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Rosario Class Action

If you have applied for an initial Employment Authorization Document (EAD) based on a pending asylum application, you may be eligible to have your EAD processed within 30 days.

A Feb. 7, 2022, court decision in *Asylumworks v. Mayorkas* requires USCIS to process all initial EAD applications from asylum applicants within 30 days. The decision vacates (sets aside) the [Timeline Repeal Rule](#), a June 22, 2020, rule that removed the requirement for USCIS to process all asylum-based EAD applications (also referred to as (c)(8)s) within 30 days. This decision follows a Sept. 11, 2021, preliminary injunction in *Casa de Maryland Inc. v. Mayorkas* that required us to process a smaller group of initial asylum-based EAD applications within 30 days.

This decision may affect you if you have filed your initial Form I-765, Application for Employment Authorization, based on a pending asylum application and:

- Your initial Form I-765 has not been adjudicated; and
- The following circumstances must also apply to you:
 - You filed your Form I-765 after your Form I-589, Application for Asylum and for Withholding of Removal, had been pending for at least 150 days (the 150-day waiting period does not include any delays you caused or requested while your Form I-589 is pending with USCIS or with the Executive Office for Immigration Review); and
 - USCIS has not adjudicated your Form I-765 within the 30-day processing time frame. (Generally, this is calculated as 30 days from the date USCIS received your Form I-765. However, in certain circumstances, the 30-day processing time frame may be paused.)

If these conditions apply, we will consider you a Rosario class member (referring to *Rosario v. USCIS*, 365 F.Supp.3d 1156 (W.D. Wash. 2018)).

The 30-day processing time frame refers to the time during which your Form I-765 is pending and is defined at the prior regulation at 8 C.F.R. §§ 103.2(b)(10)(i) and 208.7(a)(1). Certain actions may pause this processing time:

- If USCIS sends you a Request for Initial Evidence for your Form I-765, the 30-day processing time frame starts over once we receive your response. This means that even if your Form I-765 was pending for 15 days when we requested initial evidence, USCIS will restart the processing time at day 1 once we receive your response.
- If USCIS sends you a Request for Additional Evidence for your Form I-765, this pauses the processing time until we receive your response. This means if your Form I-765 was pending for 15 days when we requested additional evidence, USCIS will restart the processing time at day 15 once we receive your response.

Note: You must establish [good cause](#) if you need to reschedule your asylum interview with an asylum officer before the date of your interview, on the date of the interview, within 45 days after the interview date, or if your interview has already been rescheduled on 1 or more occasions. You must establish [exceptional circumstances](#) in order to reschedule your asylum interview if more than 45 days have passed since your scheduled interview. If you do not go to a scheduled interview with an asylum officer or a hearing before an immigration judge, USCIS will not grant your

employment authorization unless you demonstrate that your failure to appear was the result of exceptional circumstances.

What to Do If You Are a Rosario Class Member and USCIS Has Not Adjudicated Your Form I-765

If you are a Rosario class member and you have not received a response on your Form I-765 after it has been pending for 25 days under the applicable regulations, you should check your [case status](#) and determine whether we have already made a decision on your case or whether some other action has paused the accrual period.

If we have not yet made a decision on your case after it has been pending for 25 days, you may submit an inquiry to get additional information through the [USCIS eRequest Self Service Tool online](#) or by calling the USCIS Contact Center.

To submit an inquiry through the USCIS eRequest Self Service Tool:

Go to the [eRequest](#) website, select the “Check Case Processing” function, and complete all the fields that apply:

- Form Number: select “I765”
- Form Sub Type: select “I765 – Based on a pending asylum application [(c)(8)] - initial”
- Receipt Number
- Date Field (MM/DD/YYYY)
- Applicant or Petitioner Information
- Mailing Address
- Last Action Taken on Case
- Your email address (in order to receive a response from USCIS and a confirmation of the request)
- Filed By
- Security Check

Please note that the USCIS eRequest page will create a service request number only if your case has been pending for 25 days under applicable regulations.

To submit an inquiry through the USCIS Contact Center:

Call the USCIS Contact Center at 800-375-5283. You will need to provide:

- Your Form I-765 receipt number;
- Your A-Number; and
- The received date on your Form I-765 receipt notice (Form I-797, Notice of Action).

When you call the USCIS Contact Center, make sure to write down the date you call and any service request number that the USCIS Contact Center creates for you.

After you submit an inquiry:

If you do not receive a response to your eRequest submission within 8 business days, or if you do not receive a response to your Form I-765 within 8 business days of calling the USCIS Contact Center to create a service request, you should check your [case status](#).

If we have not taken any action on your case, you may then email the USCIS Texas Service Center (TSC) Class Action address, tsc.classaction@uscis.dhs.gov, for further assistance. When you email, you must:

- Write “Rosario Class Action” in the subject line of your email;
- Add asylumEAD@nwirp.org in the CC line to copy class counsel; and
- Include:
 - Your name;
 - Your service request number;
 - The date the USCIS Contact Center created a service request;
 - Your Form I-765 receipt number; and
 - The received date on your Form I-765 receipt notice (Form I-797, Notice of Action).

Please do not include any personal information other than what we request above. Emails may not be secure, so we suggest that you do not email us sensitive personally identifiable information, such as your Social Security number or A-Number.

Please note that you should not email the USCIS TSC Class Action address unless you previously called the USCIS Contact Center or submitted an online request through the [USCIS eRequest: Outside Normal Processing Time](#) webpage. Additionally, we will not use the USCIS TSC Class Action email address to address any communication that is not related to Rosario v. USCIS or that does not include all necessary information.

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