

Deferred Action for U Visa Eligible Clients

Under the current statutes and regulations governing the U Visa, USCIS is only able to distribute 10,000 grants of U Visa status each fiscal year.¹ The fiscal year for USCIS begins on October 1st. Each year USCIS receives well over 10,000 U Visa applications. As a result, they are consistently reaching the cap early on after the fiscal year begins and U Visa applicants are waiting longer and longer for their approvals. During that waiting period U Visa applicants were not able to work lawfully and were suffering great hardships. To remedy this situation USCIS announced that going forward it would continue to review and process applications after the cap is reached. When the review is complete, if they determine that an applicant is eligible for a U Visa (and despite the cap restrictions would be granted an approval) USCIS will place the applicant on a waiting list for U Visa status and will grant them deferred action in the meantime. With the grant of deferred action the applicant can remain lawfully in the U.S. while their case is pending and can apply for a work card.

If your client receives this type of deferred action you will receive a letter from USCIS letting you know that he or she has been granted deferred action (category (c)(14)) and can then file an I-765 application with the Vermont Service Center if you did not submit one with the original U Visa application.² When you receive this letter we ask that you contact your client immediately to notify him or her of this news and to schedule an appointment to complete the I-765 paperwork. There is a sample filing and client correspondence in your manual. At this time we are seeing clients receive their work cards within approximately 6 months of filing the I-765 application, although processing times may vary in the future.

The deferred action status and the work card are traditionally issued for a two year term. The work card (and the deferred action if your client's waitlist letter stipulated an end date for the deferred action) must be renewed before it expires. We advise that you ask your client to contact you 6 months before his or her work card expires so that you can send in a renewal application if he or she does not have U Visa status yet. We ask that you track these dates and deadlines as well. To renew the deferred action and EAD you can file a new I-765, with supporting materials, and in your cover letter request an extension of the deferred action if needed. Please remember that while the client is in deferred action he or she must remain eligible for the U Visa (i.e. not trigger new criminal grounds that would change immigration's decision on the case, not get married if filing as a child derivative, etc.). Applicants must update USCIS if any changes occur while they are in deferred action status. If an address changes they must file an AR-11 with USCIS generally and Vermont. If there are changes in name, marital status, criminal records, new grounds of inadmissibility, or any other relevant changes then VSC must be notified. While a client is in Deferred Action Status we ask that you continue to check-in with them approximately every 3-4 months.

¹ This number only applies to primary applicants and does not count U Visa derivatives. There is no limit on the number of derivative applicants that can be approved for U Visa status in any given year.

² All clients will receive a letter from USCIS once their case has been deemed eligible for U Visa status approval and they have been placed on a waiting list. However, please note that only primary applicants and derivatives in the United States will receive deferred action status and be allowed to apply for a work card. These benefits do not apply to derivatives abroad while they are on the waiting list.