

Agenda

USCIS NATIONAL STAKEHOLDER MEETING

October 27, 2009

111 Massachusetts Avenue, NW

Tomich Conference Center

2:00 - 4:00 pm

Opening Remarks

E-Notification

Kathleen Stanley, Chief, Lockbox Operations

Questions and Answers

1. **Question:** Could USCIS send a receipt notice when the fee waiver application is received?

Response: With the opening of the new Lockbox facilities in Dallas and Phoenix, we ran into problems with our processing capability. As a result, we fell behind in adjudicating fee waiver requests for the N-400. Our goal has always been to adjudicate fee waiver requests within five days of receipt. We are now current in our process at both Lockbox facilities. Given this timeframe, it would not be efficient to send a receipt notice because the applicant would receive the notice after the fee waiver had already been adjudicated.

2. **Question:** If USCIS rejects the fee waiver request, can it specify on the rejection notice why the case has been rejected?

Response: We understand the need for specificity and are incorporating this into a process improvement that will be in place in late January. Currently, the process is largely manual and requires a great deal of writing by our staff. With the system improvement, the USCIS team will be able to provide more specific guidance directly on the I-797C. In the meantime, we will do our best to improve on the current responses.

3. **Question:** Can USCIS clarify when tax returns are necessary for the fee waiver request? We had understood that a tax return is not necessary if the applicant is eligible solely on the basis of receiving public assistance, but our affiliates are finding that many such cases are being rejected, presumably because no tax returns were included.

Response: If an applicant has evidence of receiving public assistance (federal means based benefit), the tax return is not necessary. However, if the applicant cannot provide this evidence of public assistance, the tax return is the evidence we use to determine income. Applicants can also reach out to the Social Security Administration to get a statement of the last quarter. A statement showing no contributions would support the claim that the applicant has no income.

4. **Question:** Attorneys report a dramatic increase in 212(e) hardship waiver denials at CSC, an apparent return to the nearly zero approval rate which existed for most of 2007 and the beginning of 2008. Would USCIS review this matter and advise?

Response: Thank you for bringing this to our attention. We are currently reviewing not only statistical information but also conducting a quality assurance decisional review of these cases.

5. **Question:** Would USCIS dedicate an officer or officers at each Service Center to resolve issues raised by attorneys? The USCIS Ombudsman is considering placing an Ombudsman in each Center for this purpose, but we are not aware of a final plan. With a dedicated attorney email address and phone line, the right to counsel can again become meaningful. At the present time, there often is not an effective way for an attorney to communicate with a Service Center when there are issues which could be resolved short of filing an MTR and/or appeal.

Response: This suggestion was made to the USCIS Ombudsman's Office, however the Ombudsman's office advises they do not have any such plan. Attorneys may reach out directly to the individual Service Center Deputy Directors for emergency case inquiries. USCIS also offers attorneys a new and improved streamlined customer service message through the NCSC for faster SRMT creation.

6. **Question:** There is a new requirement that people who apply for a waiver of the fee (for example, in a naturalization application) and who indicate that they are receiving a public benefit must submit a letter from the public-benefit-granting agency as opposed to submitting a print-out from that agency as proof that the applicant is receiving public benefits. Please eliminate this new requirement and allow people requesting fee waivers to submit the agency print-out as proof of the receipt of public benefits. To require the applicant to submit a document that they have no power to obtain from the government welfare agencies, is unfair. The public benefit agencies in New York have a reputation of being difficult to work with. It is difficult enough to obtain the print-out from the agency. It is unduly burdensome to impose this more difficult hurdle on applicants when it is hard enough to obtain the print-out.

Response: There is no requirement for an applicant to submit a letter from the public-benefit-granting agency, but there is a requirement to provide support the benefit had been granted. Printouts received as part of a package at times have no information on them which lets USCIS staff know the information in the printout is associated with the applicant. If you believe the printout contains the necessary proof, which would include the agency providing the benefit and the name of the person receiving the benefit, we would suggest this information be the first page of the printout, if possible, and circled.

7. **Question:** What is the status for the implementation of the bona fide standard for U visas and when will U visa applicants begin to receive EADs as bona fide U visa applicants as prescribed by TVPRA 2008?

Response: USCIS is in the process of drafting guidance to the field that will address several related issues regarding appropriate employment eligibility categories. Once these issues have been resolved, the draft guidance will be placed in the formal concurrence process and issued to the field.

8. **Question:** According to the statute, U visa holders need not reprove admissibility when applying to adjust status. The VAWA Unit of Vermont Service Center has been issuing RFEs requiring medical examinations for U-visa holders who file adjustment of status applications. USCIS stated that guidance to address this

issue would be released after Labor Day but there is still no guidance to practitioners. Please provide guidance on this issue.

Response: The Vermont Service Center is the operational unit responsible for the processing of U nonimmigrant visas and U visa-based adjustment of status applications. The statute does not preclude requiring a medical examination for U nonimmigrants applying for adjustment of status, and 42 CFR Part 34 provides that all applicants for an immigrant visa or adjustment of status to lawful permanent resident are required to undergo a medical examination performed by a panel physician designated by the Department of State or a civil surgeon designated by a USCIS District Director. For this reason it remains USCIS' current position that a medical examination will be required for U-visa holders who file adjustment of status applications. However, this policy is still under consideration with USCIS components.

