

## Blog Post

# Employer Alert! The Department of Homeland Security (DHS) Announces Permanent 540-Day Automatic Extension Period of Employment Authorization Document (EAD) Renewals Timely Filed By Qualified Applicants

December 11, 2024

By Denise Gavica Perez

In a significant update for employers and human resource teams, the Department of Homeland Security (DHS) has made the 540-day auto-extension period for Employment Authorization Document (EAD) renewals a permanent benefit. In May 2022, DHS extended the EAD auto-extension to up to 540 days to mitigate the risk of a work authorization gap for those renewing their EADs. At that time, this temporary rule applied to individuals with renewal applications pending as of May 22, 2022, or those who filed renewal applications between May 4, 2022, and October 26, 2023. Later, the DHS extended the auto-extension for EAD renewal applicants who filed on or after October 27, 2023, with an eligibility window extending through September 30, 2025.

Starting January 13, 2025, due to persistent backlogs and delays, DHS has decided to make the 540-day extension a permanent benefit for eligible applicants. Therefore, certain renewal applicants who have timely filed their Form I-765, Application for Employment Authorization, will benefit from an

---

### Related People

Denise Gavica Perez

---

### Related Work

Immigration Planning  
and Compliance  
Labor and Employment

---

### Related Offices

Miami

automatic extension of up to 540 days — dramatically increasing the previous limit of 180 days. This new rule, which makes permanent a temporary measure published earlier this year in the Federal Register, aims to minimize the risk of lapses in work authorization during the renewal process. By extending the automatic extension period to 540 days, the DHS is reducing the potential disruptions non-citizens may face while awaiting their EAD renewals. Without this extension, delays in processing could disrupt business operations and leave workers and employers in uncertain positions, impacting not just individuals but their families and businesses as well.

## Who Qualifies for the Permanent 540-Day Auto-Extension?

As part of the recent shift, it's crucial for employers to understand who qualifies for this extension and how to manage compliance going forward. The 540-day auto-extension applies to EAD renewal applicants who meet the following criteria:

**1. Timely filed EAD applications:** The applicant must submit their EAD (Form I-765) renewal application before their current EAD expires or during a designated Temporary Protected Status (TPS) re-registration period.

**2. Same work authorization category:** The applicant must be renewing their EAD in the same work authorization category or based on TPS.

**3. Qualifying work authorization category:** Only applicants in specific EAD categories qualify for the 540-day auto-extension. These categories include, but are not limited to, the following:

- Adjustment of Status applicants (C09)
- E-1, E-2, and E-3 spouses with unexpired I-94s (A17)
- L-2 spouses (A18)

- H-4 spouses (C26)
- Temporary Protected Status (TPS) holders (A12 or C19)
- Refugees and asylees (A3 and A5)
- Non-citizens with Pending Asylum Applications (C08)
- VAWA self-petitioners and their qualified children (A31)

Once the conditions above are met, an expired EAD is considered “unexpired” when accompanied by a Form I-797C receipt notice for the timely filed renewal application. This allows employees to continue working while their renewal is being processed by USCIS, with no need for a new EAD card during the extension period. The 540-day extension begins the day after the expiration of the current EAD and automatically terminates if the renewal application is denied before the end of the extension period.

### What This Means for Employers

The rule’s permanence is a welcome development for employers with employees that depend on the EAD automatic renewal process. It offers greater stability for both employers and employees and ensures that workers will not face unnecessary gaps in employment authorization as they wait for their renewal applications to be processed by USCIS. Given the upcoming changes, employers and human resources should be aware of the permanent 540-day auto-extension rule and start preparing by reviewing their workforce’s EAD expiration dates and ensuring that staff members are equipped to immediately identify employees who may benefit from the EAD auto-extension. This preparation will help ensure smooth compliance and avoid any disruptions in work authorization.

While the new regulation is still set to take effect in January 2025, it is essential to monitor updates and understand its implications. Keep in mind the

possibility of regulatory changes as political administrations evolve. As with many regulations introduced near the end of an administration, there is always the chance that a future government may revise or roll back the policy — though it remains uncertain whether this will occur under the incoming administration.

## Key Takeaways

As the new rule takes effect, here are the important points to remember:

- The 540-day auto-extension is permanent starting January 13, 2025, and applies to EAD renewal applications filed or pending since May 4, 2022.
- Only certain EAD categories qualify for the auto-extension, and the regulation does not expand these categories.
- Employers should update their internal processes to ensure they are compliant with the new rule and can identify eligible employees.

Stay tuned for further updates on this topic and others. We also encourage you to reach out to your Akerman immigration contact for any questions or guidance on navigating immigration changes. Akerman will continue to provide updates as the regulation progresses.