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Categories:

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EAD Approval Notices Can Be Used to Complete I-9 for Limited Time

On August 21, 2020, a settlement was entered that provides temporary relief for individuals who have been waiting for Employment Authorization Documents (EAD) that have been delayed due to COVID-19. As part of that settlement, U.S. Citizenship and Immigration Services (USCIS) announced that an Approval Notice (Form I-797, Notice of Action) dated from December 1, 2019 through and including August 20, 2020, for an Application for Employment Authorization (Form I-765, EAD) can serve as a List C document when completing Form I-9. In addition, such an Approval Notice can be used to complete Section 3 of an I-9 regarding reverification where the employee is already employed. These Approval Notices may be used as List C documents until December 1, 2020.

Employers should note that the I-797 Notice of Action is not an identity document so it cannot be used as a List A document. An employee would be required to present another document that establishes their identity from List B.

On or before December 1, 2020, employers must reverify the employment eligibility on Form I-9 of any employee who presented an Approval Notice as a List C document. Employees will need to present new evidence of employment authorization either from List A or List C of the Lists of Acceptable Documents.

Because this is a temporary allowance, employers may wish to add an annotation in the Section 2 "Additional Information" field which states "Approval Notice accepted during EAD Production Delays Due to COVID-19".

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