ADJUSTMENT OF STATUS (AOS), USCIS FORM I-485, CONCURRENT I-140 FILING | FAQ

A. About concurrent I-140 and I-485 (AOS) filing

A1. What is "Concurrent Filing"?

Concurrent filing means the filing of your application for adjustment of status (I-485) either at the same time that your employer (or you, in the case of Extraordinary Ability or National Interest Waiver petitions) files an immigrant visa petition (I-140) or filing the I-485 while the I-140 is still pending. Concurrent filing became possible as a result of a rule that came into effect on July 31, 2002, and is limited to individuals who fall under the first three employment-based categories: EB1 (Extraordinary Ability Aliens, Outstanding Researchers, Multinational Managers/Executives); EB2 (Advanced Degree professionals and Aliens of Exceptional Ability); and EB3 (Professionals and Skilled Workers). Prior to this new rule, one had to wait until I-140 approval to file the I-485 application. This Rule sets forth two alternative methods for concurrent filing:

- The I-140 and I-485 can be filed together.
- The I-140 can be filed first, followed by an I-485 filing that includes a copy of the I-140 receipt notice.

A2. Does this rule apply to Consular Processing?

No. This rule only applies to individuals who will process their Permanent Residency applications through USCIS. It does not apply to individuals who choose to process their applications at a Consulate or to those individuals who are not eligible to apply for adjustment of status. If you choose Consular Processing, you must wait for the I-140 to be approved, after which the National Visa Center will forward a package of documents with a case number necessary for filing the initial forms for Consular Processing.

A3. What about my family members? Can they file “concurrently” too?

Yes. Even though the rule does not explicitly mention family members, derivative beneficiaries can file their I-485 applications at the same time as the principal applicant. Therefore, derivative family members are covered under the “concurrent I-140 & I-485” filing rule. Please remember that derivative family members mean your spouse and unmarried children under the age of 21.

There are some exceptions to children who may reach the age of 21 based on the Child Status Protection Act (CSPA) which was signed into law on August 6, 2002. If your child is nearing 21 years of age and you are in the initial stages of the green card process, we recommend scheduling a consultation with your attorney to discuss all implications. CSPA does not preserve “child” status in all situations, particularly where there is significant visa retrogression and the I-485 has not yet been filed for your child. In addition, CSPA will not preserve “child” status if your son or daughter gets married, no matter his/her age. There are several complexities in age-out cases and these can only be addressed on a case-by-case basis.

A4. What does it mean that the I-140 petition and I-485 application can be filed concurrently only if an immigrant visa is immediately available? How can I determine whether and how it applies to me?

United States immigration laws limit the number of immigrant visas (or Permanent Residence applications) that can be issued/approved each year. A foreign national’s place in the “waiting line” is determined by his/her priority date, preference category and country of birth. An immigrant visa is considered available for adjudication when the applicant has a “priority date” that is earlier than the date listed in the Department of State’s (DOS) Visa Bulletin for the applicant’s particular “preference category” and country of birth. One’s priority date is based on the date that the labor certification application is filed with DOL under PERM, or the date that the I-140 immigrant visa petition is filed if a labor certification is not required. Please note that the priority date is not “locked in” until the I-140 immigrant visa petition is actually approved.

With the release of the Department of State’s (DOS) Visa Bulletin for October 2015, DOS created a “bifurcated” priority date chart which allows for some individuals to be eligible to file the AOS in advance of their priority date becoming current for adjudication. This is called

"Early Filing" and allows for the I-485, EAD and Advance Parole applications to be submitted to USCIS, even though their priority date is not yet current for adjudication. That earlier cut-off date for filing is tracked under the Visa Bulletin's "Dates for Filing" chart.

