

Asylum Seekers Face Loss of Work, Pay as Paperwork Delays Mount

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After winning a court fight with then-President Donald Trump's administration over work authorization, asylum seekers are raising alarms over long delays in renewing work permits that threaten to force hundreds out of jobs in the U.S.

And the jobs filled by those seeking asylum run the gamut from truck drivers critical to already-struggling supply chains to healthcare positions in high demand in the midst of the pandemic. The delays parallel those experienced by spouses of high-skilled visa holders who have faced loss of employment because of similar wait times for work documents.

Asylum seekers are entitled to an automatic 180-day extension of their work authorization documents if U.S. Citizenship and Immigration Services doesn't adjudicate renewal applications before existing work eligibility expires.

But with wait times now routinely exceeding half a year for asylum seekers, anxiety over the delays "has reached a fever pitch," said Conchita Cruz, co-executive director of the Asylum Seeker Advocacy Project.

Her group and other immigration advocates sued USCIS over the wait times this month, arguing delays adjudicating those routine applications have become unreasonable. Filed at the U.S. District Court for the Northern District of California in San Francisco, the lawsuit follows

separate litigation by immigration advocates to halt regulations issued by the Trump administration that would have restricted new asylum seekers' ability to get initial work approval in the U.S.

People may seek asylum in the U.S. if they have experienced or fear persecution because of race, religion, nationality, political opinion, or membership in certain social groups. While their application is pending, they can obtain work authorization through USCIS that is valid for two years. The agency's regulations allow an automatic extension of up to 180 days for asylum seekers whose work authorization has expired with a pending application.

But over the past year—and notwithstanding a change in administrations—wait times have lasted as long as 10 months, according to the proposed class action. Those suing seek a court order compelling the USCIS to adjudicate class members' work authorization applications within the 180-day automatic extension period.

At least 454 members of the Asylum Seeker Advocacy Project are affected by the delays, although the group says the potential class is likely much larger, according to court papers.

'Harms That Are Unique'

Backlogs at U.S. Citizenship and Immigration Services slowed turnaround times for benefits across the board, those suing allege, even as continuous employment is especially important for asylum seekers, said Emma Winger, a staff attorney at the American Immigration Council and a lawyer for plaintiffs in the lawsuit.

“These are folks who often have suffered trauma, who come to the United States without existing support systems, financial or otherwise,” Winger said. “Taking their work authorization away from them causes harms that are unique to this population.”

The total number of work authorization applications received from asylum seekers annually has grown substantially over recent years. In fiscal 2014, USCIS received about 110,000 initial

applications and renewals from those applicants. By fiscal 2019, the total number received surpassed 556,000, according to data published by the agency.

Applicant wait times typically ranged from 2.6 to just under 4 months between fiscal 2017 and 2021. But by December 2020, wait times to renew work authorization began to exceed six months. Policy changes in recent years have increased scrutiny for various immigration benefits at USCIS, adding to delays across the board, attorneys for asylum seekers argue. A Government Accountability Office report this year found the agency has not put in place plans or identified resources to address the surfeit of pending cases.

“Unfortunately, we’re going to see more of this,” said Lora Ries, director of the Center for Technology Policy and senior research fellow for homeland security at The Heritage Foundation, a conservative think tank. USCIS has finite resources and staff to deal with a growing number of applications, she said.

Ries, a former immigration attorney at the Department of Justice and chief of staff at USCIS, asserted that providing employment authorization documents by default makes immigration benefits more attractive and contributed to backlogs.

“They should not be given EADs just for filing an asylum application. That’s the very reason it’s being abused,” Ries said.

Public Commitments

Once work authorization applications receive final adjudication, well over 90% are approved, said David Bier, a research fellow at the Cato Institute. The problem is that USCIS is not sticking to public commitments to process those applications within a 180-day time limit, he said.

Winger of the American Immigration Council noted that asylum seekers facing loss of employment now were approved under the Trump administration two years ago.

“All our class members want to do is continue the work they were previously authorized to do,” she said.

U.S. House Democrats from Florida pressed USCIS Director Ur Jaddou in a letter this month to double the length of automatic extensions for asylum seekers' work authorization to 360 days. The lawmakers said the agency should also boost capacity for processing employment forms.

“Delays under the current system harm law-abiding families and are bad for American businesses,” Rep. Val Demings (D-Fla.), who led the 8-member letter to the agency, said in a statement.

Jaddou has said in public appearances she plans to prioritize a reduction in backlogs. A spokeswoman said USCIS does not comment on pending litigation, but added that the agency has taken several steps to limit processing delays for applicants in recent months, such as expanding work authorization extensions for some nonimmigrant applicants.

Meanwhile, plaintiff Dayana Vera de Aponte, a Venezuelan asylum seeker living in Miami who was forced to leave her position as a behavioral health therapist for children with special needs when her work approval expired this month after an eight-month wait. That delay doesn't just have immediate economic consequences for Vera de Aponte, who is the primary breadwinner in her household. It also threatens her ability to maintain her professional license long-term, she said in an interview.

“I don't have control over this situation,” Vera de Aponte said. “My documents were sent in on time. Everything was done on time.”