



Kwame Raoul
Illinois Attorney General



Andrea Joy Campbell
Massachusetts Attorney General



Letitia James
New York Attorney General

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
245 Murray Lane, SW
Washington, DC 20528

December 21, 2023

RECEIVED

By ESEC at 9:17 am, Jan 02, 2024

Dear Secretary Mayorkas:

We, the Attorneys General of Illinois, Massachusetts, New York, Arizona, Connecticut, Delaware, District of Columbia, Hawaii, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington write to request that you take additional, prompt action to speed access to work authorization for eligible new arrivals in our states. We are grateful for the meaningful actions you announced in September to expedite and expand access to work authorization. These steps are vitally important to ensure that the large number of newcomers arriving every day can survive and thrive in our communities and our economy. But more must be done to eliminate the barriers that prevent recent immigrants from securing the work authorization they need to support themselves and their families. We also urge you to address the disparate impact these barriers pose to certain communities, such as the Haitian community, who have a history of being placed in a cruel and heartbreaking position: entering the U.S. with no pathway for legal, dignified employment, and significantly restricted access to other resources. Without additional changes, we will see more new arrivals unable to afford basic necessities like housing and food, and our state and local governments and nonprofit organizations may struggle to provide an adequate safety net for those most in need.

Our states have seen thousands of new arrivals in recent months, many lawfully paroled into this country, and many of whom are seeking refuge from dangerous conditions in their home countries. We have welcomed these newcomers proudly as part of a long tradition of celebrating vibrant immigrant communities and their contributions to our states. Many of these parolees and asylum seekers are eligible for work authorization and fervently want to work, but they face unnecessary barriers and delays in the application process that prevent their entry into the workforce. When parolees and asylum seekers are unable to legally work, many must turn to our

state and local safety net programs for food and shelter.¹ Others—including too many families with children in some cases—have been forced to sleep in hospitals, police stations, and even in the streets.² Many have no choice but to take jobs in the underground economy, where they are at risk of exploitation and abuse at the hands of unscrupulous employers.³

Many recently-arrived migrants and asylum seekers find that the current procedures to apply for work authorization are arduous and difficult to navigate. For some parolees, the fees or fee waiver requirements are insurmountable barriers. It is no surprise that only 16% of working age “CBP One” entrants had applied for work authorization as of the end of August 2023.⁴ Lengthy processing times continue to affect many applicants, with current processing times still at 3.5 months for parolees.⁵ Many applicants who have successfully applied for work authorization face long delays. During those delays, parolees have no assurances as to how long they will be eligible to work if their applications are eventually approved. Until earlier this year, some parolees, and Haitians in particular, were granted humanitarian parole for such short periods of time that they could not secure employment authorization before their parole and work authorization eligibility expired.⁶ Recent reports document the significant and disparate impact of these barriers on survivors of gender-based violence.⁷

¹ See, e.g., “Governor Healey Activates National Guard to Provide Services at Emergency Shelter Sites,” Governor Maura Healey and Lt. Governor Kim Driscoll (Aug. 31, 2023), available at <https://www.mass.gov/news/governor-healey-activates-national-guard-to-provide-services-at-emergency-shelter-sites>; “State’s Emergency Assistance Director and United Way of Massachusetts Bay Announce New Partnership to Support Safety Net Options for Homeless Families,” Governor Maura Healey and Lt. Governor Kim Driscoll (Nov. 7, 2023), available at <https://www.mass.gov/news/states-emergency-assistance-director-and-united-way-of-massachusetts-bay-announce-new-partnership-to-support-safety-net-options-for-homeless-families>; “Governor Pritzker Announces Plan to Improve Asylum Seeker Emergency Response,” Governor J.B. Pritzker (Nov. 16, 2023) available at <https://www.illinois.gov/news/press-release.27307.html>; “Gov. Pritzker calls on President Biden to increase federal support for ‘overwhelming’ migrant crisis.” CBS News (Oct. 3, 2023) available at <https://www.cbsnews.com/chicago/news/jb-pritzker-letter-president-biden-migrant-crisis/> (describing the state’s dedication of over \$330 million to provide humanitarian aid to the migrant crisis).

