



## Questions from January 28, 2009 Teleconference on Motions to Reopen: How Are They Working For You?

The following are comments and questions from the teleconference. We will post the answers from USCIS when available.

- 1. Motion to Reopen vs. Appeal** - A caller asked what the procedural distinction is between a motion to reopen or reconsider and an appeal. Can USCIS elaborate on the procedural differences?
- 2. Forwarded to AAO** - A caller described a situation in which his motion to reopen was denied, but USCIS forwarded the case to the Administrative Appeals Office (AAO). The caller indicated that he explicitly marked his submission as a motion to reopen and not as an appeal. In what cases would a submission clearly designated as a motion to reopen or reconsider be forwarded to the AAO and treated as an appeal?
- 3. Processing Times** - A caller stated that she filed a motion to reopen based on a USCIS error. Resolution of the motion took six to nine months. Are motions to reopen or reconsider based on an obvious or patent error by USCIS more quickly resolved than other motions to reopen or reconsider? How long do motions to reopen take to resolve?
- 4. Adjudicator to Review Case** - Another caller described an experience in which his case was denied by an adjudicator who the customer felt did not adequately understand the legal issues involved. He expressed concern that the same adjudicator would review and deny the motion to reopen or reconsider. How does USCIS address customer concerns that the same adjudicator who issued the decision in a case will review the motion to reopen or reconsider?
- 5. Clear USCIS Error** - Another caller relayed a situation in which a customer was severely prejudiced by the denial of an immigration benefit based on what she characterized as a clear USCIS error. Would USCIS consider creating a separate category of expedited motions to reopen or reconsider based on clear USCIS error? In addition, what is the best way to notify USCIS of such an error?
- 6. Correspondence for Motions** - One caller stated that he has often received a faster response when he sends a letter to USCIS moving to reopen or reconsider a decision rather than filing a Form I-290B. Is a Form I-290B required to file a motion to reopen or reconsider? Is correspondence a faster way to obtain a decision on a motion to reopen or reconsider? Another caller indicated that he wrote a letter to USCIS explaining that the evidence he submitted warranted a grant of his case, rather than the denial he received. However, he did not designate his letter as a motion to reopen or reconsider. For customers who write a letter to a USCIS office, must they explicitly state that they are moving to reopen or reconsider the decision?
- 7. Supplemental Information/ New Evidence** - Another caller asked if USCIS accepts the submission of supplemental information on motions to reopen. In addition, what constitutes "new evidence" for a motion to reopen?
- 8. Derivatives** - A caller stated that USCIS has no automatic reopening or reconsideration for derivative beneficiaries in cases where the principal's case is denied. Therefore, each derivative beneficiary must file a motion to reopen or reconsider. Do derivative beneficiaries have to file separate motions to reopen or reconsider and pay a separate \$585 fee when the principal's case is denied?
- 9. Lack of Tracking** - Several callers commented on the lack of a uniform tracking mechanism for motions to reopen or reconsider. This issue appeared to be particularly problematic for cases at the service centers. One caller spoke with the National Customer Service Center, but stated that she was unable to make a service request because there were no processing times posted for motions to reopen or reconsider. How does USCIS suggest its customers follow up or make inquiries on the status of motions to reopen or reconsider that were filed with the service centers?

**10. Transfers of Cases** - Another caller recently discovered that USCIS transferred her motion to reopen from the Nebraska Service Center to the Los Angeles District Office. In what cases would a motion to reopen or reconsider filed with a service center be transferred?

This page was last reviewed/modified on March 2, 2009.