

PUBLICATION

Immigration Update: E-Verify Not an Impenetrable Shield, H-4 Spouses May Soon be Looking for Work; More Trips to the Doctor for Adjustment Applicants; Canada is Closed

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A Reminder that E-Verify Participation Does Not Offer Blanket Protection to Employers

E-Verify offers a tool to assist employers in verifying employment/immigration status for prospective employees, but it should not be mistaken for protection during an I-9 audit. On March 26, 2014, the Office of the Chief Administrative Hearing Officer (OCAHO) granted partial summary judgment finding the employer liable for numerous I-9 preparation and retention violations in *U.S. v. Golf Int'l d/b/a Desert Canyon Golf*. Despite the employer's contentions that its participation in E-Verify entitled it to a presumption that it had not violated the law, OCAHO cited the clear language in the E-Verify Memorandum of Understanding signed by all participating employers: "The Employer understands that participation in E-Verify does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees." *The E-Verify Program for Employment Verification Memorandum of Understanding*, USCIS (last revised Sept. 1, 2009).

The full decision *U.S. v. Golf International*, 8 U.S.C. 1324a Proceeding; OCAHO Case No. 13A00074, March 26, 2014 is available [here](#).

H-4 Spouses May be Looking for Work this Fall

Although spouses of L-1 and E-2 nonimmigrant workers have been able to obtain employment authorization since 2002, this same freedom to work has yet to be extended to spouses of H-1B nonimmigrant workers. This precious ability to work for H-4 spouses is now on the horizon. United States Citizenship and Immigration Services (USCIS) published a Proposed Rule on May 12, 2014 that would allow certain H-4 dependent spouses to obtain employment authorization. The proposed rule limits such H-4 employment authorization to cases where the principal H-1B worker was the beneficiary of an approved I-140 Immigrant Petition for Alien Worker or was granted an extension of his or her H-1B status beyond the initial six years due to AC21. According to USCIS, the aim of this long-awaited change is to "lessen any potential economic burden to the H-1B principal and H-4 dependent spouse during the transition from nonimmigrant to lawful permanent resident status, furthering the goals of attracting and retaining high-skilled foreign workers."

Comments to the Proposed Rule are due on or before July 11, 2014, and more on this regulatory development will follow as it unfolds. To access the USCIS Proposed Rule, [click here](#).

The Doctor is In! Again!

USCIS announced that as of May 30, 2014 it will limit the validity of Form I-693, Report of Medical Examination and Vaccination Record, to one year from the date of submission to USCIS. This Form I-693 documents the results of a comprehensive medical examination and is required as part of the adjustment application to establish that the applicant is not inadmissible to the United States on public health grounds. Medical

examinations must be performed by a USCIS-designated civil surgeon and had previously been valid up until the time the adjustment application was adjudicated by USCIS, regardless of how long the adjudication process lasted.

This new one-year validity policy applies to any Form I-693 that is included in support of a benefit application that is adjudicated on or after June 1, 2014. Many individuals who previously filed I-485 adjustment of status applications and who have been waiting years for an immigrant visa number to become available will now have to repeat the medical examination process that they completed at the time of submitting their I-485 application.

USCIS alert is available [here](#).

For general information about the Form I-693 Report of Medical Examination and Vaccination Record, [click here](#).

Canada Closed for the Summer

The Department of State (DOS) announced this month that, due to extremely high volumes of visa applications by Canada-based applicants, there would be no appointments available for third-country nationals (TCNs) in the summer months of June, July and August. This temporary closure will apply to all seven U.S. visa processing posts in Canada, but those TCNs with appointments already scheduled will not be impacted. Until the summer ends, TCNs should plan on returning to their home country or Mexico if a visa is needed.

TCNs needing an emergency appointment during this time may seek consideration for scheduling an interview in Canada by visiting [this website](#).