

Final Rule - CNMI Transitional Worker Classification Questions and Answers

Introduction

On Sept. 7, 2011, U.S. Citizenship and Immigration Services (USCIS) published a final rule that establishes a Transitional Worker nonimmigrant visa classification (CW) for foreign workers in the Commonwealth of the Northern Mariana Islands (CNMI). The CW visa classification is in effect while the CNMI foreign worker permit system transitions to U.S. immigration law. During this transition period, employers of nonimmigrant workers who are ineligible for other employment-based nonimmigrant visa classifications can apply for temporary permission to employ workers in the CNMI under the CW classification. The transition period formally began on Nov. 28, 2009, and will end on Dec. 31, 2014.

Background

The Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110-229, was signed into law on May 8, 2008. Title VII of this law amended P.L. 94-241, the Act approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States. Title VII extended most provisions of the Immigration and Nationality Act (INA) to the CNMI for the first time.

Questions and Answers

General Questions

Q1. What does the CNMI-Only Transitional Worker (CW) visa do?

A1. The CW visa provides lawful U.S. temporary immigration status to eligible foreign workers who:

- Perform services or labor for an employer in the CNMI; and
- Are ineligible for any other kind of employment-based nonimmigrant visa under the INA.

Transitional workers are expected to find a suitable alternative immigration status before the end of the transition period if they wish to remain in the CNMI. The rule allows time for employers to adjust their hiring practices and for eligible foreign workers to obtain nonimmigrant or immigrant visa classifications available under the INA.

Q2. How will the rule affect foreign workers living and working in the CNMI?

A2. The rule allows employers in the CNMI to sponsor nonimmigrant workers who otherwise would be ineligible to work under the INA and gives foreign workers until Dec.

31, 2014, to determine an appropriate long-term immigration status for themselves and their families. More than 22,000 foreign workers in the CNMI are potentially eligible for the temporary CW visa status.

Q3. Are all foreign workers eligible for the CW visa classification?

A3. No. Foreign workers who are eligible for other employment-based nonimmigrant visa classifications are not eligible for this program. In addition, a foreign national who is in the CNMI must be lawfully present in the CNMI, as described in Question 6.

Q4. What are the requirements for an individual to qualify for a CNMI-Only Transitional Worker visa?

A4. For an individual to qualify for CW visa status, both the employer and the foreign national must meet basic requirements.

Requirements for Employers

To be eligible to petition for workers for CW visa status, employers must:

- Be engaged in a legitimate business, as defined in the final rule;
- Consider all available U.S. workers for the position;
- Offer terms and conditions of employment consistent with the nature of the employer's business in the CNMI;
- File the required forms to hire transitional workers;
- Comply with all federal and CNMI requirements relating to employment, including but not limited to nondiscrimination, occupational safety and minimum-wage requirements; and
- Pay the worker's cost of return transportation to their last place of foreign residence if they are involuntarily dismissed from employment for any reason before the end of the period of authorized admission.

Requirements for Workers

An individual may be eligible for CW-1 nonimmigrant classification 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;
- 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 the CNMI;
- Is lawfully present in the CNMI if present in the CNMI; and
- Is otherwise admissible to the United States or is granted any necessary waiver of a ground of inadmissibility.

Q5. What qualifies as a "legitimate business" under this rule?

A5. The final rule defines a legitimate business as "a real, active, and operating commercial or entrepreneurial undertaking which produces services or goods for profit, or is a governmental, charitable, or other validly recognized nonprofit entity. The business must meet applicable legal requirements for doing business in the CNMI. A business will not be considered legitimate if it engages directly or indirectly in prostitution, trafficking in minors, or any other activity that is illegal under federal or CNMI law."

Q6. What does "lawfully present in the CNMI" mean for purposes of eligibility for the CW nonimmigrant classification?

