

## PROPOSED RULE WOULD EXTEND WORK AUTHORIZATION TO CERTAIN H-4 DEPENDENT SPOUSES

The Department of Homeland Security ("DHS") recently proposed a rule that would allow certain spouses of H-1B workers to apply for employment authorization in the United States. Click [here](#) to view the full text of the rule.

Currently, spouses of H-1B workers cannot engage in employment if they have an H-4 dependent status. An employer's goal of attracting highly-skilled workers from abroad and retaining them as employees is often complicated by the fact that someone who is dependent on these highly-skilled workers might resist coming to the U.S. where he or she cannot work as well. Particularly, this impacts foreign nationals from certain countries where there is a several-year backlog to become a permanent resident.

Under the proposed rule, certain H-4 spouses could request employment authorization when their H-1B principal reaches a certain point in the permanent residency process. The H-4 spouses who would benefit from this rule include two groups:

1. Spouses of H-1B workers who are the beneficiaries of approved Form I-140 petitions; and
2. Spouses of H-1B workers who have been granted an H-1B extension beyond the six-year limit under the American Competitiveness in the 21st Century Act of 2000.

According to DHS, the number of H-4 dependent spouses initially eligible under the proposed rule may be up to 100,600 individuals, with as many as 35,900 more people eligible every year.

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