Office of Communications

U.S. Citizenship and Immigration Services

Community Relations

Agenda

USCIS NATIONAL STAKEHOLDER MEETING

July 28, 2009
111 Massachusetts Avenue, NW
Tomich Conference Center
2:00 - 4:00 pm

Note: The next stakeholder meeting will be held on August 25, 2009 at 2:00 pm.

Questions and Answers

1. **Question:** In our experience, the service centers have taken the position that when a birth date error for a refugee occurs abroad and the I-94 lists the wrong date, they will rely on the birth date listed in the I-590, unless there is new evidence to establish a different date of birth. Would a court order be viewed as new evidence if it is based on evidence that the Service Center wouldn't have accepted as sufficient if presented directly?

   Response: As a general rule, USCIS accepts the DOB listed on the I-590 as the I-485 applicant's official DOB. Refugee applicants often do not have any identity documentation such as a passport, birth certificate, national identification card, etc. to submit when filing the I-590. However, the Refugee Officer verifies each line of the I-590 with the applicant before the applicant signs or marks the I-590. The applicant's signature or mark on the I-590 attests to the accuracy of the information on the I-590. If the applicant does have official identity documents, a copy of those documents will be made and included with the I-590.

   At the time of adjustment of status, USCIS generally does not change the DOB of an applicant from what is on the I-590. However, USIS is still reviewing its policies in cases where a court order is submitted with an I-485.

2. **Question**: Our latest inquiry to cbohelpdesk.vsc@dhs.gov was returned as undeliverable because the account doesn't exist. Will you confirm the e-mail address for the CBO helpdesk at the Vermont Service Center? Also, are there any plans to reinstitute the inquiry email box at the California Service Center? Upon making inquiries to the Congressional liaison at Nebraska Service Center, we received a message that the liaison email box is about to be discontinued. Is NSC terminating liaison assistance altogether? We request that some form of liaison assistance remain available for all national organizations.

   Response: You sent an e-mail to the Community Based Organization (CBO) liaison email box at the Vermont Service Center. Effective July 1, 2009, the Vermont Service Center no longer responds to inquiries regarding individual case status submitted to the VSC CBO email account.

Status inquiries pertaining to a petition or application at the Vermont Service Center should be directed to the National Customer Service Center by calling 1-800-375-5283 or by visiting the website at www.uscis.gov. If you are a representative of a petition or application that is associated with a VAWA-based Form I-360, Form I-914 or Form I-918, then you may call the VSC VAWA Helpline at (802) 527-4888.

We have established the VSC NCSC Follow up email box, VSC.Ncscfollowup@dhs.gov, which is a new email account available for use to those individuals who have already contacted the National Customer Service Center (NCSC) and have received responses from the NCSC, but who believe their inquiries have not been addressed. If after review of your inquiry it is determined that it was not addressed by the NCSC or the USCIS office, the applicant, the petitioner or designated representative will either be contacted by a USCIS representative or will receive updated or corrected documents via U.S. postal mail.

Each of the USCIS Service Centers has established an email box for inquiries that have not been resolved by the NCSC. You may contact the Service Centers at the email addresses below if more than 30 days have passed since you contacted the NCSC and the issue has not been resolved.

- California Service Center: csc-ncsc-followup@dhs.gov
- Vermont Service Center : vsc.ncscfollowup@dhs.gov
- Nebraska Service Center: ncscfollowup.nsc@dhs.gov
- Texas Service Center: tsc.ncscfollowup@dhs.gov

3. **Question**: We've called the 1-800 number numerous times and are told that changing one's address online is not a guarantee that the address will actually be updated and that we should send a written letter to the appropriate Service Center. Is this true?

   Response: When a customer calls the 1-800 number to request a change of address, the customer service representative should generate and forward to the relevant office or Service Center a Service Request Management Tool. The receiving office or center should then assign the request to an officer charged with checking all pertinent national systems and updating the address in all USCIS national databases. This duty should be performed within 5 days of the office or center receiving the change of address request.