² Luis Ferré-Sadurní, As Winter Approaches, Fears Grow for Homeless Migrants, NY Times (Dec. 4, 2023), available at <https://www.nytimes.com/2023/12/04/nyregion/nyc-migrant-crisis-cold.html>; Daniella Silva, Chicago scrambles to house migrants as winter approaches, NBC News (Nov. 26, 2023), available at <https://www.nbcnews.com/news/us-news/chicago-scrambles-house-migrants-winter-approaches-rcna125581>; Matt Stout, The ‘right thing to do.’ YMCA opens doors to migrant families sleeping in MBTA office building, Boston Globe (Nov. 29, 2023), available at <https://www.bostonglobe.com/2023/11/29/metro/mbta-migrant-shelter-ymca/>.

³ Stories from Immigrant Survivors of Gender-Based Violence: The Impact of Work Authorization, Her Justice (Nov. 2023) at 18, 22-26, available at <https://herjustice.org/wp-content/uploads/2023/11/Her-Justice-Policy-Report-Impact-of-Work-Authorization.pdf> (describing a domestic violence survivor’s experience doing informal work babysitting and cleaning houses and other survivors’ employment experiences before they obtained work authorization).

⁴ “Readout of White House Meeting with Governor Hochul” (Aug. 30, 2023), The White House, available at <https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/30/readout-of-white-house-meeting-with-governor-hochul/>

⁵ USCIS Case Processing Times available at <https://egov.uscis.gov/processing-times/>

⁶ See Humanitarian Parole Crisis: How Racist Policies and Practices Deny Haitian Refugees Work Authorization (TakeRoot Justice and Haitian Women for Haitian Refugees), at 5 (Nov. 2023), available at https://haitianwomen.files.wordpress.com/2023/11/executive_summary-draft_english_design.pdf.

⁷ Stories from Immigrant Survivors of Gender-Based Violence: The Impact of Work Authorization, Her Justice (Nov. 2023), available at <https://herjustice.org/wp-content/uploads/2023/11/Her-Justice-Policy-Report-Impact-of-Work-Authorization.pdf>.

Addressing processing delays and other barriers to applying for work authorization will ensure that work-eligible newcomers become self-sufficient as soon as possible and do not have to rely on state resources that are reserved for the most vulnerable people in our states. The changes announced on September 20, 2023 will make a significant difference in reducing processing delays and newcomers' dependence on state resources. Those changes include: decreasing the average work authorization processing time for certain parolees to 30 days; increasing the time period during which a work authorization is valid to up to five years for asylum seekers and refugees; ensuring that the parole period for Cuban, Haitian, Nicaraguan, and Venezuelan parolees is generally two years; and notifying certain parolees of their eligibility to apply for work authorization. We also appreciate the Administration's successful recent efforts to partner with state and local officials on work authorization clinics that allow for expedited processing of a large number of applications by USCIS personnel on site, including fee waivers and biometrics.⁸ We urge DHS to expand that model by offering ongoing clinics or other in-person processing options, and consider granting work authorization simultaneously.

More can and should be done in the immediate term so that people who are eligible to work can do so without undue delay or burden. These changes can be implemented immediately and will help families avoid homelessness, preserve the availability of state and local safety net programs to support those in crisis, and ensure newly arrived immigrants can contribute to our economy.

We request that DHS take the following urgent steps:

1. Grant Provisional Work Authorization Upon Application: In light of ongoing delays with application processing and backlogs, eligible parolees and asylum seekers who have applied for work authorization should be granted provisional authorization to work while their applications are pending. USCIS should create a streamlined process to allow those seeking work authorization to demonstrate their ability to work lawfully while their applications are awaiting review and final approval.
2. Eliminate Fees: Parolees face hefty fees for the work authorization application unless they can demonstrate eligibility for a fee waiver, which requires significant documentation. For many new arrivals, that is a barrier that at best leads to delay and at worst is insurmountable. DHS should exempt people granted humanitarian parole from work authorization application fees, as is done for some parolees and asylum seekers. At a minimum, applications for work authorization with a fee waiver should be available online, so eligible applicants do not have to go through the more arduous and slow paper application process.

