



# Instructions for Petition for a CNMI-Only Nonimmigrant Transitional Worker

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

USCIS  
Form I-129CW  
OMB No. 1615-0111  
Expires 05/31/2020

## What Is the Purpose of Form I-129CW?

This form is used by an employer to petition U.S. Citizenship and Immigration Services (USCIS) for an alien to come as a nonimmigrant to the Commonwealth of the Northern Mariana Islands (CNMI) temporarily to perform services or labor as a **CW-1**, CNMI-Only Transitional Worker, an alien worker who will enter or remain in the CNMI for the purpose of employment during the transition period, and is ineligible for another classification under the Immigration and Nationality Act (INA).

This form is used also by an employer to request an extension of stay or change of status for a CNMI-Only Transitional Worker.

**NOTE:** Form I-129CW consists of a basic petition and an individual supplement relating to this classification.

## Who May File Form I-129CW?

**General.** An employer may file this petition to classify an alien as a CNMI-Only Transitional Worker. In order to obtain the status, the worker must either be lawfully present in the CNMI, or must be coming from abroad to the CNMI with a CW-1 visa. The alien cannot be present in the United States, other than in the CNMI.

**Including more than one alien in a petition.** Multiple aliens who will seek admission in CW-1 classification may be included on the same petition provided they will:

1. All be working in the same occupational category;
2. All be employed for the same period of time;
3. All be employed in the same location; and
4. All be requesting the same action in **Part 2., Item Numbers 2, and 5.**

**Naming beneficiaries.** All aliens in a petition for CW-1 classification, an extension of stay, or change of status must be named in the petition. Unnamed beneficiaries are not permitted.

## General Instructions

USCIS provides forms free of charge through the USCIS website. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>. If you do not have Internet access, you may call the USCIS National Customer Service Center at **1-800-375-5283** and ask that we mail a form to you. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

**Signature.** Each petition must be properly signed and filed. For all signatures on this petition, USCIS will not accept a stamped or typewritten name in place of a signature.

**Validity of Signatures.** USCIS will consider a photocopied, faxed, or scanned copy of the original, handwritten signature valid for filing purposes. The photocopy, fax, or scan must be of the original document containing the handwritten, ink signature.

**Filing Fee.** Each petition must be accompanied by the appropriate filing fee and biometric services fee (if applicable). (See the **What Is the Filing Fee** section of these Instructions.)

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**Evidence.** At the time of filing, you must submit all evidence and supporting documentation listed in the **What Evidence Must You Submit** section of these Instructions.

**Biometric Services Appointment.** USCIS may require that you appear for an interview or provide biometrics (for example, fingerprints, photograph, and/or signature) at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your application or petition. After USCIS receives your petition and ensures it is complete, we will inform you in writing if you need to attend a biometric services appointment. If an appointment is necessary, the notice will provide you the location of your local or designated USCIS Application Support Center (ASC) and the date and time of your appointment or, if you are currently overseas, instruct you to contact a U.S. Embassy, U.S. Consulate, or USCIS office outside the United States to set up an appointment.

If you are required to provide biometrics, at your appointment you must sign an oath reaffirming that:

1. You provided or authorized all information in the petition;
2. You reviewed and understood all of the information contained in, and submitted with, your petition; and
3. All of this information was complete, true, and correct at the time of filing.

**Copies.** You should submit legible photocopies of documents requested, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filing or at any time during processing of an application or petition. If USCIS requests an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

**NOTE:** If you submit original documents when not required or requested by USCIS, **your original documents may be immediately destroyed upon receipt.**

**Translations.** If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must include the translator's signature. DHS recommends the certification contain the translator's printed name, the signature date, and the translator's contact information.