A6. In order to be eligible for a grant of status in the CNMI, an individual must be lawfully present in the CNMI. This means that the person must either (1) at the time the application for status is filed, be within the period of stay authorized by the "umbrella permit" or other CNMI authorization (which expires no later than Nov. 27, 2011); or (2) be within a period of lawful admission or parole into the CNMI granted by the Department of Homeland Security (DHS), except for an admission or parole as a tourist or business visitor.

Q7. What is the admission code for this visa classification?

A7. The nonimmigrant visa classification admission code is CW-1 for principal CNMI-Only Transitional Workers and CW-2 for their dependents.

Q8. Can the CW visa classification be extended beyond Dec. 31, 2014?

A8. Yes. The CW visa classification currently expires at the end of the transition period on Dec. 31, 2014. However, the U.S. Department of Labor has the authority to extend the validity period of the CNMI Transitional Worker visa categories beyond Dec. 31, 2014. The Secretary of Labor may extend the transitional worker program if it is determined that current and anticipated labor needs justify such an extension to ensure adequate employment in the CNMI.

Q9. How many public comments did DHS receive on the Interim Final Rule?

A9. During the initial and extended comment periods, DHS received 146 comments from a broad spectrum of individuals and organizations, including the CNMI Governor's Office, the Saipan Chamber of Commerce, a former CNMI senator and other interested organizations and individuals. DHS considered all comments received in preparing this final rule. Details may be found in the Federal Register final rule.

Questions for Employers

Q10. When may employers begin filing petitions for workers?

A10. Employers may begin filing petitions on Oct. 7, 2011. An employer, however, cannot apply for a worker more than six months before the date the employer needs the worker's services. For example, if an employer needs a worker's services on July 1, the employer may submit a petition for the worker no earlier than Jan. 1 of the same year.

Q11. If a worker is currently employed in the CNMI under an "umbrella permit" or other CNMI work authorization expiring Nov. 27, 2011, when must an employer petition for that worker to obtain CW status?

A11. The employer must petition for the worker on or before Nov. 27, 2011. The employee must be lawfully present in the CNMI as of the date of filing the petition in order to be eligible for a grant of CW status. Employees whose work authorization under the CNRA expires Nov. 27, 2011, and who do not have a CW petition filed on their behalf by that date, will no longer be lawfully present in the CNMI. A petition to sponsor these workers as CW-1 nonimmigrants must be postmarked no later than Nov. 28, 2011 (for example, by the end of the first business day after Sunday, Nov. 27, 2011, CNMI local time).

Workers no longer lawfully present in the CNMI must leave the CNMI before their employers can file the petition. They cannot reenter the CNMI and resume employment until the petition is granted and they obtain a CW visa at a U.S. Consulate abroad.

Q12. May an employer continue to employ a worker under an "umbrella permit" or other CNMI work authorization after Nov. 27, 2011, if the petition for CW status is pending?

A12. Yes. The worker's lawful presence is based on the petition filing date, so if the employer files the petition no later than Nov. 27, 2011, the worker will remain eligible for a grant of CW status. USCIS will consider a petition postmarked Nov. 28, 2011, as filed on Nov. 27, 2011 (as discussed in the response to Question 11). If an employer applies for CW status for a worker he or she currently employs in the CNMI under an umbrella permit or other CNMI authorization expiring Nov. 27, 2011, the employer may lawfully continue to employ the worker until a decision is made on the application. If the petition is granted, the worker will receive CW status and may continue to be employed. If the petition is denied, the work authorization ceases at that time.

Q13. What must an employer do to petition for a foreign worker?

A13. Before an employer may petition for a foreign worker, the employer must consider available U.S. workers for the position being filled by the CW worker.

To petition for a foreign worker, an employer must:

- File a Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker;
- Offer terms and conditions of employment that are consistent with the nature of the occupation, activity and industry in the CNMI;
- File supporting evidence certifying that the information provided about the employer, job position and prospective worker is accurate and meets eligibility criteria; and
- Submit the appropriate filing fees.

Q14. Does an employer need to file a separate Form I-129CW for each transitional worker?

