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AILA-USCIS Update on Two-Year EAD Processing

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USCIS had previously announced that they would begin to issue 2-year EAD cards for some adjustment applicants under 8 C.F.R. §274a.12(c)(9). (See [AILA Doc. No. 08061362](#).) USCIS has provided AILA liaison with additional clarifications regarding eligibility for the 2-year card.

1. USCIS will review the issue of visa retrogression at the time the I-765 application is filed. However, if the priority date is current as of the date of filing, but later retrogresses while the I-765 application is pending, USCIS has the discretion to review the case again and issue the 2-year EAD. If the priority date is backlogged as of the date of filing, but later becomes current while the I-765 is pending, USCIS also has the discretion to review the case again and issue a 1-year EAD.
2. In order to be eligible for a 2-year EAD card on a concurrently-filed adjustment of status application, the I-140 petition must be approved. If the I-140 is still pending, USCIS will only issue a 1-year EAD card.

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