Preference categories are based on the category of immigrant visa petition that is being filed. An extraordinary ability alien, outstanding researcher and multinational managerial petition are all considered priority workers and fall under the EB1 category. Labor certification based cases are either EB2 or EB3 preference categories determined by the educational and experience requirements of the position as listed on the labor certification. For example, if the labor certification requires an advanced degree or a B.S. and 5 years progressive experience, then the eventual preference category will be EB2; however, if the requirement listed on the labor certification is a B.S. and 4 years of experience, the preference category will be an EB3 even if the foreign national him/herself possesses a master's degree.

Please note that the same rules regarding priority dates and preference categories apply to derivative family members who hold the same preference category and priority date as the principal applicant. This means that the priority date must be prior to the "date for filing" at the time of filing and must be current or eligible for "final action" at the time of adjudication of the I-1485 for each family member. For example, if a spouse's I-485 application is not adjudicated at the same time as the employee's application and there is a roll back in visa numbers so that the priority date is no longer current, USCIS will hold the pending application until the priority date is again current before it can be adjudicated.

Finally, there is a similar preference system for family based immigration. In a family based visa process, the priority date is the date when the I-130 immigrant visa petition is filed with the USCIS. Under family immigration, U.S. Citizens and Lawful Permanent Residents may file petitions on behalf of eligible family members. Immediate relatives (spouses and unmarried children under 21 years of age) of U.S. Citizens are exempt from the preference categories and visa numbers are considered "immediately available". Therefore, retrogression has no impact on immediate relatives of U.S. Citizens.

A5. How do I find immigrant visa availability for the three employment-based preference categories?

The Department of State issues the Visa Bulletin in advance of each upcoming month; the current and latest bulletin can be accessed through our website. There remains a "shortage" of immigrant visas for particular preference categories for different countries of birth, most notably China, India and the Philippines resulting in the development of waiting lines or quota backlogs. Quota backlogs can be handled either by specific dates or by a notation of "unavailable" meaning that there are no visas available at all for the time being. When reviewing the Visa Bulletin to determine eligibility, individuals should be aware that more than one availability chart may be effective for the month. In October 2015, DOS added a chart reflecting dates for filing application within a timeframe justifying immediate action. This is called "early filing" and will allow some individuals to file the I-485, EAD and Advance Parole applications before their priority date is current for adjudication. If the priority date is not current under either the "Final Action Dates" or "Dates for Filing" charts, then the I-485 cannot be submitted; if the I-485 is pending with USCIS when the priority dates retrogress or become unavailable, then the I-485 can remain pending but cannot be adjudicated until the priority date is again current.

For more information on visa retrogression, see our Visa Retrogression FAQ, **http://www.jackson-hertogs.com/?page_id=5511**.

Individuals in the U.S. who are (1) in H-1B status, (2) are beneficiaries of approved (and not revoked) I-140 petitions and (3) are otherwise eligible to adjust status (file a Form I-485) but for the lack of visa numbers may be eligible to extend their H-1B status in three year increments under AC21.

A6. My priority date is not current; can the I-140 petition still be filed?

Yes. If your priority date is not available, then your employer can proceed with just the I-140 filing. If your filing is based on a labor certification filed under PERM, then your employer must file the I-140 before the PERM approval expires. The labor certification is valid for 180 days from date of approval.

If your immigration is based on a different classification not requiring a labor certification (i.e. Extraordinary Ability Aliens, Outstanding Researchers, Multinational Managers/Executives, or a National Interest Waiver of the labor certification requirement), then there is no time frame by which the petition must be filed other than with sufficient time to progress far enough along the green card process to either immigrate before you run out of nonimmigrant time or to be able to file for H-1B extensions of stay beyond the normal limitation of stay for that classification.

A7. My priority date is current, but I do not want to file my I-485 right away, because I plan to get married in six months and I want to wait until I am married to file my I-485 so that I can include my spouse. Is this still permissible or do I have to file my I-485 right away?

