

FAQs: How are Foreign Nationals Affected by Current Executive Orders?

Summer 2020

PIPS, Mass General Brigham

In the last few months, the U.S. government has issued several travel restrictions and executive orders, which have impacted our visa holders. The following are frequently asked questions about all the recent travel restrictions. The answers provided are specific to Mass General Brigham's employee population and focused on our J and H visa holders. It is critical that you consider BOTH types of restrictions on visa holders:

- The restrictions from the June 22, 2020, proclamation on certain H and J visa holders AND
- The travel bans due to COVID-19 by country (China, Iran, and, Brazil and the Schengen region (including Ireland and the United Kingdom))

For many of our visa holders, the June 22, 2020 proclamation will **not** impact their visa request. The travel bans are the primary reason many of our visa holders have not entered the U.S. Finally, it is important to keep in mind, many consulates are closed for routine services or have limited appointments.

1. How long are the restrictions listed in the June 22, 2020 proclamation expected to last?

The proclamation will last through December 31, 2020 and may be extended beyond that date. It includes entry bans (outlined below) and extended a prior order that banned the U.S. Department of State from issuing new immigrant visas (green cards). Possible litigation is in the works, but any results will be slow moving.

2. Who IS affected by the June 22 proclamation?

Individuals who are outside of the U.S. who must apply for a visa stamp in the following categories: H-1B and *specific* categories of J-1 (see question 4).

Dependent family members who are also outside of the US in the H-4 and J-2 (again, specific categories) are also affected. These individuals may not be able to secure visa appointments at U.S. consulates as they are temporarily prohibited from admission to the United States.

3. Who is NOT affected by the June 22 proclamation?

- Visa holders in the U.S. who are not travelling internationally;
- Visa holders in the U.S. who have the following valid visa stamps in their passports as of June 23, 2020: H-1B, H-2B, H-4, J-1, J-2;
- Any foreign national who already has a valid, unexpired H-1B, H-2B, H-4, J-1, J-2 visa stamp as of June 23, 2020.
- Foreign nationals holding TN, E-3, or O-1 visas (please note those without visa stamps may have difficulty scheduling visa appointments);
- Individuals who have a valid Advance Parole travel document;
- Lawful Permanent Residents (Green Card holders);

- Individuals holding other official travel documents other than a visa (transportation letter or boarding foil); and,
- Spouse or child of a U.S. Citizen.

4. I will be applying for a J-1 visa. How does the June 22 proclamation affect me?

The entry ban does not affect all J-1 nonimmigrants. The PIPS sponsored J-1 visa categories of Research Scholar, Short-Term Scholar, and Specialist categories are NOT subject to the travel ban. Only foreign nationals in J-1 status who are participating in an intern, trainee, teacher, camp counselor, au pair, or summer work travel program (and their dependents) will be subject to the entry ban. Note that COVID travel restrictions (as of June: China, Iran, Brazil, Europe) can impact your ability to enter the U.S., even if you are issued a J-1 visa.

5. Are there exemptions to bans imposed by the June 22 proclamation?

Exemptions may be available for foreign nationals. The following are the most relevant exceptions:

- Individuals involved with the provision of medical care related to COVID-19 for individuals who are currently hospitalized;
- Individuals involved in medical research at U.S. facilities to help the U.S. combat COVID-19; and,
- Individuals deemed necessary to facilitate the immediate and continued economic recovery of the U.S.

6. Are there exemptions for country specific COVID travel restrictions?

Exemptions may be available for foreign nationals. The following are the most relevant exceptions:

- Individuals involved with the provision of medical care related to COVID-19 for individuals who are currently hospitalized; or
- Individuals involved in medical research at U.S. facilities to help the U.S. combat COVID-19.

7. Can my hospital file a petition to change my status to H-1B or extend my H-1B status?

Yes. The entry ban does not affect an employer's ability to file petitions including change of employer, change of status, amendment, and extension petitions for those in the U.S.

8. If I have a valid H-1B visa stamp in my passport – may I continue to travel internationally?

Visa holders who are in possession of valid, unexpired H-1B visa stamps as of June 23, 2020 may continue to travel internationally – HOWEVER, it is critical that you confirm that COVID travel restrictions do not prevent your return to the U.S. It is advised not to travel at all as new restrictions may be implemented with little notice.

9. Can I apply for my visa stamp inside the U.S.?

No. It is not possible to obtain a visa in the United States; only U.S. consulates and embassies abroad issue visa stamps.

10. I am a Canadian in H-1B visa status. Will I be allowed to re-enter the U.S. if I travel internationally?

As Canadians citizens are visa exempt, they are not required to obtain a visa stamp at a U.S. embassy or consulate for admission to the U.S. However, the government has not issued a definitive statement so caution is still advised. You should continue to present your approval documentation and recent pay

statements to document employment when you re-enter the U.S. following international travel. Again, we do not advise international travel to even Canada.

11. I hold H-1B status and I am not subject to the entry ban. However, I am unclear about my dependents. How do I know whether the entry ban affects them?

Spouses and children who already hold valid H-4 visa stamps are not affected by the entry ban. They may continue to travel internationally during the entry ban period, though like any other visa holder will be subject to restrictions from COVID travel ban countries and regions. Spouses and children who are outside the U.S. as of June 24, 2020 and do not yet have valid H-4 visa stamps in their passports will be subject to the entry ban.

12. My dependents are outside the U.S. and do not hold H-4 or J-2 visas. Can they enter the U.S. as visitors using a B-2 visa stamp or visa waiver (ESTA)?

Dependents holding valid B-2 visas as well as those from visa waiver countries with approved ESTA registrations should be able to enter the U.S. during the entry ban period for brief visits, consistent with B-2 visa requirements or ESTA program restrictions if they are not entering from a country impacted by COVID travel restrictions.

13. I currently hold an F-1 student visa and I am working pursuant to Optional Practical Training (OPT). May I continue to work on OPT (or STEM OPT) and travel internationally using my F-1 visa?

Individuals holding F-1 visas should check with their sponsoring university's international office for travel guidance. The entry ban does not directly affect an F-1 student's ability to complete their academic program, or work in the U.S. pursuant to OPT or STEM OPT.

14. I am applying for a green card. How will this affect me?

Please discuss with your immigration attorney especially if you are planning to use advance parole.

15. When will the country specific COVID travel restrictions be lifted?

These restrictions are in place indefinitely and we do not know when they will be lifted. Please refer to our web site for updates.