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Priority date retrogression -- consequences and concerns

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[1]

Submitted by Chief Editor on Apr 9th 2012

The current prediction that the priority dates for employment based green card applications are likely to retrogress again has brought a lot of speculation and questions from our clients and our community. Let me clarify some of the questions and concerns. Q 1. What happens if my priority date (?PD?) retrogresses while my I-485 is still pending? Q 2. Can we expedite the adjudication of our pending I-485 (or any application, for that matter)?

ANSWER:

A 1. There are two possibilities. First, the case is not yet ripe for adjudication (for instance, it has not been assigned to an officer or the security clearances are not yet submitted or obtained), USCIS can shelf the case and not process it any longer until the PD becomes current again. Second, USCIS can ?preadjudicate? that case. That means the case is adjudicated and then shelved for PD to become current again. I do not believe there exists a mechanism currently to determine what USCIS will do with an individual case.

A 2. Not usually. Here is what USCIS says about expediting:

Expedite Criteria

All expedite requests are reviewed on a case-by-case basis, and are granted at the discretion of the Director. The burden is on the applicant or petitioner to demonstrate that one or more of the expedite criteria have been met. The criteria are as follows:

? Severe financial loss to company or individual

? Extreme emergent situation

? Humanitarian situation

? Nonprofit status of requesting organization in furtherance of the cultural and social interests of the United States

? Department of Defense or National Interest Situation (Note: Request must come from official United States Government entity and state that delay will be detrimental to our Government)

? USCIS error

? Compelling interest of USCIS

Note: Discretionary expedite requests for petitions and applications that have Premium Processing Service available will not be considered for expedite processing. The only

exception is when the petitioner is a not-for-profit organization designated by the Internal Revenue Service. For information regarding premium processing, please refer to the premium processing webpage.

If you have already filed your application or petition:

You can make an expedite request by contacting the National Customer Service Center (NCSC) at 1-800-375-5283. The NCSC will take a ?service request? and forward your expedite request to the office with jurisdiction over the application or petition. You also have the options of 1). visiting your local office by scheduling an InfoPass appointment or 2). writing a letter to the local office or service center.

Unless the context shows otherwise, all answers here were provided by [Rajiv](#) [2] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) [3]

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