You do not have to file concurrently. This question highlights one of many reasons why it might NOT be advisable to file concurrently. In order for a spouse to be a derivative beneficiary, the couple must be legally married before the principal applicant's I-485 is approved or before the individual immigrates based on an immigrant visa. If the marriage occurs after the I-485 is approved or the immigrant visa is issued, then the spouse is no longer considered a derivative beneficiary and would need to process his/her case through a family based petition process. Please see other sections of our website for information regarding marriage and immigration. As a practical matter, it is better to file the derivative's application at the same time that the principal's I-485 application is approved.

A8. Will concurrent processing speed up the I-485 process?

The processing times for each service center can be found through a link in our web site. USCIS has not been consistent in how it processes concurrently filed cases. Some I-485 cases appear to be adjudicated when the I-140 is adjudicated and others are not. We believe that ultimately, the sooner you file the I-485, the sooner USCIS will process the case baring delays based on security checks and priority date retrogressions. Note that concurrently filing the I-485 application involves making the assumption that the I-40 petition will be approved, not denied.

B. Filing the I-485 (AOS)

B1. I am eligible to file the AOS under "early filing", but what does that mean for me?

With the release of the Department of State's (DOS) Visa Bulletin for October 2015, some individuals are now eligible to file the AOS in advance of their priority date becoming current for adjudication. This is called "Early Filing" and allows for the I-485, EAD and Advance Parole applications to be submitted to USCIS. The changes to the Visa Bulletin do not mean that additional immigrant visa numbers are available, but the procedural change will allow some individuals to enjoy the benefits from an AOS filing while waiting for their priority date to become current for adjudication. The expected overall benefit of early filing is that immigrant visa retrogression will be reduced, as USCIS will be able to make adjudication decisions on pending applications as immigrant visa numbers become available.

If an individual files under the early filing option, then the following must be kept in mind:

- USCIS ***will not*** adjudicate the AOS until a priority date is available under "Final Action Dates" visa bulletin chart. For some individuals, there may continue to be several years wait between filing and adjudication.
- In some situations, filing a medical exam with the I-485 application may not be recommended. Currently, the validity of the medical exam has been set as one year, such that a medical exam submitted at the time of filing would expire prior to adjudication.
- Applicants under early filing can expect USCIS requests for evidence (RFE) where a significant period of time elapses between early filing and adjudication availability. We anticipate the RFEs will require initial or updated medical exams, updated biographical information, and updated offers of employment.

B2. When will my AOS application be filed?

We require many different documents from you and/or your family to prepare the application. Therefore, your ability to get to us all requested documents will directly impact how quickly we can prepare and file your application. Our firm must review all documents you have provided to us to ensure all requested documents are present and in order. We must then prepare the forms based upon the questionnaires you have completed for us, and send them to you and/or your family for review and signature. Once the signed forms and all required documents are received, we will file the application within one to two business days. However, given the amount of time it often takes applicants to get passport photos, secure birth, marriage, and/or divorce documents, and possibly completed medical examinations (Form I-693) if filing with a priority date current under the "Final Action Dates" chart, the overall AOS process can take days or weeks to complete, depending upon the applicant's ability to rapidly respond to our requests for necessary documents.

B3. How can I confirm that your office has received any documents I have mailed to you?

All mail that you send us should be sent by some form of return receipt mail. Given the volume of mail and other correspondence that we receive, we cannot automatically confirm the receipt of mail in our office. This allows us to concentrate our efforts in processing cases expeditiously. Of course, we are always happy to respond to inquiries made via e-mail or phone.

B4. Can I travel internationally before I file the AOS?

Yes. You can travel as long as you have a valid visa stamp in your passport, your current nonimmigrant status has not expired (regardless of whether an extension was filed or not) and you have your original nonimmigrant visa petition approval notice. However, we cannot file the AOS unless you are physically present in the U.S., therefore please discuss your travel dates with your attorney. Furthermore, we will need to update the AOS application forms to include the latest entry information before the applications can be submitted. If you do make a trip prior to filing your AOS application, please provide us with copies of your latest I-94 card/record (and the I-94 cards/records for any family members immigrating with you) along with a copy of the latest entry stamp(s) in your passport(s) upon return.

