

# One Minute Memo®



## USCIS Extends and Expands H-1B Premium Processing Suspension

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**Seyfarth Synopsis:** Effective September 11, 2018, USCIS will suspend Premium Processing for all H-1B petitions filed at the Vermont and California Service Centers until February 19, 2019 (excluding filings by cap-exempt employers).

USCIS' Premium Processing service allows employers to request faster processing of certain employment-based petitions and applications by filing a Form I-907 and paying an extra USCIS filing fee of \$1,225. If a petitioner elects to pay for Premium Processing, USCIS guarantees a response within 15 calendar days. Premium Processing is widely used by U.S. employers to accelerate processing of H-1B petitions. According to USCIS, current processing times for H-1B petitions under regular processing are 3-5 months.

On March 20, 2018, (just before the April 2nd filing deadline), USCIS [announced](#) the suspension of Premium Processing for all H-1B petitions subject to the Fiscal Year (FY) 2019 cap. According to USCIS, the suspension was expected to last until September 10, 2018.

On August 28, 2018, USCIS not only [announced](#) the extension of its Premium Processing suspension for cap-subject H-1B petitions, the agency expanded the suspension to include the following H-1B petitions:

- Change of Employer petitions; and,
- Amendment petitions.

The suspension will not apply to the following H-1B petitions:

- Petitions filed by cap-exempt employers or on behalf of beneficiaries who will be employed at a qualifying cap-exempt institution, entity, or organization; or,
- Extensions filed at the Nebraska Service Center for H-1B workers who continue to work for the same company and in the same position and location.

The suspension does not apply to other nonimmigrant classifications otherwise eligible for Premium Processing. According to USCIS, the temporary suspension will help the agency reduce overall H-1B processing times by allowing the agency to process long-pending petitions and prioritize adjudication of time-sensitive cases.

The timing of this Premium Processing suspension extension/expansion coincides precisely with the enactment of a new [USCIS policy memo](#) also effective September 11, 2018, in which USCIS may deny petitions for immigration benefits without first issuing a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) if the petition does not contain all required initial evidence to establish eligibility. This policy revision marks a significant departure from USCIS' standard practice but the agency has yet to provide specific guidance on the new filing standard.

Employers and beneficiaries may wish to file Premium Processing requests for eligible petitions before September 11, 2018 to avoid delayed processing and a potential increased chance of denial. In particular, the Premium Processing suspension may adversely impact individuals currently benefitting from cap-gap employment as well as individuals nearing the 240-day mark beyond the expiration of an underlying extension petition. Seyfarth Shaw will continue to keep our clients informed on further developments.

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