

December 2014

President's Executive Action Will Lead to Additional Benefits for Undocumented Immigrants

On November 20, 2014, the President announced a series of executive actions that will lead to deferred action status, work authorization and other benefits for those who were not previously eligible. These initiatives include:

1. Expanding the population eligible for the Deferred Action for Childhood Arrivals (DACA) program to young people who came to this country before turning 16 years old and have been present since January 1, 2010, and extending the period of DACA and work authorization from two years to three years.
 - Allows individuals born prior to June 15, 1981, to apply for DACA (removing the upper age restriction) provided they meet all other guidelines.
 - Requires continuous residence in the United States since January 1, 2010, rather than the prior requirement of June 15, 2007.
 - Extends the deferred action period and employment authorization to three years from the current two years. (If you already renewed for the two year period, USCIS might allow automatic extension for the additional year to be added on, but more details on that will follow later).

The changes are expected to go into effect for this expanded DACA program in approximately 90 days. Therefore, the filing under these new provisions may start as early as mid to late February 2015. However, it is important to note that you CANNOT file under this expanded program until USCIS announces the filing period, which again will not be until mid to late February 2015. However, those eligible under the current DACA program can still apply or renew.

2. Allowing parents of U.S. citizens and lawful permanent residents who have been in the country since January 1, 2010, to request deferred action and employment authorization for three years, in a new Deferred Action for Parental Accountability program.

Allows parents to request deferred action and employment authorization if they:

- Have continuous residence in the United States since January 1, 2010;
- Are the parents of a U.S. citizen or lawful permanent resident born on or before November 20, 2014; and
- Are not an enforcement priority for removal from the United States, which basically means you have no criminal convictions, have no order of deportation/removal outstanding, and have not reentered the U.S. after prior deportation, removal or departure.

This provision is not expected to go into effect for at least 180 days.



3. Expanding the use of provisional waivers of unlawful presence to include the spouses and sons and daughters of lawful permanent residents and the sons and daughters of U.S. citizens.

- Previously only spouses and parents of US citizens were included. This has now expanded the availability of the unlawful presence waiver to spouses and sons and daughter of LPRs and sons and daughters of citizens.

It is not yet clear when this provision will go into effect. However, it is important to note that a new clarification on the definition of what constitutes “hardship” for these waivers will be published shortly. We anticipate that this will help pave the way for a larger number of grants on waiver applications.

It is important to note that NONE of the above benefits are immediately available, nor is there any way to file for benefits under these actions right now. Therefore, avoid agencies or others promising to file something for you immediately. None of the above benefits will accrue until at least February of 2015. Always contact an attorney experienced in Immigration Practice to be sure you are not taking action that will harm your future status in the United States.

This *Immigration Alert* was written by Alan J. Pollack, Of Counsel. Please feel free to contact Alan at ajpollack@nmmlaw.com if you have any questions regarding the information in this alert or any other related matters.

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