on top of application or in an envelope

WITH THE EXCEPTION OF PASSPORT PHOTOS, MAKE A COPY OF EVERYTHING FOR YOUR PERSONAL FILE

If a dependent spouse holds a status other than H-4, he/she can file an I-539 Application to change to H-4 Status concurrently with the I-765 Application for Employment Authorization. The I-539 will be adjudicated first, and the I-765 will be adjudicated afterwards. The I-765/EAD application will not be considered by USCIS to be in the I-765 queue until the I-539 Application to Change to H-4 Status has been approved.

Employment authorization should be granted for the length of the approved H-4 status. When time to renew, we recommend submitting the new I-765 at least 90 days in advance of expiration to avoid a break in US work authorization. **Note: The H-1B work authorization must be extended as part of the H-4 extension + (C)(26) work authorization, so be sure to plan ahead.**

The EAD will be mailed to the address listed on the I-765. **Note:** The US Postal Service cannot *forward* immigration mail to a new address that is not printed on the original mailed document. So, if you move after mailing your I-765 application, you must contact USCIS to notify them of your new address; otherwise the Postal Service must return the EAD to USCIS. You can **update your address online with USCIS** at www.uscis.gov (type **Form AR-11** in the search bar). It is important that BOTH the H-1B employee AND the H-4 spouse complete separate Forms AR-11.