



via email

March 20, 2020

Mark Koumans
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, N.W.
Washington, D.C. 20529

RE: CLINIC RECOMMENDATIONS FOR USCIS RESPONSE TO THE COVID-19 CRISIS

Dear Mr. Koumans:

On behalf of the Catholic Legal Immigration Network, Inc. (CLINIC), and in light of the COVID-19 global pandemic, we respectfully write to urge U.S. Citizenship and Immigration Services (USCIS) to consider taking measures that acknowledge and address the global health crisis' impact on people's immigration status, access to legal services, and ability to timely and completely make filings. We are grateful for the steps USCIS has already taken, including shutting down field offices for in-person services and suspending in-person naturalization ceremonies. We hope that our below recommendations and any additional actions needed in light of this national emergency will be taken immediately.

Embracing the Gospel value of welcoming the stranger, CLINIC promotes the dignity and protects the rights of immigrants in partnership with a dedicated network of immigration legal services programs. This network includes nearly 380 programs operating in 49 states and the District of Columbia. CLINIC's network employs roughly 1,400 attorneys and accredited representatives who, in turn, serve hundreds of thousands of low-income immigrants each year. CLINIC also provides direct legal services to religious workers who serve the Catholic Church and communities in the United States.

The below recommendations are aimed at enhancing communications and the flow of information, reducing in-person contact and physical mail and paper, and ensuring that applicants are not harmed as a result of this public health crisis. We note that at the time of this letter, multiple states with large immigrant populations in the United States are under order of lockdown, restricting movement and making pursuing immigration cases extremely difficult if not impossible.

I. RECOMMENDATIONS TO ENHANCE AND IMPROVE COMMUNICATIONS AND THE FLOW OF INFORMATION:

- A. Reestablish email channels that allow legal representatives to communicate with service centers:** USCIS discontinued the use of service center e-mail boxes for case-specific questions on Jan. 21, 2019. These email addresses provided legal representatives an efficient and direct path to communicate with USCIS regarding case escalations. Given the national emergency, the email addresses should be re-established and properly resourced to allow representatives to respond and

resolve issues quickly. During this time of increased remote work and mandatory lockdowns, email will be the most efficient way to keep cases moving and triage issues.

- B. Conduct remote stakeholder engagement and communications:** As we enter these uncharted waters, we hope that USCIS will regularly hold remote stakeholder engagements in order to continually gather information and troubleshoot the new issues that will arise. We recommend at least weekly teleconferences with impacted stakeholders as well as dedicated ways that people can reach USCIS by phone or email to specifically raise systemic issues related to COVID-19. We also urge USCIS to advertise these services on USCIS webpages, through email listservs, and social media.
- C. Consider alternative methods of communication with customers and legal representatives that avoid physical mail and exchange of paper:** If USCIS has a reliable email address on file for a legal representative, as much correspondence as possible should be transmitted electronically. These measures will reduce people needing to leave quarantine to conduct business and the exchange of potentially contaminated paper.

II. RECOMMENDATIONS REGARDING IN-PERSON SERVICES:

- A. Continue to suspend in-person services as long as is necessary:** We appreciate USCIS' action to close in-person services at field offices, asylum offices, and application support centers. As USCIS periodically reevaluates closings, we encourage USCIS to continue this practice for the duration of the crisis. Further, we urge USCIS to proactively take steps that will reduce the need for individuals to appear in-person before USCIS like waiving interviews on all routine cases, waiving biometrics requirements,¹ and automatically extending residency cards and work authorization.
- B. Issue general guidance on the types of emergency situations that would qualify for in-person services and accompanying procedures:** We note that USCIS has indicated that it will provide emergency in-person services in limited situations. It is critical that USCIS immediately provide information on what would qualify as an emergency and the related procedures for such circumstances. This will allow legal representatives and applicants to self-screen and prepare prior to communicating with USCIS. We encourage USCIS to engage with stakeholders in determining what is considered as an emergency, balanced with public health.
- C. Continue to suspend in-person naturalization ceremonies while ensuring emergent applications can be expedited:** We urge USCIS to suspend in-person, group naturalization ceremonies for the duration of the crisis. As it is foreseeable that there will be applicants who need to be sworn-in by a particular date, USCIS should establish no or low-contact procedures (i.e., oath by video conferencing) to allow people to complete their naturalization process in exigent circumstances.

III. RECOMMENDATIONS REGARDING ADJUDICATIONS:

- A. Automatically extend all Employment Authorization Documents:** We call on USCIS to automatically extend all Employment Authorization Documents (EADs) that will expire within the next 180 days via Federal Register Notice for at least 90 days, unless otherwise specified by court order. This should include current Liberian DED holders who are eligible to apply for adjustment under Liberian Refugee Immigration Fairness. A link to the Federal Register Notice

¹ 8 C.F.R. § 103.2(b)(9).

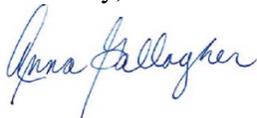
should be prominently displayed on USCIS' website, including the COVID-19 webpage, and distributed through email listservs and social media. USCIS Community Relations Officers should contact all DMVs to alert them of auto-extensions.