B5. Can I travel after I file the AOS?

Yes. If you hold valid H-1B or L-1 status, there are two ways to travel. You can apply to USCIS for Advance Parole or you can travel with a valid H-1B or L-1 approval notice.

If you hold any other nonimmigrant status (e.g., TN/F-1/J-1 or O-1 status), you may not travel in nonimmigrant status and must await approval of the Advance Parole. If you have any international travel plans in the next three months (and you are not in valid H-1B or L-1 status) please contact us immediately so that the planned I-485 application filing date is adjusted to allow for travel.

Advance Parole. To obtain Advance Parole, you must file Form I-131 Application for Advance Parole with USCIS at the same time as or after you file your AOS (USCIS Form I-485) application. Processing times are variable but are typically 90 days. This travel document must be issued and in your possession prior to your departure from the U.S. and it must be presented at the port of entry along with your passport.

H-1B or L-1 Nonimmigrant Visa. You may also travel pursuant to your H-1B or L-1 status if you have the following upon entry to the U.S.: (1) a valid H-1B or L-1 visa stamp in your passport (unless Canadian and visa exempt) and (2) an original H-1B or L-1 approval notice (unless you applied for admission on the basis of a blanket L-1 and have not since filed an extension). In addition, you must also intend to continue to work for the same H or L employer upon your entry to the U.S. If your dependents are traveling, please note that in addition to the three items, they must also have a copy of your H or L visa petition approval notice as well as any USCIS H-4 or L-2 approval notices they received. Furthermore, if they plan to use the H-4/L-2 classifications, you must remain on H-1B/L-1 classification. If you use an Advance Parole, they cannot use the derivative nonimmigrant visa classifications and must use Advance Paroles. Lastly, if an H-4 spouse or an H-4/L-2 child works on an EAD card (see below) based on the pending application for adjustment of status, s/he is no longer maintaining H-4 or L-2 status (with the exception of H-4 spouses who have work authorization due to the H-1B's AC21 extension or I-140 approval). This means that if your spouse intends to continue working upon return to the US, s/he should use an AP to enter the U.S. and not return on an H-4 visa (with the exception of H-4 spouses who have work authorization due to the H-1B's AC21 extension or I-140 approval). L-2 spouses are treated differently, in that all L-2 spouses can work and there is no possible violation of L-2 status due to employment.

B6. What if I am planning on getting married?

If you are planning on getting married and your future spouse is not a Permanent Resident or U.S. citizen, please contact your attorney. If you immigrate before you are married, your new spouse will not be able to immigrate as your derivative beneficiary. This means that you would have to file a separate petition after you immigrate and your spouse may not be able to remain in the U.S. with you until his/her own immigration is completed.

If you marry after your adjustment of status is filed and before it has been approved, while your new spouse would be eligible to immigrate as a derivative beneficiary or a "follow to join" beneficiary through a consulate, this issue needs to be addressed immediately. Furthermore, for your spouse to be in the United States prior to filing his/her adjustment of status, s/he must be in a valid nonimmigrant status that allows for such a submission such as H-4, L-2, etc.

B7. What happens if I am pregnant at the time of my medical exam?

There are certain tests that pregnant applicants cannot complete. Only a USCIS-approved physician can determine which of the vaccinations are medically appropriate for the applicant, given age, medical history and current medical condition. The applicant may check with the physician at the time of the medical exam. It is possible that the USCIS will later issue a Request for Evidence (RFE) in order to obtain an

updated medical examination and this can delay the processing of the application for adjustment of status. For example, if a TB test cannot be made because the applicant is pregnant, the USCIS may issue an RFE requesting TB test results. It is possible to submit the I-485 application without a medical exam, in which case USCIS will issue a RFE.

B8. Can I also apply for an Employment Authorization Document ("EAD") and Advance Parole travel document ("AP")?