A14. No. An employer can file a single petition for multiple workers, so long as all workers:

- Will work in the same occupational category;
- Will be employed for the same period of time;
- Will be employed in the same location; and
- Are requesting the same action in Part 2 of the petition (Change of Status, Extension of Status, etc.).

Q15. What are the filing fees associated with a Form I-129CW?

A15. If you are an employer in the CNMI seeking to sponsor an eligible individual as a CNMI-Only Transitional Worker, please see the associated filing fees below.

If you You must And

Are petitioning for one or more submit a Form I submit a mandatory CNMI workers who are lawfully present in -129CW with education funding fee of \$150 per

the CNMI with a federal nonimmigrant status (e.g., F-1 or H-1B)	the \$325 application fee	beneficiary. Do not submit a biometrics fee.
Are petitioning for one or more workers who are lawfully present in the CNMI with a CNMI permit OR have been granted parole by USCIS or CBP (except as a visitor for business or pleasure from Russia or China)	submit a Form I -129CW with the \$325 application fee	submit a mandatory CNMI education funding fee of \$150 fee per beneficiary. Either you or the worker must also submit an \$85 biometrics fee if you are requesting a Grant of Status in the CNMI.*
Are petitioning for one or more workers who are requesting consular processing abroad	-129CW with	submit a mandatory CNMI education funding fee of \$150 fee per beneficiary. Do not submit a biometrics fee. A biometrics fee may be required by the Department of State when the worker applies for his or her visa abroad.
Are requesting an extension of status for a CW nonimmigrant worker	submit a Form I -129CW with the \$325 application fee	Submit a mandatory CNMI education funding fee of \$150 fee per beneficiary.

*Please note that workers planning to travel abroad in the near future may request consular processing of their visa abroad. A request for consular processing, if approved, will not grant status to the beneficiary. However, it will be processed faster, as it does not necessitate the collection of the beneficiary's biometric information and fingerprinting. Additionally, a request for consular processing will not require a payment of \$85 to USCIS. Workers who travel abroad will require a valid visa to reenter the CNMI, whether or not they were granted status in the CNMI.

Q16. Can filing fees be waived?

A16. The Form I-129CW and biometrics filing fees may be waived in extraordinary situations where an employer demonstrates an inability to pay the filing fee but is still able pay the employee's wage. To request a fee waiver you must submit a Form I-912, Request for Individual Fee Waiver, or a written request for a fee waiver. The \$150 CNMI education funding fee cannot be waived.

For more guidance about applying for a fee waiver, visit www.uscis.gov/feewaiver.

Q17. What evidence should an employer provide with the Form I-129CW petition?

A17. The employer must complete the form fully, including the attestations needed to establish eligibility. The employer should submit evidence, to the extent available, to support the elements in the attestation. For example, in order to support the attestation that there are no qualified U.S. workers available to fill the position, the employer may submit evidence that the job vacancy has been posted in daily newspaper want ads or on job vacancy websites such as those operated by the CNMI Department of Labor and private recruitment firms.

Q18. Can an employer petition for CW workers if the employer's business license has been suspended or revoked by the CNMI government, or if the license has not been renewed for any other reason?

A18. In order to petition for CW workers, an employer must be doing business in the CNMI in a legitimate business manner; this means he or she meets applicable legal requirements for doing business in the CNMI. To the extent available, the employer should provide evidence of compliance with all applicable license requirements. If a business or occupational license has been suspended, revoked or not renewed, the employer should submit disclosure and a full explanation of all relevant facts in writing along with his or her petition. USCIS will consider this information on a case-by-case basis with respect to whether the employer and/or the foreign worker are eligible for the requested CW classification. In addition, if the foreign worker requires an occupational license, the employer should provide evidence of such licensing.

Q19. Can an employer who has been barred by the CNMI government from employing foreign workers petition for CW workers?