⁸ NYC Legal Clinic Blitz Assists Nearly 2000 Asylum Seekers Obtain Work Permits, New York Immigration Coalition (Oct. 13, 2023), available at <https://www.nycic.org/2023/10/nyc-legal-clinic-blitz-assists-nearly-2000-asylum-seekers-obtain-work-permits/>; Michael Loria and Lynn Sweet, Biden migrant work permit clinic launches in Chicago, Chicago Sun-Times (Nov. 9, 2023), available at <https://chicago.suntimes.com/2023/11/9/23954032/biden-migrant-work-authorization-clinic-launches-chicago>; "Healey-Driscoll Administration Announces Upcoming Work Authorization Legal Clinic in Partnership with DHS," Governor Maura Healey and Lt. Governor Kim Driscoll (Oct. 30, 2023), available at <https://www.mass.gov/news/healey-driscoll-administration-announces-upcoming-work-authorization-legal-clinic-in-partnership-with-dhs>.

3. Re-parole Those Awaiting Work Authorization: Prior to DHS's efforts to speed up processing times and standardize the period of parole, parolees often saw their parole status expire while their work authorizations were pending. After their parole expired, many of these individuals remained in the United States to pursue asylum applications. This meant that in order to work while their asylum application was pending, they would have to re-apply for the permit as an asylum seeker versus a parolee, which is an arduous and slow process. DHS should implement a process to re-parole individuals whose parole expired while their work authorization was pending for an additional two years. This would allow individuals – whose ability to work is dependent on DHS's ability to process work authorizations in a timely manner – to benefit from the more streamlined work authorization processes announced in September.

4. Streamline Application Processes to Relieve Burdens on Migrants and the Agency: DHS should consider streamlining processes and enacting technical fixes that would eliminate administrative burdens for both the applicants and DHS. For example, we suggest DHS allow individuals to apply for work authorization at the same time as they request parole; ensure that information provided to CBP in parole applications is also available to USCIS to process work authorization requests; provide notification to those eligible for work authorization that they can apply; shorten and simplify the work authorization Form I-765 and translate the form and instructions into multiple languages; and provide in-person processing and approval of work authorizations in cities and states with large numbers of recent parolees.

These four recommendations are only a few of the many additional steps that would help individuals and families who recently arrived to enter the workforce instead of having to rely on support and resources from our state programs.⁹

We appreciate the fact that legislative action is needed to effect compassionate and comprehensive immigration reform to fully address these challenges, and we welcome the opportunity to advocate together for that reform. But with the urgent need we see in our states, we simply cannot and need not wait for Congress to act. We therefore urge swift action to ensure that eligible immigrants can work to support their families, achieve self-sufficiency, and fuel our economy.

Sincerely,



Kwame Raoul
Illinois Attorney General



Andrea Joy Campbell
Massachusetts Attorney General

⁹ Some of those additional steps are outlined in a recent letter from Senator Warren to Secretary Mayorkas and Director Jaddou. See November 2, 2023 Letter from Senator Warren et al., available at [https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20\(signed\).pdf](https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20(signed).pdf).



Letitia James
New York Attorney General



Kris Mayes
Arizona Attorney General



William Tong
Connecticut Attorney General



Kathleen Jennings
Delaware Attorney General



Brian L. Schwalb
District of Columbia Attorney General



Anne E. Lopez
Hawaii Attorney General



Anthony G. Brown
Maryland Attorney General



Dana Nessel
Michigan Attorney General



Keith Ellison
Minnesota Attorney General



Aaron D. Ford
Nevada Attorney General



Matthew J. Platkin
New Jersey Attorney General



Raúl Torrez
New Mexico Attorney General



Ellen F. Rosenblum
Oregon Attorney General



Michelle A. Henry
Pennsylvania Attorney General



Peter Neronha
Rhode Island Attorney General



Charity R. Clark
Vermont Attorney General



Bob Ferguson
Washington Attorney General



U.S. Citizenship
and Immigration
Services

March 11, 2024

The Honorable Kwame Raoul
Attorney General of Illinois
500 South Second St
Springfield, IL 62701

Dear Attorney General Raoul:

Thank you for your December 21, 2023 letter to the Department of Homeland Security (DHS). I am responding on behalf of the Department. The Administration has taken unprecedented actions to expand lawful pathways to the United States to incentivize safe, orderly, and humane migration and to discourage irregular migration at the hands of smugglers and transnational criminal organizations. Ultimately, only Congress can make the legislative changes needed to address and update our broken immigration system, but we appreciate the administrative proposals in your letter.