Yes. An applicant for adjustment of status can submit applications for employment authorization (I-765) and advance parole travel authorization (I-131) as a pending immigrant. This is also true for derivative family members. However, if you are in H-1B/H-4/L-1/L-2 status, we recommend you continue to maintain your underlying nonimmigrant visa classification while the I-485 application is pending.

B9. I am currently on an H-1B visa, which expires in five months. If I file and obtain an EAD, do I need an H-1B visa extension?

Once an I-485 application for adjustment of status is pending, one's status in the U.S. is that of a pending adjustment applicant. It is not necessary to maintain an underlying nonimmigrant status, as an adjustment applicant could obtain an EAD and an AP to work and travel, but maintaining nonimmigrant status does provide for a "backup" in the unlikely event that a I-485 application is denied. In July 1999, USCIS issued a rule that allowed for individuals to maintain H or L classification in the U.S. while they had applications for adjustment of status pending. Therefore, adjustment applicants who held H or L status could choose to maintain their nonimmigrant status (e.g. by working only for the petitioning employer), and use the H-1B or L-1 visas for travel and employment authorization, with similar rules for their derivative family members (e.g. H-4 not working, H-4 or L-2 not using AP). However, if the I-485 application is denied and the individual did NOT maintain the underlying nonimmigrant classification, then they would go out of status in the U.S. Although employment-based I-485 applications are usually approved, it is advisable to be aware of the risk.

It may be important to maintain one's nonimmigrant status throughout the time that the I-485 application is pending, for in the event that the case is denied; therefore it is our recommendation that if possible, I-485 adjustment applicants maintain their underlying nonimmigrant visa classification.

B10. Can I quit my job?

Maybe. Most employment based AOS applications are based on a job offer by a sponsoring employer (e.g., if your Permanent Residency is based on either an approved labor certification, a petition for an Outstanding Researcher/Professor or on a Multinational Executive/Manager). This means that it is expected that you will continue to work for the sponsoring employer. If you quit or if your employment is terminated, you may jeopardize your and your derivative family member's immigration process unless you are exempt from the job offer requirement (e.g., Extraordinary Ability or National Interest Waiver petition), or qualify under the special provisions of the American Competitiveness in the 21st Century Act (see below).

B11. What about the 180-day portability rule that I have read about?

The American Competitiveness in the 21st Century Act ("AC-21") provides that an applicant for adjustment of status based on a job offer with one company can switch jobs or employers if the adjustment has been filed and is pending for 180 days or more, provided that the I-140 is approved (or "approvable" if still pending), and the new job (either with the same or different employer) is in the "same or similar occupational classification as the job for which the petition was filed". Please see our firm memorandum regarding this provision of **AC21: H-1B Extensions beyond Sixth Year & I-485 Portability under AC-21**.

B12. I have heard that Consular Processing (CP) is faster than I-485. Should I change to CP?

The advantages of I-485 processing outweigh CP in virtually all situations. In this regard, please see our memorandum on AOS vs. CP, **http://www.jackson-hertogs.com/?page_id=5754**.

C. After the I-485 (AOS) is filed

C1. When will the USCIS issue a receipt after the Form I-485 is filed?

The AOS is filed with a centralized Lockbox prior to forwarding to the appropriate USCIS Service Center. Generally, receipts will take several weeks to be issued. Once we receive the receipts, we will forward via email the scanned copies to you. We run weekly reports to ensure that receipts are received so there is no need to follow up with us for receipts.

C2. How long is it taking to process I-485 applications?

It is impossible to predict I-485 processing times with certainty. Different USCIS Service Centers process applications on different tracks. I-485 applications cannot be adjudicated until the underlying I-140 immigrant petition is first approved. Even then, your immigrant visa priority date must be "current" under the "Final Action Dates" chart according to the latest State Department Visa Bulletin. Finally, the I-485 must be "due" for adjudication accordingly to the monthly processing time reports published by each USCIS Service Center.

