

Impact of DHS Rule Ending 540-Day Automatic EAD Extensions

Effective Date: October 30, 2025

Category / Group	Impacted?	Explanation
Applicants of eligible categories (below) filing EAD renewals on or after October 30, 2025	✅ Yes	Must wait for USCIS adjudication and issuance of a new EAD before continuing employment. No more 540-day automatic extension.
Applicants of eligible categories (below) who filed EAD renewals before October 30, 2025	❌ No	Automatic 540-day extension remains valid if a timely renewal was filed on or before October 29, 2025 and individual has a Form I-797C receipt notice showing receipt of I-765 application on or before October 29, 2025.
Individuals with automatic extensions granted by law (e.g., TPS notices)	❌ No	Statutory or regulatory extensions (like TPS) that are effective separate from the 540-day automatic extension rule remain valid and unaffected.
Adjustment of Status EAD (c)(9)	✅ Yes	Impacted — no 540-day automatic extension for renewals filed on or after Oct 30, 2025. Must wait for USCIS approval before continuing employment.
F-1 Students – STEM OPT Extension (c)(3)(C)	❌ No	STEM OPT extensions have never been eligible for 540-day extension. STEM OPT extensions are eligible for up to a 180-day automatic extension based on a separate law (8 CFR 274a.12(b)(6)(iv)). The 180-day auto extension still applies if STEM OPT I-765 application is filed before current OPT EAD expires.
H-4 Dependent Spouses (c)(26)	✅ Yes	Impacted — no 540-day automatic extension for renewals filed on or after Oct 30, 2025. Must wait for USCIS approval before continuing employment.
L-2 Dependent Spouses (a)(18)	⚠️ Partially Impacted	Impacted on for individuals relying on the EAD card as evidence of work authorization — no 540-day automatic extension for renewals filed on or after Oct 30, 2025. Must wait for USCIS approval before continuing employment. L-2 dependent spouses are eligible “incident to status” and may use a valid I-94 document as evidence of work authorization if admitted in “L-2S” status.

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E-1/E-2/E-3 Dependent Spouses (a)(17)	⚠️ Partially Impacted	Impacted on for individuals relying on the EAD card as evidence of work authorization — no 540-day automatic extension for renewals filed on or after Oct 30, 2025. Must wait for USCIS approval before continuing employment. E-1/E-2/E-3 dependent spouses are eligible “incident to status” and may use a valid I-94 document as evidence of work authorization if admitted in “E-1S, E-2S, or E-3S” status.
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Key Takeaways

- The 540-day EAD automatic extension is eliminated for all Form I-765 EAD renewal applications of eligible work authorization categories that were filed on or after Oct 30, 2025.
- AOS EAD, H-4 dependent spouses will now face potential employment gaps unless their EAD renewals are approved before expiration. Please note that H-4 dependent spouses’ eligibility for the 540-day automatic extension was limited because the extension was based on the period of validity of the I-94 document and not based solely on the filing of the H-4 EAD extension application.
- F-1 STEM OPT students keep their 180-day automatic extension provided that they file their Form I-765 for the STEM OPT extension with USCIS before their current OPT EAD expires. The STEM OPT 180-day automatic extension is not based on the 540-day automatic extension regulation; it is based on a separate law and is thus not impacted by this 540-day automatic extension regulation.
- Employers should plan for reverification by reaching out to employees at least 180 days prior to current work authorization expiration to remind them of their work authorization expiration, anticipate longer USCIS processing times and renewals should be initiated as early as possible to ensure timely filing when the filing window opens.

Eligibility Category on Form I-797C Receipt Notice for I-765 Application	Description	540-day Automatic Extension if Form I-797C received on or BEFORE October 29, 2025	540-day Automatic Extension if Form I-797C received on or AFTER October 30, 2025
A03	Refugee	Up to 540 days	No
A05	Asylee	Up to 540 days	No
A07	N-8 or N-9	Up to 540 days	No
A08	Citizen of Micronesia, Marshall Islands, or Palau	Up to 540 days	No
A10	Withholding of Deportation or Removal Granted	Up to 540 days	No
A12	Temporary Protected Status (TPS) Granted	Up to 1 year or the duration of TPS (whichever is shorter) for Form I-765 EAD renewal applications pending or filed on or after July 22, 2025. (See TPS section for more information)	Limited
A17	Spouse of principal E nonimmigrant with an unexpired I-94 showing E (including E-1S, E-2S and E-3S) nonimmigrant status	Up to 540 days, or expiration date on I-94, whichever is sooner	No if using EAD card as evidence of work authorization
A18	Spouse of principal L-1 Nonimmigrant with an unexpired I-94 showing L-2 (including L-2S) nonimmigrant status	Up to 540 days, or expiration date on I-94, whichever is sooner	No if using EAD card as evidence of work authorization
C08	Asylum Application Pending	Up to 540 days	No
C09	Pending Adjustment of Status under Section 245 of the Act	Up to 540 days	No

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C10	Suspension of Deportation Applicants (filed before April 1, 1997), Cancellation of Removal Applicants, Special Rule Cancellation of Removal Applicants Under NACARA	Up to 540 days	No
C16	Creation of Record (Adjustment Based on Continuous Residence since Jan. 1, 1972)	Up to 540 days	No
C19	USCIS determined applicant is prima facie eligible for TPS and can receive an EAD as a “temporary treatment benefit”	Up to 1 year or the duration of TPS (whichever is shorter) for Form I-765 EAD renewal applications pending or filed on or after July 22, 2025. (See TPS section for more information.)	Limited
C20	Section 210 Legalization (pending I-700)	Up to 540 days	No
C22	Section 245A Legalization (pending I-687)	Up to 540 days	No
C24	LIFE Legalization	Up to 540 days	No
C26	Spouses of certain H-1B principal nonimmigrants with an unexpired I-94 showing H-4 nonimmigrant status	Up to 540 days, or expiration date on I-94, whichever is sooner	No
C31	VAWA Self-Petitioners	Up to 540 days	No