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CW-1 Temporary Departure and 10-Day Admission Requirements



USCIS Presentation

May 2022



The CNMI Interim Final Rule (IFR) amended DHS regulations to implement provisions of the Northern Mariana Islands U.S. Workforce Act of 2018 (Workforce Act).

The IFR was published May 14, 2020, and went into effect June 18, 2020.

Temporary Departure Requirement



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Temporary Departure Requirement

- A beneficiary may not be granted CW-1 status beyond three consecutive petition validity periods unless the beneficiary has departed and remained outside of the United States for a continuous period of at least **30 days** after the expiration of the third consecutive petition validity period and before the filing of any new petition on behalf of the beneficiary.
- This requirement does not apply to “CW-1 long-term workers” who were admitted to the CNMI, or otherwise granted status, as a CW-1 worker during fiscal year 2015 and during each of fiscal years 2016 through 2018.

Temporary Departure Requirement



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Temporary Departure Requirement

- On August 25, 2020, USCIS announced that it will only consider CW-1 petitions approved on or after June 18, 2020, when applying the requirement that certain CW-1 nonimmigrant workers depart the CNMI for a period of at least 30 continuous days.
- For example, any alien approved on or after June 18, 2020, for a one-year CW-1 validity period beginning Oct. 1, 2020, will be eligible for two more consecutive petition validity periods after the first period of validity expires on Sept. 30, 2021.

Temporary Departure Requirement



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Temporary Departure Requirement

- Any extension of CW-1 status in the CNMI, if granted on or after June 18, 2020, will be considered a consecutive petition validity period.
- A petition approved for consular processing will also be considered a consecutive petition validity period if there is not at least a one-day gap between the ending validity date of the preceding petition and the starting validity date of the petition requesting consular processing. For instance, if a CW-1 worker had been approved through September 30, 2022, a subsequent petition for consular processing must be requested and approved for a start date on or after October 2, 2022, to be considered non-consecutive.

Temporary Departure Requirement



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Temporary Departure Requirement

If Initial Petition Validity is:	...and Second Petition Validity is:	...and Third Petition Validity is:	...Then:
Oct. 1, 2020-Sept. 30, 2021*	Oct. 1, 2021-Sept. 30, 2022	Oct. 1, 2022-Sept. 30, 2023	The worker must depart for at least 30 days after Sept. 30, 2023 before new CW-1 petition is filed.
Oct. 1, 2020-Sept. 30, 2021*	July 1, 2021-June 30, 2022 (Change of Employer with 1 year validity and 9 month extension of stay)	July 1, 2022-Dec. 31, 2022 (6- month validity)	The worker must depart for at least 30 days after Dec. 31, 2022 before new CW-1 petition is filed.
Oct. 1, 2020-Sept. 30, 2021*	Oct. 1, 2021-Sept. 30, 2022	Jan. 1, 2023-Dec. 31, 2023	The third petition was non-consecutive, so the worker is eligible for two more consecutive petition validity periods before temporary departure is required.
Oct. 1, 2020-Sept. 30, 2021*	Oct. 1, 2021-Sept. 30, 2022	Oct. 2, 2022-Sept. 30, 2023 (<i>with Consular Processing</i>)	The third petition was non-consecutive, so the worker is eligible for two more consecutive petition validity periods before temporary departure is required.

Temporary Departure Requirement



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Temporary Departure Requirement

- Where multiple beneficiaries on the same petition have been granted CW-1 status for a different number of consecutive petition validity periods, each beneficiary will be considered individually, and the petition could be subject to a partial approval.
- The temporary departure requirement will apply no matter how much time was granted to any of the three previously approved petitions.
- The temporary departure requirement does not apply to CW-2 dependents. However, a dependent's CW-2 status generally expires on the same day as the principal nonimmigrant's CW-1 status and can be extended when the CW-1 status is extended.

10-Day Admission Requirement



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Revocations on Notice

- USCIS may, in its discretion, send the petitioner a notice of intent to revoke (NOIR) the petition in certain circumstances, such as if the beneficiary did not apply for admission to the CNMI within 10 days after the beginning of the petition validity period if the petition has been approved for consular processing.
- If USCIS decides to issue a NOIR, the petitioner would receive notice and the opportunity to respond. In its response, the petitioner may submit additional evidence and explain why the petition should not be revoked. There is also an appeal process.
- As noted, USCIS' authority to issue a NOIR is discretionary. USCIS is aware that the pandemic has affected the ability to travel in some cases.

Filing a CW-1 Petition



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There is a CW-1 petition filing window as follows:

- Employers requesting Extension of Stay for CW-1 employees can file petitions 180 days before the expiration of current CW-1 status.
- Employers filing for new CW-1 employment may file no more than 120 days prior to the need for CW-1 employment.

Filing a CW-1 Petition



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An employer uses Form I-129CW to petition for CW-1 workers.

- The base filing fee is currently \$460,
- \$200 CNMI education fee per beneficiary, per year,
- \$50 fraud prevention & detection fee per petition, and
- \$85 biometric service fee per beneficiary, when necessary.

To view fees, form, and instructions, visit <https://www.uscis.gov/i-129cw>.

Filing a CW-1 Petition



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- All CW-1 workers must be named in the petition.
- Employers may include multiple workers on the same petition, provided they are requesting the same action for each worker, and all the workers will be: working in the same occupational category; working under the same terms and conditions; employed for the same period of time; and employed in the same location(s).
- All CW-1 workers on the same petition must request the same consideration as long-term or non-long-term workers.
- Employers may file one petition to request all of the CW-1 workers authorized by a single Temporary Labor Certification (TLC).

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