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H-4 EAD filing based upon I-140

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Submitted by Chief Editor on Jun 2nd 2015

My husband got his I-140 approved from his previous employer. Then he changed his employer and has filed his LC which has NOT been approved yet. His previous employer has WITHDRAWN the I-140. He is in his 11th year of H-1. Couple of questions.

1) Can I file for H-4 EAD?

2) My husband currently has no I-140 approved. While checking my application, will they look into his application and cause any issues to his present H-1 extension?

ANSWER:

See clip from Attorney Rajiv S. Khanna's conference call video that addresses this question.

<https://youtu.be/8N82R3qAiJo?t=569> ^[2]

FAQ Transcript:

Did he get his H-1 approval for one year or three years? If he got it for one year then you might be still able to get H-4 EAD filed. But if he got a three year approval or more than one year approval based upon the I-140 rather than the perm application you may not qualify and in fact the government has said if you are basing your H-4 EAD filing upon the I-140 then the I-140 is withdrawn you are no longer eligible to file the application and somebody asked a question what if my EAD is approved then the I-140 is withdrawn the government has said even then we reserve the right to revoke your H-4. So you cannot file unless you qualify under one of the two grounds. I-140 or one year extension based upon labor certification.

Nonimmigrant Visas:

[H-4 EAD](#) ^[3]

[H-1 Visa](#) ^[4]

Green Card:

[Form I-140](#) ^[5]

Unless the context shows otherwise, all answers here were provided by [Rajiv](#) ^[6] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) ^[7]

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Links:

[1] <https://immigration.com/faq/form-i-140/h-4-ead-filing-based-upon-i-140>

[2] <https://youtu.be/8N82R3qAiJo?t=569>

[3] <https://immigration.com/visa/nonimmigrant-visas/h-4-ead>

[4] <https://immigration.com/visa/nonimmigrant-visas/h-visa/h-1-visa>

[5] <https://immigration.com/greencard/green-card/form-i-140>

[6] <http://www.immigration.com/law-offices-rajiv-s-khanna-pc>

[7] <http://www.immigration.com>

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