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WILL USCIS WASTE PRECIOUS EMPLOYMENT BASED GREEN CARDS AS IT ANNOUNCES PUSH TO USE AS MANY AS POSSIBLE BY SEPTEMBER 30?

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U.S. Citizenship and Immigration Services (USCIS) announced that the overall employment-based annual limit for immigrant visas in fiscal year (FY) 2022 is approximately twice as high as usual, primarily due to consular closures abroad during the COVID-19 pandemic. USCIS said it is "dedicated to ensuring we use as many available employment-based visas as possible in FY 2022," which ends on September 30, 2022. It is hoped that USCIS does not waste visa numbers as it did at the end of FY 2021.

USCIS explained that the annual limit for employment-based immigrant visa use in FY 2021 was 262,288, nearly double the typical annual total. Overall, USCIS and the Department of State (DOS) combined to use 195,507 employment-based immigrant visas in FY 2021. DOS issued 19,779 employment-based immigrant visas, and USCIS used 175,728 employment-based immigrant visas through adjustment of status, more than 52% higher than the average before the pandemic. Despite agency efforts, 66,781 visas went unused at the end of FY 2021, USCIS said. DOS has determined that the FY 2022 employment-based annual limit is 281,507 (slightly more than double the typical annual total) due to unused family-based immigrant visa numbers from FY 2021 being allocated to the current fiscal year's available employment-based green cards. Through July 31, 2022, the two agencies have combined to use 210,593 employment-based immigrant visas (FY 2022 data is preliminary and subject to change). USCIS approved more than 10,000 employment-based adjustment of status applications in the week ending August 14, 2022, and DOS continues its high rate of visa issuance as well, USCIS noted.

Among other things, USCIS noted (emphasis in original):

If your underlying petition is approved and a visa is available to you, but you know that your previously filed Form I-485 does not have a valid Form I-693, Report of Medical Examination and Vaccination Record, **we recommend you visit a civil surgeon and have a valid Form I-693 on hand** when we send the request to you. This is particularly important if you recently received a notice that your application was transferred from a USCIS service center to a USCIS field office and you know your application does not have a valid Form I-693. If you are a noncitizen with pending adjustment of status applications, do **not** send an unsolicited Form I-693 to us.... The "60-day rule," which has been temporarily waived, does not apply to Forms I-693 signed by the civil surgeon after you have filed Form I-485.

Last year 66,781 employment-based visas went unused at the end of FY 2021. If the visas go unused they get completely wasted and cannot get carried over into next year's pool of visa numbers. While unused family visa numbers get carried over into the employment based preferences, unused employment visa numbers do not go back into the family visa pool. When backlogged beneficiaries in the employment second and third preferences have been waiting for over a decade, it is tragic to waste even a single visa! It is uncertain regarding how many unused family visas get carried over into the employment based preferences in FY 2023. If the carry over from family to employment is not as large as FY 2022, then those who could not use a visa number in FFY 2022 may not be able to immediately obtain a visa number in FY 2023 despite waiting for so long. USCIS should not waste a single visa number on September 30!

Details:

"Fiscal Year 2022 Employment-Based Adjustment of Status FAQs," USCIS, updated Aug. 26, 2022, https://www.uscis.gov/green-card/green-card-processes-and-procedures/fiscal-year-2022-employment-based-adjustment-of-status-faqs