



GMS Flash Alert

Immigration Edition

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United States - Injunction Granted to Block USCIS Fee Changes

A final rule was published on August 3, 2020, that significantly increased the fees payable to U.S. Citizenship and Immigration Services (USCIS) to process certain applications and petitions for immigration benefits. The rule, scheduled to take effect on October 2, 2020, also referenced new form versions and an extended time limit for premium processing. Some of the key changes set out in the final rule were highlighted in our [prior coverage](#) (GMS Flash Alert 2020-345, August 7, 2020).

The Immigrant Legal Resource Center and several other non-profit organizations filed suit in the U.S. District Court for the Northern District of California on August 20, 2020, to stop and invalidate the final rule. On September 29, 2020, the U.S. District Court for the Northern District of California granted the plaintiffs' request for a nationwide temporary injunction blocking the Department of Homeland Security (DHS) from implementing the final rule published on August 3, 2020. The preliminary injunction took effect immediately and shall remain in effect pending final adjudication of the case of *Immigrant Legal Resource Center, et al., v. Chad F. Wolf, et al.*

WHY THIS MATTERS

Employers and immigration legal professionals should be aware that while the injunction remains in effect, USCIS must continue to use its current fee schedule and accept the current version of all forms. The agency must also honor the premium processing timeline of fifteen (15) calendar days, as opposed to the extended timeline of fifteen (15) business days set forth in the final rule.

Details of Motion for Preliminary Injunction

The District Court's recent order, rendered by Judge Jeffrey S. White, stated that the plaintiffs are likely to succeed on the merits of their claims that two acting DHS officials were improperly appointed and that the issuance of the new fee rule violated the Administrative Procedure Act.

The District Court found that the plaintiffs met their burden to show that the public interest weighed in favor of an injunction.

KPMG NOTE

DHS has sixty (60) days to appeal the temporary injunction granted by the U.S. District Court on September 29, 2020. It is expected that the Department will launch a timely appeal.

Employers and employees are encouraged to file petitions and applications on an urgent basis to benefit from the temporary injunction while it remains in effect.

KPMG Law LLP in Canada will carefully monitor litigation of the fee regulation and keep readers of *GMS Flash Alert* informed of any important developments.

FOOTNOTES:

- 1 Order Granting Motion for Preliminary Injunction signed by Judge Jeffrey S. White on September 29, 2020 is currently posted on the [American Immigration Lawyers Association \(AILA\) website](#). *(Please note that the link takes readers to the AILA, which is a third-party (non-governmental, non-KPMG) member log-in website. Providing this link does not represent an endorsement of this website by KPMG.)*
- 2 USCIS [Final Rule](#) published in the *Federal Register* on August 3, 2020.
- 3 [Complaint](#) for Injunctive Relief filed against USCIS on August 20, 2020 with the U.S. District Court of Northern District of California, currently posted on the AILA web site.
- 4 For prior coverage, see GMS [Flash Alert 2020-345](#) (August 7, 2020).
- 5 USCIS [New Policy Guidance on Final Fee Rule](#) (September 2, 2020).
- 6 USCIS news release dated July 31, 2020, click [here](#).

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Contact us

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