A19. Placement of an employer on the CNMI's "barred employer list" does not disqualify an employer from petitioning for CW foreign workers. However, placement on this list should be disclosed and fully explained in the petition, for consideration as appropriate by USCIS with respect to eligibility for the benefit sought.

Q20. Are there any occupational categories which are excluded from eligibility for CW status?

A20. No.

Q21. To be eligible for CW status, a worker must be ineligible for other employment-based nonimmigrant categories under the INA. Does this mean that an employer must apply for those other categories and be denied, prior to petitioning for CW status for a worker?

A21. No. Employers do not need to show that they have unsuccessfully applied for any other nonimmigrant classification for a worker. Employers must attest that the position is not temporary or seasonal in nature (because they can use the H-2B nonimmigrant classification to obtain temporary or seasonal workers), and that they do not reasonably believe the worker qualifies for any other nonimmigrant worker classification. Employers that have applied unsuccessfully for another nonimmigrant classification for a worker should supply that evidence to support the attestation.

Q22. What is the appeal process if a petition is denied?

A22. The administrative appeal process for Form I-129CW is consistent with other nonimmigrant classifications. To appeal the denial of a CW-1 petition, the petitioning employer in the CNMI must file a Form I-290B, Notice of Appeal or Motion. Only the petitioning employer, not an employee, may appeal the denial. An application for a change of status or an extension of status may not be appealed if it is denied.

Q23. Can private individuals petition for foreign workers being employed to provide domestic household labor?

A23. Only an entity doing business, as defined by the transitional worker rule, may petition for CW workers. Private households generally are not eligible.

Questions for Workers

O24. What must a worker in the CNMI do to obtain CW-1 status?

A24. Only an employer can file a petition for a worker to obtain CW-1 status. An individual must be sponsored by an employer and must meet basic eligibility requirements. An individual may be eligible for CW-1 nonimmigrant classification if he or she:

- Is ineligible for any other nonimmigrant or immigrant status under U.S. immigration law;
- Will enter or stay in the CNMI to work in an occupational category designated as needing alien workers to supplement the resident workforce;
- Is the beneficiary of a petition filed by a legitimate employer doing business in the CNMI;
- Is not present in the United States, other than the CNMI;
- Is lawfully present in the CNMI, if present in the CNMI; and
- Is otherwise admissible to the United States or is granted any necessary waiver of a ground of inadmissibility.

Q25. How can an eligible individual obtain a CW-1 or CW-2 visa from outside the CNMI?

A25. Once an I-129CW filed with USCIS by the employer is approved, the eligible individual applying from outside the CNMI must contact the U.S. Department of State to apply for a CW-1 or CW-2 visa based on the employer's approved petition. The CW-2 classification is limited to dependents of CW-1 status holders (spouses and unmarried children under the age of 18).

Q26. Can an individual with a CW visa be employed anywhere in the United States?

A26. No. An individual with CW-1 status may only work in the CNMI for the petitioning employer that filed the approved petition. The employer must file a new I-129CW petition if there are any material changes in the terms and conditions of employment. CW status does not authorize individuals to work in any other state or territory of the United States, including the neighboring territory of Guam. Individuals with CW-2 status may not work in the CNMI or in any other part or territory of the United States.

Q27. Can an individual with CW-1 status change employers?

A27. Yes, but the new employer must file a Form I-129CW petition with USCIS. The worker may start work for the new employer as soon as the new employer files the petition. This must be a nonfrivolous Form I-129CW petition for a change of employer, meaning that the petition is filed on behalf of an individual who is in CW-1 status at the time of filing, for a bona fide job offer for which the individual meets the qualifications. If the petition is denied, the work authorization ceases.

Q28. How long is CW status valid?

A28. CW-1 status will be granted for one year. The employer may request an extension of status by filing a new I-129CW petition. A dependent's CW-2 status expires on the same day as the principal's CW-1 status and can be extended when the principal's CW-1 status is extended.

Q29. Does an individual with CW status lose that status if terminated from employment?

