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ANDREA JOY CAMPBELL
ATTORNEY GENERAL

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

August 16, 2023

Dear Secretary Mayorkas:

We, the Attorneys General of Massachusetts, Arizona, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington, write to request immediate action to ensure that new arrivals to our states can work to support themselves and their families. Our states are proud to be home to many vibrant immigrant communities, and we continue to welcome newcomers. The vast majority of new arrivals in recent months – like many who have come before them – want nothing more than an opportunity to work, and many of our businesses are eager to hire additional workers. Many thousands of recent newcomers are eligible for work authorization, but permission to work has been needlessly delayed by inconsistencies in grants of parole and application processing delays. The lack of work authorization for many thousands who have arrived in our states in recent months has caused many to rely on our social safety nets. Our governments and nonprofits have worked to ensure that vulnerable families are not left homeless or hungry. Addressing processing delays will ensure that work-eligible newcomers will become self-sufficient as soon as possible and not be forced to rely on state resources. We therefore urge immediate action to ensure work authorization for new arrivals to help meet our workforce needs, conserve safety net resources for the most vulnerable in our states, and provide our newcomers the opportunity to contribute to the country in which they have sought refuge.

Recently, we have seen an unprecedented influx of immigrant families – particularly from Latin America, Haiti, Ukraine and the Middle East – with several states now receiving thousands of new arrivals each month. Many are working-age adults who are eager to find employment to support themselves and their families. At the same time, the States are experiencing increasing demand for workers in key industries like food services, retail, transportation, health care and hospitality. Work authorization for newcomers not only helps to meet these demands, but it also reduces the risk that workers will be subjected to subminimum wages, unsafe working conditions and other violations of their workplace rights.

Unfortunately, many new arrivals to our states face incredibly long waits to receive work authorization. A significant portion of the recent migrant population – many of whom are seeking asylum – have been paroled into the country and are therefore immediately eligible for work permits, but processing delays leave too many waiting ten months or more for authorization. Work authorization wait times are particularly long for those who require a fee waiver, as they cannot submit their applications online. And until recently, relatively short lengths of parole – sometimes just a few weeks – have also proved prohibitive. Of those who have managed to secure employment authorization, many have lost their jobs due to the expiration of their work permits while renewal applications are pending. This is inexcusable.

These delays are placing an increasing burden on states to support families who would be able to support themselves immediately if given the opportunity to do so. Our states and offices offer considerable support and stabilization services to ensure that vulnerable families do not go without food, shelter, education, and medical care. For example, Massachusetts is a right-to-shelter state. Under state law, eligible homeless families have a right to placement in housing. Due in large part to the influx of migrant families without work authorization, the Commonwealth has had to significantly expand its emergency shelter system over the past year – and is currently housing families in hotels and motels as a last resort. In June, Massachusetts activated the National Guard to operate a facility for migrant families at Joint Base Cape Cod. The state has also opened two Welcome Centers to connect families with essential services. In our experience, these support and stabilization services can provide a critical lifeline to new arrivals to help them get on their feet. But these resources have been pushed to a breaking point because many newcomers do not have and cannot expeditiously procure the work authorization they need to transition to self-sufficiency. As a result, the numbers of families requiring assistance continues to grow without relief in sight. States without right-to-shelter laws may not have experienced the same strain on housing resources as Massachusetts. But all states have been affected by delays in authorizing work-eligible adults to work.

The long delays in work permits for newcomers set us all up for failure and have created a humanitarian crisis in our states and beyond. We therefore urge:

1. Expedited Employment Authorization for Lawful Parolees: Anyone lawfully paroled into the country at a port of entry should be allowed to work. This could be achieved by allowing parolees who have applied for work authorization to work while those applications are pending.
2. Address Inconsistent Lengths of Parole and Streamline Renewal: In most circumstances, two years is a fair and reasonable amount of time for an initial grant of parole to allow parolees to explore avenues of immigration relief available to them. Those who have received a shorter grant of parole should be provided an extension to two years. Relevant DHS agencies should also provide all parolees with a clear avenue to renew their parole status without gaps or lag time.
3. Automatic Work Authorization Renewal: To avoid long gaps in work authorization, work permits should be automatically renewed whenever someone's parole or other immigration status is renewed.

4. Access to Online Fee Waivers: Applications for work authorization with a fee waiver should be available online, so eligible applicants don't have to go through the more arduous and slow paper application process.

We also ask that you pursue executive action to increase investments in personnel and administrative efficiency to address the years-long backlogs in adjudication of asylum and other forms of immigration relief. At the same time, we know that legislative action is needed to effect comprehensive immigration reform that will fully address these problems. We urge you to continue to advocate for that reform. In the meantime, everyone would benefit if working-age adults who have arrived in our states had expedient and enduring access to work authorization pending final resolution of their claims for asylum or other relief.

Sincerely,



Andrea Joy Campbell
Massachusetts Attorney General



Kris Mayes
Arizona Attorney General



William Tong
Connecticut Attorney General



Kathleen Jennings
Delaware Attorney General



Brian L. Schwalb
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Anne E. Lopez
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Ellen F. Rosenblum
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Peter Neronha
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**U.S. Citizenship
and Immigration
Services**

March 15, 2024

The Honorable Andrea Joy Campbell
Attorney General
One Ashburton Place
Boston, MA 02108

Dear Attorney General Campbell:

Thank you for your August 16, 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.

Notably, in Massachusetts USCIS is working directly with State and City partners to, where feasible, reduce any barriers to services for new arrivals applying for work authorization. These efforts have included on the ground USCIS services to support nearly 2,000 applicants receiving application support from State coordinated providers.

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.

² 8 U.S.C. 1356(m).

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USCIS also remains committed to expanding the number of forms available for online filing, including fee waiver requests.

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 flourish.

Ur M. Jaddou
Director