DHS recognizes the importance of work authorizations for noncitizens and recently increased the maximum available validity period to five years for both initial and renewal employment authorization documents (EADs) for certain noncitizens, including applicants for asylum and those granted asylum, among others.¹ This measure is intended to significantly reduce the number of requests U.S. Citizenship and Immigration Services (USCIS) receives for renewal EADs, which will contribute to a reduction in both processing times and backlogs. Since early 2024, USCIS completed 91% of initial EAD applications filed by asylum applicants within 30 days, and 98% were completed within 60 days.

With respect to EADs for individuals who have a pending asylum application, section 208(d)(2) of the Immigration and Nationality Act (INA) states that employment authorization shall not be granted to an asylum applicant prior to the expiration of the 180-day period after the date of filing the asylum application. Therefore, only Congress can reduce or eliminate the 180-day EAD eligibility period for asylum applicants. However, asylum applicants may file their application for EADs 150 days after they file their asylum application.

¹ USCIS Increases Employment Authorization Document Validity Period for Certain Categories, available at: <https://www.uscis.gov/newsroom/alerts/uscis-increases-employment-authorization-document-validity-period-for-certain-categories>.

Additionally, in early September 2023, DHS launched a first-of-its-kind national campaign for noncitizens who are work-eligible but who have yet to apply for an EAD. Through a series of emails and text notifications, USCIS began reaching out to several groups of individuals to remind them of their eligibility to apply for employment authorization. These groups included those who received parole through the new Cuba, Haiti, Nicaragua, and Venezuela (CHNV) parole processes, the Uniting for Ukraine (U4U) parole process, or after obtaining a CBP One appointment and presenting at a port of entry, and those who have a pending Form I-589, Application for Asylum and for Withholding of Removal, with USCIS. As of early February 2024, USCIS sent approximately 2 million email and text notifications in English, Spanish, Haitian Creole, Ukrainian, and Russian. USCIS will continue to work on additional technological and communications solutions to further expedite processing timelines, ensure noncitizen migrants know they are eligible to apply for an EAD, and provide information on how to apply for an EAD.

Since then, USCIS has received more than 26,000 requests for work authorization and has approved more than 13,000 applications. USCIS is also providing intake and biometrics collection at sites in certain states and cities assisting individuals who have not yet filed an EAD application after scheduling a CBP One appointment and receiving a favorable grant of parole, as well as Venezuelan nationals who are filing for Temporary Protected Status (TPS). USCIS has provided these on-the-ground services in New York City, Chicago, Boston, and Denver, serving more than 17,000 individuals, resulting in over 11,000 approved work permits.

You also propose USCIS eliminate fees for EAD applications filed by certain parolees. Except for limited funds appropriated for specific functions, USCIS is a fee-funded agency. Section 286(m) of the INA authorizes DHS to charge fees for adjudication and naturalization services at a level to “ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.”² USCIS recognizes noncitizens are paroled into the United States for a variety of reasons and circumstances and some noncitizens paroled into the United States have the ability to pay the Form I-765 filing fee. USCIS has a long-standing process in place that allows individuals who are unable to pay a filing fee to seek a fee waiver for certain forms and benefit types. Individuals can apply for a fee waiver using the Form I-912, Request for Fee Waiver, or a written request. In general, USCIS reviews these requests on a case-by-case basis to determine whether a fee waiver should be granted as a matter of discretion in a particular case.

USCIS remains committed to reviewing individual fee waiver requests on a case-by-case basis in a fair and efficient manner. In FY 2023, USCIS processed approximately 689,800 fee waiver requests, of which 89 percent were approved – totaling approximately \$369 million. Furthermore, the vast majority of fee waivers were processed within days, ensuring the processing of the underlying benefit was not severely delayed due to a fee waiver request. USCIS also remains committed to expanding the number of forms available for online filing, including fee waiver requests.

² 8 U.S.C. 1356(m).

Thank you again for your letter and interest in these important issues. Please share this response with your fellow State Attorneys General who cosigned your letter. Should you have any additional questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal line extending to the right.

Ur M. Jaddou
Director