#### **How To Fill Out Form I-129CW**

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this petition, use the space provided in **Part 10. Additional Information** or attach a separate sheet of paper. Type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks, "Provide the name of your current spouse"), type or print "N/A" unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None" unless otherwise directed.
4. **USCIS Online Account Number** (if any). If you have previously filed an application or petition using the USCIS online filing system (previously called USCIS Electronic Immigration System (USCIS ELIS)), provide the USCIS Online Account Number you were issued by the system. You can find your USCIS Online Account Number by logging in to your account and going to the profile page. If you previously filed certain applications or petitions on a paper form through a USCIS Lockbox facility, you may have received a USCIS Online Account Access Notice issuing you a USCIS Online Account Number. You may find your USCIS Online Account Number at the top of the notice. If you were issued a USCIS Online Account Number, enter it in the space provided. The USCIS Online Account Number is not the same as an A-Number.

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## 5. Part 6. Information about the Proposed Employee's (Primary Beneficiary) Public Benefits.

**Item Number 1.** Public Benefits. Please provide the information requested about the beneficiary's (the alien's) receipt of public benefits unless the nonimmigrant classification is exempt from the public charge inadmissibility under INA 212(a)(4).

In this section, please provide all requested information about each public benefit regardless of whether the amount of the duration would be excluded as described below, as USCIS will calculate the amount to be considered in the public charge inadmissibility determination. If you require additional space, please use the space provided in **Part 10, Additional Information**.

In the table, indicate whether or not the beneficiary has ever applied for or received, any of the following monetizable (cash) public benefits:

1. Any Federal, State, local, or tribal cash assistance for income maintenance including:
  - A. Supplemental Security Income (SSI)
  - B. Temporary Assistance for Needy Families (TANF)
  - C. Federal, State or local cash benefit programs for income maintenance (often called "General Assistance" in the State context, but which may exist under other names)
2. The following monetizable (non-cash) benefits:
  - A. Supplemental Nutrition Assistance Program (SNAP, or formerly called "Food Stamps")
  - B. Section 8 Housing Assistance under the Housing Choice Voucher Program
  - C. Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation)
3. Any of the following non-monetizable (non-cash) public benefits:
  - A. Medicaid
  - B. Any benefit for institutionalization for long-term care at government expense, for example, Institutionalization for Long-Term Care may include: Intermediate Care Facilities for People with Intellectual disability (ICF/ID), Nursing Facility (NF), Preadmission Screening & Resident Review (PASRR), Inpatient Psychiatric Services for Individuals Under Age 21, and Services for individuals age 65 or older in an institution for mental diseases
  - C. Premium and Cost Sharing Subsidies for Medicare Part D
  - D. Public Housing

### Amount and Duration of Benefit

As part of the determination regarding eligibility for extension of stay or change of status), USCIS will consider the above listed public benefits as follows:

1. **Monetizable (cash or non-cash) benefits:** USCIS will consider the benefits when the total receipt of all benefits cumulatively exceeds 15 percent of the Federal Poverty Guidelines (FPG) for a household of one within any period of 12 consecutive months (since you obtained the nonimmigrant status that you seek to extend or from which you seek to change), based on the per-month average FPG for the months during which the benefits are received. Note only the amount received by or attributable to the alien will be considered (for example, if the TANF is for a household of 4, only 25 percent of the total TANF benefit will be considered).
2. **Non-monetizable benefits (non-cash):** USCIS will generally consider the benefits when the benefit (or benefits) is received for longer than 12 months within an aggregate of 36 months since you obtained the nonimmigrant status that you seek to extend or from which you seek to change (such that, for instance, receipt of 2 non-monetizable benefits in one month counts as two months). Note only the amount received by or attributable to the alien will be considered (for example, if the SNAP or housing benefit is for a household of 4, only 25 percent of the total SNAP or housing benefit will be considered).

