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Filing Guidance for CW-1 Petitions Seeking to Extend Status for Fiscal Year 2020

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Submitted by Chief Editor on Sep 25th 2019

USCIS will consider certain fiscal year (FY) 2020 CW-1 petitions seeking an extension of status for temporary workers present in the Commonwealth of the Northern Mariana Islands (CNMI) to be filed on time, even if USCIS receives them after the worker's current period of CW-1 petition validity expires.

USCIS is providing this one-time, limited accommodation to facilitate the initial implementation of the new requirement that CW-1 petitions with employment start dates on or after Oct. 1, 2019, include a Temporary Labor Certification (TLC) approved by the U.S. Department of Labor (DOL).

Normally, under Department of Homeland Security regulations, an employer may only file a CW-1 petition on behalf of a worker present in the CNMI if the worker is lawfully present in the CNMI, and USCIS will not approve an extension of nonimmigrant status if the worker's nonimmigrant status expired before the petition is filed. Additionally, under new statutory and DOL regulatory requirements, a CW-1 petition requesting an employment start date in FY 2020 (on or after Oct. 1, 2019) must include an approved TLC.

However, USCIS has the discretionary authority to excuse a late filing for extension of status petitions in limited circumstances. USCIS has determined that it is appropriate, on a one-time basis, to exercise its authority to excuse late filings of CW-1 petitions (petitions USCIS receives after the current CW-1 status expires) by employers in the CNMI, only if:

- The petition is otherwise properly filed, and includes an approved TLC with a start date on or after Oct. 1, 2019;
- USCIS receives the petition no later than 30 days after the date of TLC approval, or by Nov. 1, 2019, whichever is earliest; and
- The expiration date of the currently approved petition is on or after Sept. 1, 2019.

If an employer files an extension petition meeting these requirements, the CW-1 worker may continue employment with the same employer for up to 240 days beginning on the expiration of the authorized period of stay, pending adjudication of the petition (or, in the case of a non-frivolous petition for extension of stay with change of employer, until USCIS adjudicates the petition).

Team Notes:

Agency:

USCIS ^[2]

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[1] <https://immigration.com/news/filing-guidance-cw-1-petitions-seeking-extend-status-fiscal-year-2020>

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