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| **Executive Summary** |
| |  |  | | --- | --- | | |  | | --- | | The suspension will affect H-1B cap cases, as well as cap-exempt filings, extensions, amendments and changes of employer, and will be in effect for up to six months. Premium processing will remain available for other nonimmigrant petitions filed on Form I-129, including L-1 and O-1 petitions, and for eligible I-140 petitions. | | |
| |  |  | | --- | --- | | |  | | --- | | USCIS [announced](http://cl.s6.exct.net/?qs=6ffd10a9064e83a0fd0e881bfa858ade30a7e9e18f81606e2b203d3bce01323fa3eb9cd93e73398953f3ea59afcedaef) today that it will suspend premium processing of all H-1B filings starting April 3, 2017.  This includes FY 2018 H-1B cap filings and cap-exempt cases, as well as changes of employer, extensions and amendments.  The suspension is expected to last for up to six months.  USCIS says that the suspension will allow them to address a backlog of long-pending H-1B petitions.    In urgent situations, employers can request faster processing if a case meets USCIS's longstanding expedite criteria, but employers must be aware that expedites are only granted at USCIS's discretion and are issued very rarely -- for emergencies, humanitarian situations, in cases of severe financial loss to the employer or foreign national, and a few other very limited circumstances.   Premium processing is expected to remain available for other eligible nonimmigrant petitions filed on Form I-129, including L-1 and O-1 petitions, and for eligible I-140 petitions.  **What Employers Should Do Now**  Employers should work with their Fragomen professionals to identify urgent non-cap H-1B filing needs so that they can be submitted via premium processing as soon as possible.  Though the agency says that it will honor premium processing requests for non-cap cases that remain pending on April 3, this cannot be guaranteed.    As a reminder, H-1B extensions can be filed no earlier than six months before the expiration of the beneficiary's current period of stay.  However, H-1B employees with a timely-filed extension of stay benefit from up to 240 days of additional work authorization beyond their current expiration date while their extension remains pending.  **Impact on the FY 2018 Filing Season**  The suspension means that FY 2018 H-1B cap cases will not be eligible for 15-day processing unless and until the premium suspension is lifted.  Though premium processing does not affect the chances that an H-1B petition will be selected in the cap lottery, it does provide greater certainty to beneficiaries - in particular,  F-1 students who are changing status to H-1B and whose optional practical training (OPT) or course of study will terminate between April 3 and October 1, a period  known as the "cap gap."    The suspension may also delay a foreign national's ability to travel internationally between April 3 and the approval of the H-1B cap petition.  Travel while a change of status is pending and before it is approved will cause it to be deemed abandoned (though the underlying H-1B petition remains approvable).  A foreign national who travels abroad before the change of status is approved would have to take extra steps to assume H-1B status on October 1.  Fragomen closely tracks USCIS processing of H-1B cases and will issue updates as developments occur.  If you have any questions about USCIS's suspension of H-1B premium processing, please contact your designated Fragomen professional. | | |
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