   When a customer changes his address online, the system process should ensure that the address is updated. Also, via the web or the 1-800 number, an applicant should receive a tracking number through which he or she may check case status information.

4. **Question**: Why does the Case File Review Notice/Interview Document Check List sent from the NBC to naturalization applicants direct them to bring their state-issued driver's licenses or state-issued photo identification cards to the interview? The permanent resident card is sufficient proof of the applicant's identity, and there is no requirement to obtain a state-issued ID.

   Response: USCIS recommends that each applicant bring a driver's license or state issued photo identification to the interview not only to demonstrate the applicant's identity, but also to prove the applicant's place of residence.

5. **Question**: What are USCIS guidelines for the N-400 Fee Waiver Request? We continue to receive denials for reasons that make no sense. The USCIS G-1054 letter will say that we failed to provide a recent tax return, but it is enclosed; the documentation provided is not acceptable evidence of an FMTB (Federal Means-Tested Public Benefit), but a recent medical coupon and/or a DSHS statement of benefits for food stamps, TANF, or cash is enclosed. These documents were always accepted by the Nebraska Service Center. Our offices need to know what the Service Center is looking for if these aren't acceptable.

   Response: The USCIS Lockbox staff is applying the same guidance in approving or denying fee waivers which is found at our website, www.uscis.gov. We will be happy to review a specific rejection for you and provide specific guidance on any notice if you send your inquiry to Lockboxsupport@dhs.gov.

6. **Question:** Is there any process that individuals above a certain age (i.e. 50+) and who have been living in the U.S. for a number of years are able to apply for citizenship based on the circumstances that they were lacking the educational background in their native lands? Many never learned to read or write in their own language. Since there is no opportunity currently available for these individuals to apply, are there alternative methods being developed to allow these people citizenship?

   Response: Immigrants can apply for naturalization whenever they meet the requirements outlined in the current provisions of the Immigration and Nationality Act. §312 of the INA exempts those applicants who are 50 years of age with 20 years as a LPR in addition to who are 55 years of age with 15 years as LPR at the time of filing from meeting the educational requirements as they pertain to the English language. Consequently, there is currently a process in place to assist those applicants who are above a certain age having qualifying time as LPR with the educational requirements.

7. **Question**: We have received about 30 RFEs for rejected medicals recently with basic form implying I-693 was not received when it was. These are for Cuban parolees.

   Response: Please provide us with specific case identifiers. We will review the matters and take any appropriate remedial action.

8. **Question**: An LIRS affiliate in Florida has noticed over the past year that a number of stepchildren of US citizens have erroneously been issued two-year conditional residence cards, when they were actually eligible for 10-year permanent residence cards. In each case, the child's parent was married to a USC stepparent for over 2 years at the time the immigrant entered the U.S. or adjustment took place, so the parent had no conditions on his / her LPR status. Therefore, the child also should have had no conditions placed on LPR status. To correct the issue, we have had to send in the conditional residence cards with an I-90, no fee. Can USCIS fix the problem so that this corrective step is not necessary?

   Response: We invite you to provide us with specific case identifiers. We will review the matters and take any appropriate remedial action.

9. **Question**: We understand from the USCIS Q and As from the June 2009 Stakeholder meeting that USCIS is currently drafting interim policy guidance. We would like to flag two pressing issues that have arisen relating to Special Immigrant Juvenile status, as affected by TVPRA.

- Some children who applied for SIJ status have had applications pending for a long time – anywhere between six months and four years. Given that the TVPRA requires USCIS to adjudicate SIJ applications within 180 days, what is USCIS planning to do to eliminate the backlog of applications that have been pending for longer than that? The issue is especially pressing because some of the children are about to age out of SIJ status. For those children with long-pending applications who are about to age out, should advocates use the standard expedite procedure for VSC (a fax with a cover page indicating an expedite request)? If not, what expedite procedure is appropriate?