**3. Combined Monetizable and Non-monetizable Public Benefits.** USCIS will generally consider the receipt of a combination of monetizable benefits, described above, where the cumulative value of such benefits is equal to or less than 15 percent of the FPG for a household size of one within any period of 12 consecutive months (since you obtained the nonimmigrant status that you seek to extend or from which you seek to change), based on the per-month average FPG for the months during which the benefits are received, together with one or more non-monetizable benefits described above of this section if such non-monetizable benefits are received for more than 9 months in the aggregate within a 36 month period since you obtained the nonimmigrant status that you seek to extend or from which you seek to change, (such that, for instance, receipt of two non-monetizable benefits in one month counts as two months).

The following tables provides a summary of how USCIS will consider the monetizable and a non-monetizable public benefits:

<b>Summary of Consideration Monetizable and Non-monetizable Public Benefits</b>	
<b>Monetizable Benefit(s):</b>	<b>Non-monetizable Benefit(s):</b>
Cumulative value of benefits for a household of one within any period of 12 consecutive months, based on the per-month average FPG for the months during which the benefits are received	Number of Benefits and Duration (Months) within a 36-month period (such that, for instance, receipt of two non-monetizable benefits in one month counts as two months)
More than 15% of the FPG	Any benefits for any time period
Equal to or less than 15% of the FPG	1 or more benefits for longer than 9 aggregate months
Any benefits in any percentage of the FPG	1 or more benefit for longer than 12 aggregate months

**Public Benefits Received by U.S. Armed Forces Servicemembers**

When considering receipt of public benefits in the public charge determination, USCIS will not consider any public benefits if the beneficiary, either at the time of receipt of the benefit(s), the time of filing the immigration benefits application, or the time of USCIS’ adjudication of the benefit application is:

1. An alien serving in active duty or in the Ready Reserve component of the U.S. Armed Forces, or
2. The spouse or child of the service member (listed in 1, above).

You must provide the following documentation:

**A. Service Members:**

- (1) Certified proof, issued by the authorizing official of the executive department in which the servicemember is serving.

**B. Spouses and Children of Service Members:**

- (1) Provide copies of marriage certificate for spouse and birth certificates for children; and
- (2) DD-1173, United States Uniformed Services Identification and Privilege Card (Dependent).

**Medicaid Services Not Considered**

In addition, in the public charge inadmissibility determination, USCIS will not consider any of the Medicaid benefits received by:

1. Children of U.S. citizens whose lawful admission for permanent residence and subsequent residence in the legal and physical custody of their U.S. citizen parent will result automatically in the child’s acquisition of citizenship or whose lawful admission for permanent residence will result automatically in the child’s acquisition of citizenship upon finalization of adoption in the United States by the U.S. citizen parent(s), or once meeting other eligibility criteria as required under INA 320.

For information on eligibility for citizenship under INA 320 and the evidentiary requirements to meet the qualifications to demonstrate citizenship, please see Form N-600, Application for Certificate of Citizenship. If the beneficiary has not previously submitted any required evidence to comply with filing requirements of other benefit requests (such as the I-130 Petition for Alien Relative, I-600 Petition to Classify Orphan as an Immediate Relative, or I-800 Petition to Classify Convention Adoptee as an Immediate Relative), please submit them at this time with this form.

If the beneficiary is currently residing abroad and entered the United States with a nonimmigrant visa in order to attend an interview in regard of an N-600K, Application for Citizenship and Issuance of Certificate Under INA Section 322, please provide a copy of the interview notice.

Further, USCIS will not consider Medicaid provided payment for “emergency medical condition,” for services provided under the Individuals with Disabilities Education Act (IDEA), or for school-based non-emergency benefits provided to children who are at or below the oldest age of children eligible for secondary education as determined under State law. Please provide documentation of such payments under those conditions, and, if applicable, provide a statement and information regarding the “emergency medical condition” determination. USCIS will not consider these specific Medicaid provisions in the public charge determination. If the beneficiary applied for or received Medicaid under these conditions, please indicate and explain so in **Part 10. Additional Information**.