Note that the posted USCIS processing times are merely estimates based upon averages. Unique circumstances can require longer processing for certain individual cases. If you filed the I-485 under an "early filing" option, USCIS will not process your I-485 until your priority date becomes current under the "Final Action Dates" chart. However, you will be eligible for EAD and Advance Parole benefits during the interim.

You may track the processing times of I-485 applications at the Service Centers via our website at **http://www.jackson-hertogs.com/?page_id=5415**. You can also check the status of your applications under on the USCIS website at https://egov.uscis.gov/cris/processTimesDisplayInit.do. Note that currently, only the Texas Service Center and Nebraska Service Center adjudicate employment-based I-485 applications, though occasionally employment-based I-485 applications are transferred to a local USCIS district office nearest your residence if an interview is deemed necessary.

C3. When will I receive the biometric appointment notice?

Biometrics refers to a process by which you report to a USCIS Application Support Center and your fingerprints and photo are captured. A notification for your biometric appointment will be sent directly to our office by USCIS within 4-8 weeks of filing. An inquiry cannot be made concerning fingerprinting appointments until 180 days have elapsed from the "notice" date which appears on the Form I-485 fee receipt. If you have not received the fingerprint appointment notification within six months of the date of filing your AOS, please contact your attorney.

C4. When will I receive the EAD and/or AP?

If you applied for an Employment Authorization Document (EAD) or Advance Parole, most likely you will receive these original documents in the mail within 90 days of filing. Although in most cases our office receives the Advance Parole and EAD, USCIS may directly send the Advance Parole or EAD to you. If this is the case, it is important that you send us a copy so we can work with you to track the expiration dates of these documents. If the EAD is pending for more than 90 days with USCIS and if there is an urgent need for this document, you can inquire on the pending EAD at the local USCIS office by making an INFOPASS appointment, **http://infopass.uscis.gov/**. USCIS will no longer issue "interim" EADs if the initial EAD application has not been adjudicated by the 90th day.

C5. I'd like to move, can I change my address?

If your address will change before we file the AOS or shortly thereafter, please notify your attorney to discuss timing of filing and address on the forms. If you change addresses after we submit the AOS, you must notify our office. It is also YOUR legal obligation to notify the USCIS on Form AR-11 Alien's Change of Address Card (or Form AR-11SR if subject to special registration), of any change of address within 10 days of the change. You can notify USCIS of your change of address on-line or by mail. We strongly urge you to use the on-line system. You can access the USCIS free on-line change of address page at **https://egov.uscis.gov/crisgwi/go?action=coa**. You will need to select the option that enables USCIS to update your address on pending applications and must have the receipt numbers for your (and any family member's) pending AOS available. After submitting the change of address, please save or print confirmation of your on-line address update, and e-mail the confirmation to the attorney responsible for your case.

Many times clients report that mail from USCIS continues to be sent to the old address. Please understand that it is possible that USCIS will not update its database system in a timely manner.

C6. If I return to the U.S. using my advance parole, to what date will I be admitted?

Adjustment applicants paroled into the U.S. are issued Forms I-94 valid for a date that usually corresponds to one year from the date of entry or to the end date of the parole authorization. These dates do not reflect the end of your status in the U.S. As an individual with a pending adjustment of status application who is paroled into the U.S., you have status as an adjustment applicant until a decision is reached on your application to adjust status. Therefore, the fact that the Form I-94 may be expired or expiring has no bearing on your continued status and right to remain in the U.S. Please keep in mind that you must have a valid Advance Parole document in your possession each time you depart the U.S. that will be valid at the time of your return.

The parolee I-94 is very different than I-94s issued pursuant to admission as a nonimmigrant (e.g., H-1B/H-4 and L-1/L-2). Nonimmigrant Forms I-94 should match up with petition or visa validity dates unless your passport will expire prior to the end date to which you would normally be admitted. If you enter the U.S. pursuant to a nonimmigrant visa, and the I-94 does not match up with the I-797 petition approval date (or if on a blanket L-1, the visa in your passport), please contact our office immediately.

