



U.S. Citizenship
and Immigration
Services

June 18, 2020

Re: *Justice Action Center v. U.S. Dept. of Homeland Security, et al.*
Civil Action No: 20-0067 (DDC RDM)

Solely for purposes of settlement discussions in the litigation above, U.S. Citizenship and Immigration Services (USCIS) provides the following description of its current policy regarding the timing of Deferred Action for Childhood Arrivals (DACA) renewal filings and issuance of notices and Employment Authorization Document (EADs), if requests are found approvable:

USCIS continues to advise DACA recipients to submit their DACA renewal requests 150-120 days prior to expiration of their current DACA period (see page 1 of the I-821D Form Instructions). USCIS has provided clear instructions on the proper time to file DACA renewal requests in order to minimize the chances that DACA recipients will experience gaps in their DACA and employment authorization (see archived DACA FAQ 50 which can be found at <https://www.uscis.gov/archive/frequently-asked-questions>). If USCIS approves either a DACA initial or renewal request, the date of the adjudication is the start date for the two-year validity period of DACA and for the related EAD where one is issued. This has been USCIS' long-standing policy since DACA began in 2012. Thus, if a DACA renewal request were to be approved many months before the individual's existing DACA expires, he or she would actually "lose" time in DACA because of the overlap between the recipient's existing and renewal periods of DACA. This is largely avoided by USCIS' waiting to complete the final adjudication step until nearer to the expiration of the individual's existing DACA.

In December 2016, USCIS implemented its policy of waiting to complete the last step in the adjudication of an approvable DACA renewal request until the individual's existing DACA is 150 days or fewer from the expiration of the prior grant. Filings that are submitted in the recommended 150-120 days prior to expiration of recipients' current DACA periods help facilitate USCIS' goal of timely processing these requests and, if a request is approvable, avoid an excessive overlap period between the recipient's existing and renewal periods of DACA and employment authorization. The recipient receives closer to a full four years of deferred action for the two consecutive DACA periods unless the individual's DACA is terminated during that time.

Requestors do file their DACA renewal requests earlier than the 150-120 day recommended period. Many also file late. Early, timely, and even late renewal filings are not "held" from starting the adjudicative review process. Rather, all renewal filings, regardless of the timing of their submission, proceed through the adjudicative review process and, if approvable, USCIS issues a notice and EAD

containing the next DACA validity period as soon as the request is within no more than 150-days prior to expiration of the person's current DACA. If a renewal request is not filed timely, however, there is a risk that USCIS cannot complete processing and make a decision until after the person's existing DACA may have expired. This policy remains in effect today.

Sincerely,

Michael J. Fortes
Acting Adjudications Division Chief