#### **Documentation of Public Benefit Receipt:**

If the beneficiary applied for, is currently receiving, or previously received, any of the public benefits listed above, provide evidence in the form of a letter, notice, certification or other agency documents that contain the following:

1. Your Name;
2. Name and contact information for the public benefit granting agency;
3. Type of Benefit;
4. Amount of benefit(s) received (check boxes for weekly, monthly, annually, other explain);
5. Date Benefit Was Granted;
6. Date the Benefit Ended or Expires (mm/dd/yyyy)(if applicable); and
7. Number of Household Members Receiving the Benefit (if applicable).

If the beneficiary has terminated the receipt of benefits, provide the documentation that indicates you will no longer receive the benefits with the applicable termination date.

**Item Numbers 2. and 2a. Future Applications for or Receipt of Public Benefits.** Indicate whether or not you or any derivative anticipate applying for or receiving public benefits at any time in the future, including whether you or any derivative have been certified or approved to receive future benefits or have been determined to be eligible for future benefits. If you or your derivatives anticipate requesting or receiving such benefits, please explain what public benefit(s) you or your derivatives expect to apply for or receive, for how long you expect to receive the benefit(s), the anticipated amount(s) of the public benefits you expect to receive, and why you or your derivatives would receive the benefit(s) in the space provided. If you need extra space to complete this section, use the space provided in **Part 10. Additional Information**.

- 6. Part 7. Statement, Contact Information, Declaration, Certification, and Signature of the Petitioner or Authorized Signatory.** Select the appropriate box to indicate whether you read this petition yourself or whether you had an interpreter assist you. If someone assisted you in completing the petition, select the box indicating that you used a preparer. Further, you must sign and date your petition and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). Every petition **MUST** contain the signature of the petitioner (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.



**7. Part 8. Interpreter's Contact Information, Certification, and Signature.** If you used anyone as an interpreter to read the Instructions and questions on this petition to you in a language in which you are fluent, the interpreter must fill out this section; provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the petition.

**8. Part 9. Contact Information, Declaration, and Signature of the Person Preparing this Petition, if Other Than the Petitioner.** This section must contain the signature of the person who completed your petition, if other than you, the petitioner. If the same individual acted as your interpreter **and** your preparer, that person should complete both **Part 8.** and **Part 9.** If the person who completed this petition is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this petition **MUST** sign and date the petition. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your petition is an attorney or accredited representative, he or she may be obliged to also submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your petition.

**We recommend that you print or save a copy of your completed petition to review in the future and for your records.**

### **Petition Always Required**

You must apply for CW-1 classification. A petition for new or concurrent employment or for an extension where there is a change in previously approved employment must be filed with the initial evidence listed below, and with the initial evidence required by the separate instructions for an initial grant of status, a change of status or extension of stay. A petition for an extension based on an unchanged continuation of previously approved employment, however, should only be filed with the initial evidence required in the separate extension-of-stay instructions.

### **Form I-129CW Classification Supplement**

An employer seeking to classify an alien as a CW-1 CNMI-Only Nonimmigrant Transitional Worker must file one supplement per beneficiary with Form I-129CW and the appropriate fee. (See "**What Is the Filing Fee?**" for additional information.)

The CW Classification Supplement requires an attestation by the petitioning employer with the appropriate documentation. The authorizing official of the petitioning employer must complete, sign, and date the Employer Attestation. The attestation certifies, under penalty of perjury under the laws of the United States of America, that the contents of the attestation are true and correct. The attestation is subject to verification. Specifically, the attestation certifies the following:

1. Qualified U.S. workers are not available to fill the position;
2. The employer is doing business as defined in 8 CFR 214.2(w)(1)(ii);
3. The employer is a legitimate business as defined in 8 CFR 214.2(w)(1)(vi);
4. The employer is an eligible employer as described in 8 CFR 214.2(w)(4) and will continue to comply with the requirements for an eligible employer until such time as the employer no longer employs any CW-1 nonimmigrant worker;
5. The beneficiary meets the qualifications for the position;
6. The beneficiary, if present in the CNMI, is lawfully present in the CNMI;
7. The position is not temporary or seasonal employment and the petitioner does not reasonably believe it to qualify for any other nonimmigrant worker classification; and
8. The position falls within the list of occupations designated by the Secretary at 8 CFR 214.2(w)(1)(ix):