A29. Yes, a foreign worker with CW nonimmigrant status will lose that status if he or she violates any of the terms or conditions that are associated with that CW status. When the

violation is solely caused by termination from employment, however, a worker will not be considered to have violated his or her status if, within 30 days from the date of termination, he or she obtains new employment and an employer files a nonfrivolous petition on his or her behalf; but only if the foreign worker does not violate any other terms or conditions of CW status.

Thus, if new employment is found, the new employer must file a petition for the foreign worker before the end of this 30-day period in order for the foreign worker to remain lawfully present in the CNMI. Per the answer to Question 27, the foreign worker may only begin work with the new employer after that employer files the petition. If a new petition is not filed within 30 days, the foreign worker must leave the CNMI and that worker will be considered to be out of status effective on the date of termination of CW-1 employment. Any petition filed for that worker after the 30-day period will require an approved petition and a CW visa issued at a Consulate outside the CNMI before the foreign worker can return and start new employment in the CNMI.

Q30. I am a foreign worker who has been living and working lawfully in the CNMI, and my employer is willing to sponsor me for the CW visa. What steps do I need to take to obtain CW status in the CNMI?

A30. The following steps need to be taken in this situation.

Step 1: Your employer must submit the following forms to sponsor you:

- A Form I-129CW;
- The \$325 application fee;
- The mandatory \$150 education fee; and
- Supporting evidence certifying that the information provided about you, your employer and the job position is accurate and meets eligibility requirements.

Either you or your employer must also include the \$85 biometrics fee with the petition (unless you are requesting consular processing). After your employer files the Form I-129CW, USCIS will contact you regarding when you will need to appear to provide your fingerprints and photograph at the USCIS Application Support Center in TSL Plaza in Saipan.

Step 2: If your Form I-129CW is approved, USCIS will mail an approval notice to your employer. Make sure your employer gives you a copy of the approval notice. The approval notice and attached Form I-94 will indicate that your status in the CNMI has been adjusted to CW-1. The approval notice will also inform you of whether you need to go to a U.S. Embassy or Consulate abroad to seek visa processing of your CW-1 visa.

Q31. How do my dependents apply to receive CW status?

A.31. As derivative of your employer's application for you to obtain CW-1 status, your dependents lawfully present in the CNMI may apply for CW-2 status. Applicants for CW-2 status must submit:

- The \$290 application fee;
- The \$85 biometrics services fee if applicable;
- A copy of your approval notice and Form I-94 documenting admission to the CNMI in the CW-1 classification (if available); and
- An Application to Change or Extend Status, Form I-539.

Dependents may not need to file Form I-539, depending on how the primary CW-1 status is being processed.

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You are requesting consular processing of your CW-1 status at a U.S. Consulate or Embassy abroad...

your dependents may also seek consular processing of their CW-2 status at the same time. Dependents do not need to file a Form I-539 if they file for CW status from outside the CNMI.

You are in the CNMI and your employer has filed the Form I-129CW requesting CW-1 status for you...

your dependents may file a Form I-539 at the same time or at any time while the I-129CW is pending. The I-539 must be accompanied by an additional biometrics fee if the dependent is under 14 years of age or is 79 or older. However, your dependents' Form I-539 will not be approved if your application for grant of status is denied.

If the Form I-539 is approved, USCIS will send your dependents an approval notice as evidence of the approved Form I-539 with an I-94 as evidence of CW-2 status.

Q32. My dependents and I will be lawfully present in the CNMI until Nov. 27, 2011. An employer is willing to petition for CW-1 status for me. Does the employer have to file the petition before Nov. 27, 2011? If so, do my dependents also have to file their applications for CW-2 status before Nov. 27, 2011?

