

As part of the new immigration benefit package announced by the President on November 20, 2014 and the Executive Order signed by the President on November 21, 2014, the Provisional Waiver Program announced on March 4, 2013 has been expanded.

As a result of the announcement, many more immigrants will now be eligible to obtain provisional waiver of their ground of inadmissibility so that they will be able to travel abroad to obtain their green cards through interviews conducted at the U.S. Consulate abroad.

It will be recalled that on March 4, 2013, the U.S. Citizenship and Immigration Services released a bulletin on the provisional waiver program.

According to the U.S. Citizenship & Immigration Services; "Beginning March 4, certain immigrant visa applicants who are the spouses, children and parents of U.S. citizens (immediate relatives), and have been unlawfully present in the United States, can start applying for provisional unlawful presence waivers through a new process."

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Under the President's new Executive Order announced on November 20, 2014, it no longer spouses and children of U.S. citizens that can apply, sons and daughter of any age of U.S. citizens, spouses of U.S. citizens, spouses of permanent resident aliens and children under the age of 21 of permanent resident aliens can all apply for the provisional waiver.

The new provisional unlawful presence waiver process is for certain individuals who seek a waiver of inadmissibility only for unlawful presence. They can now apply for a provisional unlawful presence waiver while in the United States and before departing for their immigrant visa interview at a U.S. Embassy or Consulate abroad. Under the old process, these immigrants who were not eligible to adjust status in the United States because they entered the U.S. without inspection had to travel abroad and be found inadmissible at their immigrant visa interview before they could apply for an inadmissibility waiver.

The new process is expected to shorten the time they are separated from their relatives while those family members go through the process of becoming lawful permanent residents of the United States.

From experience, the process of obtaining green card through provisional waiver of unlawful presence is now taking over 12 months to complete because many more people are applying. All eligible applicants should start now. It must also be noted that the filing of the waiver application will not come until the petition for alien relative has been approved. It is important to use the services of a qualified immigration attorney from the onset to shorten the processing time and also to guarantee that the right steps are taken to secure a successful ending.

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The biggest and the most difficult hurdle in the provisional waiver process is being able to prove that your qualifying relative spouse or your parent who is a U.S. citizen or a green card holder will suffer extreme hardship if you are deported or are not allowed to reenter the United States.

Under the new Executive Order, the President has directed that the Department of Homeland Security define what could constitute extreme hardship. Prior to now, USCIS relies on caselaw to determine what constitute extreme hardship. Factors such as; presence of the Qualifying Relative ties in the U.S., the Qualifying Relative ties outside the U.S., the Condition in the Country the Qualifying Relative would relocate, extent of the Qualifying Relative's ties to such Country, financial Impact of Departure from the U.S., conditions of Health of Qualifying Relative, availability of Medical Care in the Country of Return were used in determining extreme hardship.

It appears that the DHS will likely lighten the burden of establishing extreme hardship to accommodate more people. We are still waiting for further clarifications.

It is now important for many immigrants who thought that they did not qualify for anything before to consult with an immigration attorney again, there might be something in this Executive Order for you.

President Obama Expands Provisional Waiver For Spouses & Children of U.S. Citizen To Include Green Ca

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