CNMI-Only Transitional Workers (CW-1): Eligibility, Petition Process, and the Semiannual Reporting Requirement

USCIS Presentation

April 19, 2023
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Reminders

1. Questions from media – media@uscis.dhs.gov

2. Questions from congressional offices - usciscongressionalinquiries@uscis.dhs.gov

3. Today’s engagement will not be recorded.

4. You can submit written questions through the Q&A box on the right side of your screen.

5. Send questions outside the scope of today’s engagement to public.engagement@uscis.dhs.gov
Topics of Discussion

- CW-1 General Eligibility Requirements
- Temporary Departure Requirement
- Filing a CW-1 Petition
- Period of Stay
- Semiannual Reporting Requirement for CW-1 Employers
- Review of Form I-129CWR, Semiannual Report for CW-1 Employers
- Helpful Websites and Other Resources
CW-1 General Eligibility Requirements

CW-1 Employer Requirements:

• Obtain an approved temporary labor certification (TLC) from the U.S. Department of Labor (DOL) and consider all available U.S. workers for the position;

• Be engaged in a legitimate business, including participation in the E-Verify program as defined in 8 CFR 214.2(w)(1)(vii);

• Offer terms and conditions of employment consistent with the nature of the employer’s business in the CNMI;
CW-1 General Eligibility Requirements

CW-1 Employer Requirements, continued:

• Comply with all federal and CNMI requirements relating to employment;

• Pay reasonable transportation costs if the noncitizen is involuntarily dismissed from employment for any reason before the end of the period of authorized admission; and

• Comply with the semiannual reporting requirement by timely filing Form I-129CWR, Semiannual Report for CW-1 Employers.
CW-1 General Eligibility Requirements

CW-1 Worker Requirements:

A CW-1 Worker is eligible if he or she:

• Is ineligible for any other employment-based nonimmigrant status under U.S. immigration law;

• Will enter or stay in the CNMI to work in an occupational category designated as needing foreign workers to supplement the resident workforce;
CW-1 General Eligibility Requirements

CW-1 Worker Requirements, continued:

• Is the beneficiary of a petition filed by a legitimate employer who is doing business in the CNMI;
• Is not present in the United States, other than in the CNMI;
• Is lawfully present in the CNMI if present in the CNMI; and
• Is admissible to the United States as a nonimmigrant or is granted any necessary waiver of ground of inadmissibility.
**CW-1 Temporary Departure Requirement**

- A beneficiary may not be granted CW-1 status beyond three consecutive petition validity periods unless the beneficiary has departed and remained outside of the United States, including the CNMI, for a continuous period of at least 30 days after the expiration of the third consecutive petition validity period and before the filing of any new petition on behalf of the beneficiary.

- This requirement does not apply to “CW-1 long-term workers” who were admitted to the CNMI, or otherwise granted status, as a CW-1 worker during fiscal year 2015 and during each of fiscal years 2016 through 2018.
CW-1 Temporary Departure Requirement

• For additional information on the temporary departure requirement, see the following USCIS resources:

  USCIS Will Only Consider CW-1 Petitions Approved and with Starting Validity on or after June 18, 2020, when Applying the Temporary Departure Requirement | USCIS
  
  USCIS Presentation: CW-1 Temporary Departure and 10-Day Admission Requirements
  
  NMI SHRM post-meeting questions and answers (uscis.gov)
Filing a CW-1 Petition

• All CW-1 workers must be named in the petition.

• Employers may include multiple workers on the same petition, provided they are requesting the same action for each worker, and all the workers will be: working in the same occupational category; working under the same terms and conditions; employed for the same period of time; and employed in the same location(s).
Filing a CW-1 Petition

• All CW-1 workers on the same petition must request the same consideration as long-term or non-long-term workers.

• Employers may file one petition to request all of the CW-1 workers authorized by a single TLC.
Form I-129CW Filing Tips

• Review the Instructions for Form I-129CW to determine which “Basis for Classification” located on Part 2 is most appropriate for your petition.

• Provide complete information for each beneficiary in Part 3 of Form I-129CW and the “Additional Worker Attachment for Form I-129CW” (when appropriate). Complete information includes the I-94 number and passport information.
Form I-129CW Filing Tips

• Provide a copy of a valid, unexpired business license.