- Some children have applied for SIJ / adjustment of status both in the Immigration Court (in the context of removal proceedings) and before VSC. As we understand, both USCIS and the Immigration Courts have jurisdiction over SIJ adjustment applications. Some of our clients in this situation have pending I-360s / I-485s at VSC, and have concurrently requested an EAD (I-765). In two cases, USCIS has terminated the EAD on the ground that the child is in removal proceedings, and therefore only the IJ can grant benefits associated with SIJ status. We think this is an incorrect application of the law and request that USCIS / VSC not terminate the EAD while the juvenile's application is pending.

Response: The guidance mentioned at the June 2009 stakeholder meeting referred to the T and U nonimmigrant status changes necessitated by TVPRA legislation. On March 24, 2009, USCIS published a memorandum entitled "Trafficking Victims Protection Reauthorization Act of 2008: Special Immigrant Juvenile Status Provisions" outlining the TVPRA legislative changes that affect the Special Immigrant Juvenile Status program.

The March 24, 2009 memo reminds adjudicators that an interview is not required, and eliminating unnecessary interviews is one way to meet the 180 day deadline. However, the TVPRA protects petitioners from aging out before adjudication of the SIJ petition or a related AOS application. USCIS cannot now deny an SIJ petition, revoke an approved SIJ petition, or deny a related adjustment of status application if the petitioner was under the age of 21 at the time he/she filed for SIJ classification, regardless of when the petition/application was filed. This applies to all petitions now pending with USCIS.

SIJ petitions are not adjudicated at the Vermont Service Center. All SIJ petitions should be filed in accordance with the form instructions, at the Chicago Lockbox. The petitions then are routed through the National Benefits Center for initial checks before being sent to the field office where the SIJ resides for actual adjudication. No petitions are sent to or are adjudicated at the VSC, and no petitions should be sent there. The VSC only plays a very minimal data keeping role in SIJ petitions.

If a Form I-360 and Form I-485 are filed concurrently at the Lockbox, the Lockbox will forward these cases to the National Benefits Center (NBC) for initial processing. Once initial processing is complete, the NBC will schedule the applicant, via the computerized system, for an interview with the field office having jurisdiction over the applicant's place of residence. If a field office is notified of an expedited request or is made aware that an expedite is needed, the field office will request an expedited relocation of the file to that field office and will schedule the interview manually. If you are aware of a case that has been pending longer than 180 days, please contact the field office with jurisdiction over the child's place of residence to request expedited processing.

USCIS has sole jurisdiction over all I-360 petitions for SIJ classification. However, USCIS and EOIR share jurisdiction on I-485 adjustment applications related to SIJ petitioners. If a petitioner is in removal proceedings, USCIS does not have jurisdiction over an I-485 unless removal proceedings are completed. EOIR has jurisdiction to act on an I-485 for an SIJ in removal proceedings.

With respect to the two cases mentioned, please provide us with specific case identifiers. We will review the matters and take any appropriate remedial action.

10. **Question**: USCIS has repeatedly claimed that there is significant fraud in the disability waiver program and indicated that form N-648 has been changed to deter fraud. Can USCIS please share with the stakeholders statistical information on:

    - The number of disability waiver requests received in the six months before the new form N-648 became effective;
    - The number of disability waiver requests received in the first six months after the new form N-648 became effective;
    - The number or rate of fraud investigations in the disability program for the past two years.

    Response: USCIS does not collect the requested information. We cannot, therefore, provide the data you've requested.

11. **Question**: Advocacy for disabled naturalization applicants is a long-standing priority for the CBOs, and INS/USCIS has a long history of collaborating with the CBOs on the disability waiver issue. How can we ensure that the CBO partners continue to be meaningfully and appropriately involved with the N-648 process?

    And given that the form N-400 needs to be completed by doctors, and significantly impacts people with disabilities, we believe that both medical professionals and advocates for people with disabilities need to be consulted in the development and implementation of the N-648 form and adjudication process. Could you please describe any steps that USCIS took, or plans to take, to involve stakeholders from the medical community and the disabled community in the development of the form N-648?