A32. In order for you and your dependents in the CNMI to be eligible for CW status, you must be lawfully present in the CNMI on the date your application for CW status is filed. For you (the principal worker), that is the date your employer files the I-129CW petition requesting that you be granted CW-1 status. For your dependents, that is the date they file the I-539 application for a grant of CW-2 status. If you or your dependents have umbrella permits or other work authorization expiring Nov. 27, 2011, these applications MUST be filed on or before Nov. 27, 2011, to be eligible for a grant of CW status in the CNMI. USCIS will consider a petition postmarked Nov. 28, 2011, as filed on Nov. 27, 2011 (as discussed in the response to Question 11). Dependent applications do not have to be filed before the principal CW-1 application has been granted; but dependents must keep in mind that, regardless of whether or not the CW-1 application has been granted, the dependent application must be filed while the dependent is still lawfully present in the CNMI. Otherwise, the dependent can only obtain CW-2 status through a visa application to a U.S. Consulate abroad.

Q33. Which dependents are eligible for derivative CW-2 status?

A33. Spouses and minor children (children under 18 years of age) are eligible for derivative CW-2 status. Children over 18 years of age, and parents or other relatives, are not eligible for CW-2 status.

Q34. I am a foreign worker living abroad and an employer in the CNMI is willing to sponsor me. What are the steps I need to take to obtain a CW visa?

A34. In this situation, the following steps should be taken:

Step 1: For you to obtain a CW visa, the sponsoring employer must first submit the following documents:

- A Form I-129CW;
- The \$325 application fee;
- The mandatory \$150 education fee; and
- Supporting evidence certifying that the information provided about you, your employer and the job position are accurate and meets eligibility requirements.

Step 2: If the petition is approved, USCIS will mail an approval notice to your employer. Your employer will need to send you the original approval notice to your address abroad.

After you receive the approval notice, you will need to schedule a nonimmigrant visa interview at the U.S. Consulate or Embassy nearest to you. Your dependents may simultaneously apply for CW-2 visas with the U.S. Department of State and do not need to file a Form I-129CW or Form I-539. The Department of State has separate application and fee requirements for visa applications.

You and your dependents will not have CW-1 or CW-2 status until you obtain a CW visa from the U.S. Department of State and are admitted to the CNMI. The approval of a Form I -129CW for consular processing approves the classification only and does not grant you any additional status in the CNMI.

Q35. If I am working for an employer who has sponsored me for CW-1 status in the CNMI, and my umbrella permit expires on Nov. 27, 2011, can I continue working until a decision is made on the petition?

A35. Yes. If you are lawfully employed in the CNMI under a CNMI grant of work authorization that expires Nov. 27, 2011, and your employer files a CW petition for you on or before Nov. 28, 2011, you are authorized to continue your employment until USCIS makes a decision on the petition.

Q36. What must a worker submit to the Department of State for a CW nonimmigrant visa?

A36. The Department of State requires all nonimmigrant visa applicants to complete a Form DS-160, Application for Nonimmigrant Visa, with the required fee. The Department of State encourages families to file together, even if the family members will be travelling separately.

Q37. How do I make an appointment for a visa interview?

A37. Each U.S. Consulate has its own process for making visa appointments. Depending on the consulate, you may either call or make an appointment online. All fees must be paid before you make an appointment.

The Department of State website, <u>www.usembassy.gov</u>, has more information about nonimmigrant visa interviews. This website also has information about expected wait times for nonimmigrant visa interviews at every U.S. Consulate overseas. You will need to bring the petition approval notice and the Form DS-160 with you to the appointment.

Q38. What if I work for more than one employer?

A38. If you work for more than one employer, each employer must file a separate Form I-129CW with USCIS.

Q39. Can a beneficiary with CW-2 status work?

A39. No. The CW-2 status does not authorize employment.

Q40. My spouse and I are both employed. If my spouse cannot work as a CW-2 nonimmigrant, how can he or she continue to work if I receive CW-1 status?

A40. Your respective employers can petition for each of you to obtain CW-1 status.

Q41. Can an individual with a CW visa apply for other visa classifications?