• Ensure the Employment and Training Administration (ETA) Case Number for the temporary labor certification (TLC) entered on Part 5 of Form I-129CW matches the ETA Case Number on the TLC you submit with your petition.

• If the TLC includes any education, training, experience and/or other special requirements, submit supporting documentation demonstrating that each worker is qualified for the certified position.
Form I-129CW Filing Tips

• When requesting an extension of stay, submit documentation (such as paystubs) as close to the time of filing as possible. Also include a copy of the previously issued Form I-797 Approval Notice.

• Please provide complete and clear copies of documentation. Documents that are not able to be clearly read or that are missing information may result in a Request for Evidence.
Period of Stay for CW-1s

• CW status is generally valid for up to 1 year and may be extended for two consecutive petition validity periods (for a maximum total of 3 years).

• A CW-1 worker, and his or her dependent(s), are admitted for the period of CW-1 petition validity, plus up to 10 days before the validity period begins and 10 days after the validity period ends.
Period of Stay for CW-1s

- CW status for long-term workers is valid for up to 3 years.
- These long-term workers are exempt from the voluntary departure requirement.
Semiannual Reporting Requirement

• During the validity of a CW-1 petition, employers are required to file a semiannual report with USCIS every 6 months after the petition validity start date.

• Employers file Form I-129CWR with USCIS to certify the continued employment and payment of each worker under the terms and conditions of the approved petition.

• USCIS may revoke an employer’s approved petition or deny their future petitions if they do not comply with the reporting requirement.
Semiannual Reporting Requirement

• No evidence is required at the time of filing the semiannual report.

• Employers are required to retain documents and records that support Form I-129CWR for a period of 3 years after the ending date of the petition validity period.

• Form I-129CWR must be filed no earlier than 30 days before and no later than 30 days after the 6-month anniversary of the petition validity start date.
**Semiannual Reporting Requirement**

All CW-1 petitioners, approved for a validity period of 6 months or more, must submit a semiannual report during the petition’s validity period.

<table>
<thead>
<tr>
<th>If your approved CW-1 petition has a validity period of:</th>
<th>Then you must file Form I-129CWR:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6 months</td>
<td>Never—Form I-129CWR is not required.</td>
</tr>
<tr>
<td>6 months or more, up to 12 months</td>
<td>6 months after the petition validity start date.</td>
</tr>
<tr>
<td>More than 12 months, up to 36 months</td>
<td>Every 6 months after the petition validity start date, up to and including the 6th month preceding the petition validity end date.</td>
</tr>
</tbody>
</table>
Form I-129CWR
Form I-129CWR

Part 2. Reporting Information

Reporting Period

1.a. Date From (mm/dd/yyyy)

1.b. Date To (mm/dd/yyyy)

2. Receipt Number of Approved Form I-129CW Petition

3. Employment and Training Administration (ETA) Case Number For Temporary Labor Certification (TLC)

Part 2. Reporting Information (continued)

4. Total Number of Workers Approved on the Petition

5. Total Number of Workers on the Approved Petition Who Are Currently Working For the Employer Named in Part 1.
Form I-129CWR

Part 3. Worker Information

Provide the information requested in Item Numbers 1.a. - 4. as reported on the approved Form I-129CW petition. If the approved petition included more than one worker, use the Additional Worker Attachment for Form I-129CWR to provide the information for each additional worker.

Worker's Information

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. Date of Birth (mm/dd/yyyy)

3. U.S. Social Security Number (if any)

4. Alien Registration Number (A-Number) (if any)

5. Is the approved worker currently in CW-1 status? □ Yes □ No

6.a. Is the approved worker currently working for the employer named in Part 1? □ Yes □ No

6.b. If you answered "No," to Item Number 6.a., provide an explanation about why the worker is not currently working for the employer named in Part 1.

7.a. What was the wage offered, per week or year, on the approved Form I-129CW petition?

Wages: $ __________ per ______

NOTE: The wage frequency reported on this form must match the frequency reported on the approved petition.
Form I-129CWR

Additional Worker Attachment for Form I-129CWR

Department of Homeland Security
U.S. Citizenship and Immigration Services

Complete a separate attachment for each additional worker who was approved on Form I-129CWR. Provide the information requested in Item Numbers 3.1. - 6. as is reported on the approved Form I-129CWR petition. (Do not complete a copy of this Attachment for the worker you already named in Part 3.)