    Response: Over the past several years, USCIS has repeatedly elicited from private stakeholders information and suggestions related to disability waivers. We have used such feedback in the development of forms and processes. Obviously, the best forum for such involvement is via rulemaking procedures, and we encourage all interested parties to participate in public comment opportunities.

12. **Question**: The current form N-648 and the new draft contain questions that are complex and multipart (e.g. 9a, 9b, and 10). This makes it very confusing and time-consuming for busy medical professionals to prepare the form, leading to errors in completion, and even to some doctors refusing to complete the form. Could USCIS re-draft the form to be easier for doctors to understand and complete?

    Response: We appreciate your feedback and will consider it as we work to refine the form.

13. **Question**: The instructions to the current form N-648 and to the new draft provide sample responses that describe rare conditions and are not written in terms a person without medical training can understand.

Can USCIS provide examples of sufficient responses that involve more common conditions and are written in layman's terms?

Response: The exemplars provided in the form instructions are intended to provide guidance to the medical professionals who are completing the Form N-648 to demonstrate the type of narrative most helpful to USCIS in evaluating the N-648. USCIS will, however, consider this suggestion as we work to refine the form. In addition, if there are circumstances that warrant providing additional examples to a different audience, please provide specific information related to that request, and USCIS will consider it.

14. **Question**: Approval and/or denials of form N-648 seem very discretionary. Can you clarify the precise standard(s) for approving these medical waivers?

    Response: In addition to the statute, the regulations at 8 CFR 312.1(b)(3) and 312.2(b), and the instructions on Form N-648 itself, USCIS adjudicators are guided by the memoranda of May 10, 2006, and September 17, 2007, which are embodied in the Adjudicator's Field Manual at Chapter 72.2(d)(5). These documents may be viewed on the public website at uscis.gov.

15. **Question**: Does USCIS give more weight or validity to a medical waiver prepared by a medical specialist, or will an N-648 prepared by the applicant's primary care doctor be sufficient? For instance, if an applicant's primary care physician indicates on the N-648 that the applicant suffers from dementia, and provides sufficient medical evidence of the diagnosis to demonstrate the applicant's inability to retain or recall dates/information, will USCIS approve such a waiver or require the applicant obtain a waiver from a neurologist who has conducted testing of the applicant?

    Response: As the N-648 instructions indicate, certification by a general physician is acceptable, provided the certifying physician is qualified to render an evaluation and diagnosis of the patient/applicant.

16. **Question**: Can USCIS clarify its position on dyslexia in adults, as this is rarely something diagnosed or treated by physicians unless there is a psychiatric co-morbidity issue? If an adult naturalization applicant provides credible and sufficient evidence of dyslexia, will USCIS accept it as a disability for waiver purposes in the N-400 context?

    Response: USCIS handles each N-648 on a case-by-case basis, and it would, therefore, be inappropriate for us to render any general conclusion as to this question.

17. **Question**: Can a "non physician" health care provider such as a licensed speech therapist or clinical psychologist sign off on form N-648 or must a physician sign off on their evaluation?

    Response: 8 C.F.R. § 312.2(b)(2) indicates that the Form N-648 may only be completed by a "medical or osteopathic doctor licensed to practice medicine in the United States or a clinical psychologist licensed to practice psychology in the United States (including the United States territories of Guam, Puerto Rico, and the Virgin Islands)." Clinical psychologists are among the three types of medical professionals eligible to complete the Form N-648. Speech therapists are not among the types of medical professionals contemplated by the regulation.

18. **Question**: May interviewing officers question the medical diagnoses and opinions of doctor(s) who complete the N-648?

Response: We appreciate your concern in this area and have worked in the past to educate adjudicators regarding their proper role in adjudicating waiver applications. The September 18, 2007 guidance issued by USCIS and incorporated into the Adjudicators Field Manual indicates that officers should only question a medical diagnosis if there are credible doubts about the veracity of the medical certification. If you have specific cases involving allegations of an adjudicator improperly questioning the medical diagnosis and/or doctor's medical opinion, please provide specific identifiers and we will review and take any necessary remedial action.