



Published on *US Immigration Lawyer, Law Offices of Rajiv S. Khanna, PC, Rajiv S. Khanna* (<https://immigration.com>)

H-1 Extension based upon spouse's 140; Child born in USA

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Submitted by Chief Editor on May 5th 2009

ANSWER:

Quote: 1. Hello Rajiv, my wife and I have been working on H1B for different employers. My employer applied for my GC in 07. I have my I-140 approved, my wife and I have our EAD cards and AP. Thanks to your team! Now my wife's H1B term (6 years) ends on Jan 2010. Does this mean that if she wishes to continue her employment with the same employer after Jan 2010, she "HAS" to use her EAD ?

Ans. Yes. Under the current USCIS policy, they will not extend her H-1, based upon your I-140. They used to do that a few years ago, but not any more, as far as I know.

Quote: 2. If not can her employer file for her H1B extension based on my I-140 application.(Probably not since I-140 is an employer based application,but wanted to know if there is any other way).

Ans. No other way.

Quote: 3.If my wife were to change her employer after Jan 2010, could the new employer file for H1B transfer? If not does this mean that the option of a new employer filing for her H1/green card is completely ruled out?

Ans. She cannot get an H-1 extension beyond 6 years unless her own green card process is started.

Quote: 4. This question is not related to the above, but we are expecting our first baby in the month of August. Are there any applications that need to be filed after the kid is born?(I am just glad that USCIS doesn't have any laws regarding making babies during the I-485 pending stage.Or is there...?)

Ans. Congratulations! And no, there are no laws against making babies so far :-). You have to do nothing. The child is born a US citizen if born in USA.

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Green Card:

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Links:

[1] <https://immigration.com/faq/form-i-140-form-i-485-general-green-card-ac21-aos-portability-adjustment-status-form-i-140-for-2>

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