In Item Numbers 1. a. - 2., provide the same information as listed in Part 1. of Form I-129CWR.

Legal Name of Individual Employer or Sole Proprietor

1. a. Family Name (Last Name)
1. b. Given Name (First Name)
1. e. Middle Name

Employing Company or Organization Name

2. Name of Employer/Organization

Worker's Information

3. a. Family Name (Last Name)
3. b. Given Name (First Name)
3. e. Middle Name
4. Date of Birth (mm/dd/yyyy)
5. U.S. Social Security Number (if any)
6. Alien Registration Number (A-Number) (if any)
7. Is the approved worker currently in CW-1 status? ☐ Yes ☐ No
8. a. Is the approved worker currently working for the employer named in Item Number 2? ☐ Yes ☐ No
8. b. If you answered “No,” to Item Number 8. a., provide an explanation about why the worker is not currently working for the employer named in Item Number 2.

9. a. What was the wage offered, per week or year, on the approved Form I-129CWR petition?
Wages: $ __________ per __________

NOTE: The wage frequency reported on this form must match the frequency reported on the approved petition.

9. b. What is the actual wage, per week or per currently paid to this worker?
Wages: $ __________ per __________

10. a. What are the hours, per week, offered on the approved Form I-129CWR petition?

10. b. What are the actual hours this worker worked per week?

11. What is the current job title of the worker?

12. What are the worker's current job duties? (Provide a detailed explanation.)

13. a. Is the worker working at the location in Part 1. Item Number 2. of Form I-129CWR?
☐ Yes ☐ No
13. b. If you answered “No” to Item Number 13. a., provide the address where the worker will work. If the location has no address, describe the location where the worker will work and provide a map with your Form I-129CWR.

14. a. Street Number and Name
14. c. City or Town
# Semiannual Reporting Requirement

Petition approved from 10/1/22 to 9/30/23

<table>
<thead>
<tr>
<th>6-Month Reporting Period</th>
<th>Filing Date</th>
<th>Filing Window</th>
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<tbody>
<tr>
<td>10/1/22 - 4/1/23</td>
<td>4/1/23</td>
<td>3/1-23 – 5/1/23</td>
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Petition approved from 10/1/22 to 9/30/25

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<td>4/1/23</td>
<td>3/1/23 – 5/1/23</td>
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<tr>
<td>4/2/23 - 10/1/23</td>
<td>10/1/23</td>
<td>9/1/23 – 11/1/23</td>
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<tr>
<td>10/2/23 - 4/1/24</td>
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</tbody>
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Semiannual Reporting Requirement

You are still subject to the semiannual reporting requirement even when:

• The worker was never admitted to the CNMI;
• The worker is no longer working for you;
• The worker may have subsequently changed status; or
• You are a CW-1 employer of a long-term worker and you previously submitted Form I-129CWR.
Helpful Websites

• Find the form and instructions at https://www.uscis.gov/i-129cwr
• USCIS guidance on the Semiannual Reporting Requirement:
  • Most CW-1 Employers Must File Required Semiannual Report (Form I-129CWR) | USCIS
  • CW-1 Employers Must Verify Continued Employment and Payment of CW-1 Workers by Submitting Form I-129CWR | USCIS
• Find additional information about the CW-1 program at CW-1: CNMI-Only Transitional Worker | USCIS
Self-Help Resources

- The USCIS webpage offers the following:
  - Check your case status
  - Change your address
  - Check processing times
  - Download forms
  - Explore My Options
  - Ask Emma
  - Create an account on myUSCIS

Or, call the USCIS Contact Center at 800-375-5283.
The Wrong Help Can Hurt

• Visit the USCIS Avoid Scams webpage to learn more about:
  
  ✓ Form filing tips;
  
  ✓ Common immigration scams;
  
  ✓ How to report immigration scams; and
  
  ✓ How to find legal services and help.
Concluding Remarks

• For additional questions, please email public.engagement@uscis.dhs.gov.

• For more information on our national engagements, visit uscis.gov/outreach.

• Access this PowerPoint on the USCIS Electronic Reading Room at uscis.gov/records/electronic-reading-room.
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