A41. Yes. During the transition period, CW transitional workers and their dependents may apply for other INA nonimmigrant or immigrant visa classifications.

Q42. Is it necessary to apply for a CW visa if a temporary worker has a CNMI permit?

A42. Yes. An employer must apply for a CW visa if the employer wants to continue to employ a worker after the expiration of the worker's CNMI permit, unless another workauthorized status can be obtained under federal immigration law. Workers may remain in the CNMI until their permits expire, or until Nov. 27, 2011, whichever date occurs first. Only an employer may decide whether to petition for a worker to obtain CW classification or status.

If a worker has an unexpired umbrella permit and needs to travel outside of the CNMI, he or she must have a U.S. visa in order to return. If the employer wishes to obtain a grant of CW status in the CNMI for an employee with an umbrella permit, the petition must be filed on or before Nov. 28, 2011. Otherwise, the worker will need to leave the CNMI and obtain a CW visa at a U.S. Consulate or Embassy abroad in order to be admitted into the CNMI in CW status.

Q43. What happens to CW-1 transitional workers and their dependents at the end of the transition period?

A43. At the end of the transition period, Dec. 31, 2014, the CW classification will cease to exist (unless the transitional worker program is extended by the U.S. Secretary of Labor). Transitional workers who held the CW status must obtain nonimmigrant or immigrant status under the INA before this date if they wish to stay in the CNMI lawfully.

Questions About Travel

O44. As a CW-1 or CW-2 status holder, what do I need to do in order to travel?

A44. CW status holders must obtain a CW-1 or CW-2 visa from the U.S. Department of State abroad if they wish to travel abroad and reenter the CNMI. The Department of State has separate application and fee requirements for visa applications. For more information on traveling outside of the CNMI, please visit the Department of State website.

Q45. Can workers with advance parole travel abroad and work with an authorized umbrella permit upon their return to the CNMI?

A45. Yes. Workers with a valid umbrella permit and a valid travel document can continue to travel and return legally to work in the CNMI if they have applied for and been granted advance parole.

USCIS has used advance parole and parole-in-place as temporary measures because no visa classification under the INA allowed legitimate workers to continue to travel and return to the CNMI after traveling internationally or within the United States without a visa. Advance parole will not normally be considered for individuals who have received CW status in the CNMI, and who therefore can obtain a visa abroad for their return to the CNMI.

Q46. Can individuals with CW status return from travel outside the CNMI?

A46. A CW-1 or CW-2 nonimmigrant may leave the CNMI, but he or she must have the appropriate visa to reenter the CNMI. The CW worker must apply for a CW visa at a U.S. Embassy or Consulate abroad before seeking readmission to the CNMI. If the CW-1 or CW -2 status is obtained while in the CNMI, the nonimmigrant will be given a Form I-94, Arrival-Departure Record, as documentation of CW status.

Q47. Is CW status valid in any part of the United States other than the CNMI?

A.47. No, CW status is limited to the CNMI. Individuals with CW status who travel or attempt to travel, without otherwise receiving authorization, to any other part of the United States including Guam have violated their CW status and are subject to removal from the United States to their country of nationality. However, the final rule provides one important exception; please see Question 48 for further clarification.

Q48. Can individuals with CW nonimmigrant status, or with CW visas, transit through the Guam airport?

A48. Individuals who are nationals of the Philippines may travel between the CNMI and the Philippines through the Guam airport under the following conditions:

Outbound from the CNMI to the Philippines via Guam: The individual is in valid CW status and is traveling on a direct itinerary involving a flight stopover or connection in Guam of no more than eight hours, and the individual remains at the Guam airport during the transit.

Inbound from the Philippines to the CNMI via Guam: The individual has a valid CW visa and is traveling on a direct itinerary involving a flight stopover or connection in Guam of no more than eight hours, and the individual remains at the Guam airport during the transit.

Other individuals in CW status or with CW visas cannot travel to or from foreign destinations with a stopover or connection through Guam.

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Plug-ins