



GMS Flash Alert

Immigration Edition

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United States - Emergency Motion Filed to Stop Order to Suspend Immigration

On April 25, 2020, several immigration advocacy groups filed an emergency motion for a temporary restraining order with the United States District (U.S.) Court to halt the implementation of President Trump's proclamation to suspend the entry of certain immigrant to the U.S. for a period of 60 days starting on April 23, 2020.¹

WHY THIS MATTERS

Although the parties that filed the motion on April 25, 2020, are primarily concerned with protecting immigrant visa applicants who benefit from the Court's earlier injunction of November 26, 2019, promoting family unification, and preventing children from "aging out" of the U.S. immigration process, all foreign nationals impacted by the presidential proclamation that took effect on April 23, 2020 – including employment-based applicants – would potentially benefit from the requested restraining order.

Background

The motion filed on April 25, 2020, expands on a pending lawsuit challenging the Trump administration's proclamation of October 4, 2019, which sought to impose health insurance requirements on immigrant visa applicants.² On November 26, 2019, a U.S. District judge granted a motion for preliminary injunction to prevent the requirements set out in the proclamation of October 4, 2019 from being imposed.³ That injunction is still in effect.

Motion Details

The motion filed on April 25, 2020, specifically states, "The Court's existing injunction protects the members of the Visa Applicant Subclass and their rights to have their immigrant visa applications processed without being subject to the additional requirements that the Healthcare Proclamation would impose, against the irreparable harm of prolonged, and possibly indefinite, family separation." The plaintiffs contend that "As time ticks by, the denial of access to currently available emergency consular processing services endangers these class members' immigration status and frustrates

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the relief afforded in this case.” The motion further argues “If members of the Visa Applicant Subclass, including children who face an imminent risk of ‘aging out’ of their preference status, become entirely unable to access consular processing and visa adjudication services – even just for 60 days – their current visa eligibility will be extinguished.”⁴

Oral arguments related to the motion filed on April 25, 2020, were scheduled to be heard on April 29, 2020.

KPMG NOTE

It should be noted that a temporary restraining order would likely not be granted for a period of more than 21 days, so further legal action would likely be necessary to prevent President Trump’s proclamation from being implemented even if the requested temporary restraining order is granted.

KPMG Law LLP will track this matter closely. We will endeavor to keep readers of *GMS Flash Alert* informed of any new developments as and when they occur.

FOOTNOTES:

- 1 For related coverage and analysis of President Trump’s proclamation, refer to *GMS Flash Alert*: [2020-198](#) (April 27, 2020).
- 2 For related coverage of President Trump’s October 2019 health insurance proclamation, refer to *GMS Flash Alert*: [2020-153](#) (October 8, 2019).
- 3 A copy of the decision dated November 26, 2019 imposing the injunction may be viewed [here](#).
- 4 A copy of the motion filed can be viewed [here](#).

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Contact us

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