- B. Ensure employment-based petitions for extension of status, such as R-1 visa petitions, are adjudicated within 240 days:** In light of foreseeable disruptions in adjudicatory resources, USCIS should periodically evaluate petitions for extension of work authorization that are subject to the 240-day rule to ensure that the cases are identified and prioritized for adjudication before the automatic extension under 8 C.F.R. § 274a.12(b)(16) & (20) runs out.
- C. Automatically extend all I-551 lawful permanent resident cards including those for conditional permanent residence:** We urge USCIS to automatically extend all resident cards that will expire within the next 180 days via Federal Register Notice for at least 90 days. This should include cards for conditional permanent residence. This measure may have the added benefit of reducing the need for individuals seeking appointments at field offices.
- D. Extend all filing deadlines, including deadlines for appeals, motions to reopen, and for responding to Requests for Evidence and Notices of Intent to Deny:** The crisis has and will continue to make it difficult if not impossible for applicants to complete filings and meet deadlines and for legal service providers to safely counsel their clients. For the duration of this pandemic, we urge USCIS to extend filing deadlines, including:
- i. Extend deadlines for Requests for Evidence and Notices of Intent to Deny -** USCIS should extend the deadline for response to Requests for Evidence (RFEs) or Notices of Intent to Deny (NOIDs) by a minimum of 90 days. This should apply to all RFEs and NOIDs that are currently pending response and any issued during the crisis. During this time, USCIS should not issue denials based on abandonment of an application or petition.
 - ii. Automatically extend I-751 deadlines -** USCIS should automatically extend the deadlines for all Petitions to Remove Conditions on Residence by a minimum of 90 days.
 - iii. Extend the one-year deadline for asylum applications and take other measures to safeguard this vulnerable population -** Meeting the one-year filing deadline for affirmative asylum cases may be impossible due to restrictions of movement, challenges accessing resources, and required health care assessments as part of cases. Accordingly, we recommend USCIS allow for exemptions of the rule while this crisis endures. Furthermore, USCIS should automatically consider there to be good cause for an asylum applicant missing their interview between the time of the president's national emergency declaration and USCIS closing offices.
 - iv. Protect derivative children of family-based I-130 petitions from "aging-out" -** USCIS should provide a minimum 90-day extension of the one-year filing requirement in INA § 203(h)(1)(A) so that children will not be adversely impacted by this national crisis. This would provide children in the F-2A category, or derivatives in all of the preference categories, with one year and at least 90 days to seek permanent resident status after the priority date becomes current for their preference category.

- E. Apply the same flexibility given for signature requirements announced March 20 to certain initial documentary evidence requirements:** USCIS announced on March 20, 2020, that it will accept all benefit forms and documents with reproduced original signatures throughout the duration of the national emergency. We urge USCIS to extend this type of flexibility to certain initial evidentiary requirements where the evidence is not available at the time of the filing due to the emergency and allow the issue to be addressed at a later point in the adjudication process.
- F. Adopt guidance protecting individuals from accrual of unlawful presence:** USCIS should exercise its authority under 8 C.F.R. § 214.1(c)(4) and 8 C.F.R. § 248(b)(1) to excuse late filing of extensions or change of status requests. USCIS should provide a minimum 90-day extension of the commencement of unlawful presence for those who entered on a nonimmigrant visa and who are forced to remain beyond the date on their I-94. Further, USCIS should issue deferred action to individuals whose status has expired, but cannot be extended or changed due to statutory limits like the five-year limitation on R visas.
- G. Extend Yemen and Somalia TPS re-registration periods for at least 120 days:** In light of this crisis, it may become impossible for Yemeni and Somali TPS holders to re-register during the current 60-day re-registration periods for the countries. We urge USCIS to extend the current re-registration periods by at least 120 days, giving TPS holders at least a total of 180 days to re-register. The extension of the re-registration period should be published in the Federal Register and prominently advertised on USCIS webpages, social media, and through USCIS email listservs. Further re-registration extensions should be granted as necessary.
- H. Broadly release explicit guidance that the public charge rule does not apply during the COVID-19 crisis:** On March, 17, 2020, CLINIC along with the U.S. Conference of Catholic Bishops' Committee on Migration, Catholic Health Association of the United States, and Catholic Charities USA submitted a letter² to Acting Secretary Wolf, in part, requesting the Department of Homeland Security (DHS) broadly issue clarifying guidance on the application of the public charge rule. Additionally, we recommend DHS waive other parts of the new public charge rule in addition to the stated overlooking of receipt of Medicaid for testing, treatment and vaccination for COVID-19. This would include but not be limited to income that is below the 125% of Federal Poverty Guidelines, current unemployment, low credit score or poor credit report, credit card debt or other liabilities, and other factors that could result from disruption of employment.

We thank you for your consideration and hope to maintain open lines of communication as we serve our immigration legal services network during this crisis. We are at your disposal to discuss these recommendations or any other measures that USCIS is considering. Please reach out to CLINIC's advocacy director, Jill Marie Bussey, at jbussey@cliniclegal.org or by phone at 240-353-5208 for any additional information or to schedule a tele-engagement.

Sincerely,



Anna M. Gallagher
Executive Director

² Letter to DHS regarding Removing Barriers to Care During the Novel Coronavirus (COVID-19) Global Pandemic, (March 19, 2020), <https://cliniclegal.org/resources/removing-barriers-care-during-novel-coronavirus-covid-19-global-pandemic>.

cc: Tracy Renaud, Associate Director, Service Center Operations Directorate
Daniel Renaud, Associate Director, Field Operations Directorate
Jennifer B. Higgins, Associate Director, Refugee, Asylum and International Operations
Kathryn S. Rexrode, Associate Director, External Affairs Directorate
Michael Dougherty, Ombudsman, Office of the Citizenship and Immigration Services
Ombudsman