C7. For how long are fingerprints valid?

Fingerprint results are valid for 15 months. If an I-485 application is pending beyond this period, USCIS will likely issue a new notice for the applicant to appear at an Application Support Center (ASC) office to be fingerprinted prior to adjudicating the application.

C8. If my fingerprints expire, can you contact the Service Center and ask them to reschedule me for new fingerprints?

The USCIS has advised us that this will be in the hands of the officer assigned to adjudicate your application and that we cannot request a new fingerprinting appointment. If the adjudication officer determines that the fingerprints have expired, s/he will order that a date be set to schedule a new fingerprint appointment. On a system-wide level, the USCIS claims to work on identifying applicants with expired fingerprints, in order to schedule new fingerprint appointments. However, there is no guarantee that this will happen. Please note that there is currently no mechanism for attorneys or their clients to alert the USCIS Service Centers to request new fingerprint appointments.

C9. Due to the delay in processing of I-485s, I have passed up two promotions and the delay is hurting my career development. What can I do?

See the FAQ on our website, **http://www.jackson-hertogs.com/?page_id=5112**, regarding the American Competitiveness in the Twenty-First Century Act (AC21) which allows for “portability” of the green card application to new positions so long as they are in the “same or similar occupation”, once your I-485 application has been pending for 180 days, and assuming your I-140 immigrant petition has been approved (or “approvable” if still pending).

C10. I have made phone inquiries with the USCIS and I have done an internet inquiry but the answer is always the same: “your I-485 is pending”. When will you make a written inquiry?

Unfortunately, there is no longer any process by which a written inquiry can be made on pending I-485 applications. In limited circumstances, it may be prudent to book an appointment to speak with a USCIS officer at the local USCIS office via an online INFOPASS appointment, **http://infopass.uscis.gov/**.

Please keep in mind that if you filed the I-485 under an “early filing” option, then USCIS will not put your I-485 into the processing queue until your priority date becomes current under the “Final Action Dates” chart.

C11. My child is turning 21 years of age and has a pending AOS. Will his/her AOS be denied on his/her 21st birthday?

Not necessarily. Under immigration law, the cut-off date for dependent benefits occurs at 21 years of age, this is also known as the “age-out” date. However, the Child Status Protection Act (CSPA) was enacted in 2002 and permits an applicant for certain immigration benefits to retain classification as a “child” even if he or she has reached the age of 21. If your child was under 21 years of age at the time the AOS was filed, in most situations, he/she will still be considered a “child” for immigration purposes and will be eligible for immigrating as your dependent. However, to benefit under CSPA, your child must remain unmarried. Also note that CSPA does not preserve nonimmigrant benefits. CSPA issues can be complex and we would recommend scheduling a consultation with your attorney to discuss all implications.

C12. Is there a limit on how many EAD and Advance Parole renewals I can apply for?

While your I-485 is pending either through a regular or early filing, there is no limit.

C13. When will my case be approved?

Processing times fluctuate with USCIS, and depends upon whether your priority date is current. The USCIS published processing times can be accessed via our website at **http://www.jackson-hertogs.com/?page_id=5415**. However, some cases may take longer and some may be processed more quickly. We monitor the cases and make inquiries based on the current processing times throughout the life of each case.

Please keep in mind that if you filed an I-485 application under an "early filing" option, USCIS will not put your I-485 into the processing queue until your priority date becomes current.

C14. Will I be interviewed by USCIS?

Most employment-based adjustment of status applicants are not interviewed by USCIS. However, USCIS has the discretion to interview any applicant. Some of the reasons USCIS may decide to schedule an interview include: if the applicant has a criminal record, if there is a change of employer, if there is a problem with the fingerprints, or if the case is selected as part of a random audit. If an interview is scheduled in your case, please contact our office to schedule a consultation.