9. **Question:** Practitioners are anxiously awaiting guidance on the provisions on TVPRA 2008. USCIS has said that because of the anticipated delay in regulations, guidance will be published in the interim. Please provide us with interim guidance.

Response: USCIS has drafted several guidance memoranda on the provisions of the TVPRA 2008 including guidance on: bona fide determinations for U visa petitioners, extensions of status for T visa holders, and one memo encompassing other provisions such as physical presence, trauma exceptions, and the good moral character waiver. The memoranda are all in various stages of the USCIS clearance process and we expect them all to be issued soon.

10. **Question:** We would like to hear USCIS' position on the July 2009 ORR memo, where it cautions "Asylees who have been granted LPR status should review the warning on page 2 on the Form I-131 Instructions regarding voluntary re-availment of protection from the country of claimed persecution. This provision is not applicable to refugees." (page 3, paragraph 3 of ORR memo.) While we understand that technically the provision may not apply to refugees, we would like to know if USCIS would still find generally, or in some circumstances, that refugees also should not voluntarily re-avail themselves of the protection of their home country.

Response: By statute, determination that a refugee has voluntarily re-availed himself of the protection of his country of claimed persecution is not a ground for termination of refugee status. If it is determined that a person admitted as a refugee did not meet the statutory definition of refugee at the time of admission, however, refugee status can be terminated under section 207(c)(4) of the Immigration and Nationality Act. Under some circumstances, it is conceivable that a refugee's subsequent activity in the country of claimed persecution could be evidence that he/she was not a refugee at the time of admission.

11. **Question:** A notice that was distributed at the September 30 Chicago CBO/CIS meeting that discusses inquiries for the National Benefits Center. The notice states that AILA members have an AILA Attorney Liaison Box for inquiries/requests for the NBC cases (showing MSC receipt numbers). Individual attorneys can't use the email address but a designated AILA liaison may use it to assist an AILA member with an inquiry at the NBC. This notice reaffirms that we have the NCSC as a starting point and that an NBC inquiry will be referred to the NBC. A liaison option would be nice for those of us who are not AILA members but still represent folks. While affiliate offices could send an inquiry to a national headquarters attorney, but the G-28 issue could complicate it. We'll have a G-28, but we're not AILA members while the attorney is an AILA member but will not have signed the G-28 for the particular case. Are there any alternatives?

Response: The NBC is currently implementing a process that mirrors the process utilized by USCIS Service Centers. The USCIS website will be modified once this process is in place. If a representative or individual has contacted the National Customer Service Center (NCSC) and has not received a response within 30 days, he/she may email the NBC directly with the inquiry.

12. **Question:** When I file a G-28, I expect to get a copy of whatever is sent to the client. Sometimes the client gets every notice addressed to him at home and I get a copy of every notice addressed to me at my office. Sometimes, though, the client gets only the fingerprint notice and the green card addressed to him at his home and I get the receipt notice and welcome notice and a copy of the fingerprint and addressed to me at my office. Sometimes, the client gets no receipt notice, but does receive the fingerprint and welcome notices and the green card. It would be very helpful if all USCIS agents followed the same procedure.

Response: Thank you for bringing this to our attention. USCIS will look into our existing G-28 protocols with an eye to correcting any inconsistencies that exist between our Service Centers, Field Offices, and the National Benefits Center.

13. **Question:** A Colorado refugee service provider reports that public benefits offices in her state have been experiencing a lot of problems with the SAVE system recently. Apparently the SAVE inquiry system changed recently, and now requires inputting additional information. As a result, many refugee cases that used to be verified quickly are now requiring secondary verification that is taking 6-8 weeks. This is delaying refugees' access to crucial public benefits that they depend on, such as cash, medical, and food assistance. What can be done to reduce the number of secondary verifications required and to speed up the secondary verification process?

Response: The National Security and Records Verification Directorate (NSRV), Verification Division looked into the SAVE processing delays and found no significant deviation from the national norm. That is, response times for second step refugee cases for all Colorado agencies were less than or equal to the agency standard of 3 days as opposed to the 6-8 weeks referenced above.

The system change mentioned in the question happened in late July when SAVE migrated all the Web-1 (an access method) users to Web-3. Web-3 provides enhanced security and privacy standards as well as additional system capabilities. Web-1 users used to be required to only submit an A-number to run a query while Web-3 requires additional information from the applicant such as A-number, first name, last name, and date of birth. Since SAVE is not familiar with the 6-8 weeks processing time for secondary verification noted in the question, the Verification Division would need to know which service provider is experiencing the delays and then would be happy to reach out to them for more information to understand what is causing the delays.

14. **Question:** Recent articles and statements to the press indicate that USCIS is seeking alternatives to address its financial problems, including a possible increase in fees. Can you provide us with an update on the Appropriations and if that might address the financial situation? Can you also provide information on how you are discussing fees with the community, since they have been very concerned by this announcement?

Response: We are facing a challenge in that there has been a decline in the number of applications and petitions filed; this translates to less revenue. Yet, in spite of a drop in revenue, USCIS continues to deliver



U.S. Citizenship
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Services

on its promise of improved service such as reducing N-400 and adjustment of status application processing times to 4.5 months and 6.2 months, respectively. As required by Congress, every two years, USCIS must review its fee structure.