- A. Professional, technical, or management occupations;
- B. Clerical and sales occupations;
- C. Service occupations;
- D. Agricultural, fisheries, forestry, and related occupations;
- E. Processing occupations;
- F. Machine trade occupations;
- G. Benchwork occupations;
- H. Structural work occupations; and
- I. Miscellaneous occupations.

All occupations must be from a legitimate business not engaging directly or indirectly in prostitution, trafficking of minors, or any other activity that is illegal under Federal or CNMI law.

## **Part 2. Information about the Beneficiary (Spouse or Child) Public Benefits**

**Item Number 1. Public Benefits.** Except where the nonimmigrant classification that the alien seeks to extend, or to which the alien seeks to change, is exempted by law from the public charge inadmissibility determination under INA 212(a)(4).

If the beneficiary is currently receiving or previously received any of the benefits listed, provide evidence in the form of a letter, notice, or other agency documents that indicate whether the benefit is being received. Documentation should contain the following:

1. Name and contact information for the public benefit granting agency;
2. Name of the person receiving (or who has received) the public benefits;
3. Type and amount of benefit(s) received; and
4. Dates of receipt and how long the benefit was received or when it is expected to end.

If the beneficiary has terminated the receipt of benefits, provide the documentation that indicates he or she will no longer receive the benefits with the appropriate termination date.

If you need extra space to complete this section, use the space provided in **Part 10. Additional Information.**

Indicate whether or not the beneficiary has ever applied for, or received, any of the following benefits:

1. Any Federal, State, local, or tribal cash assistance for income maintenance, including:
  - A. Supplemental Security Income (SSI)
  - B. Temporary Assistance for Needy Families (TANF)
  - C. Federal, State or local cash benefit programs for income maintenance (often called “General Assistance” in the State context, but which may exist under other names)
2. The following refundable tax credits, when the credit is more than the taxes you owed:
  - A. The Earned Income Tax Credit (EITC)
  - B. The Additional Child Tax Credit (ACTC)
3. Any of the following public benefits:
  - A. Medicaid
  - B. Premium and Cost Sharing Subsidies for Medicare Part D
  - C. Supplemental Nutrition Assistance Program (SNAP, or formerly called “Food Stamps”)

- D. Section 8 Housing Assistance under the Housing Choice Voucher Program
- E. Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation)
- F. Public Housing
- G. Any benefit for institutionalization for long-term care at government expense

If Medicaid provided payment for “emergency medical condition,” for services provided under the Individuals with Disabilities Education Act (IDEA), or for school-based non-emergency benefits provided to children who are at or below the oldest age of children eligible for secondary education as determined under State law provide documentation of such payments under those conditions, provide a statement and information regarding the “emergency medical condition” determination. USCIS will not consider these specific Medicaid provisions in the public charge determination. If you received Medicaid under these conditions, please provide an explanation in **Part 10. Additional Information**.

Institutionalization for Long-Term Care may include: Intermediate Care Facilities for People with Intellectual disability (ICF/ID), Nursing Facility (NF), Preadmission Screening & Resident Review (PASRR), Inpatient Psychiatric Services for Individuals Under Age 21, and Services for individuals age 65 or older in an institution for mental diseases.

As part of determination regarding eligibility for extension of stay or change of status, USCIS will consider the above listed public benefits when the receipt exceeds 15 percent of the Federal Poverty Guidelines (FPG) in the calendar year in which such benefits were received, based on alien’s household size. Please provide all the information about the public benefit even if the amount is below 15 percent of the FPG for the year, USCIS will calculate amount for consideration.

#### **Accommodations for Individuals With Disabilities and/or Impairments**

If an employer is asking for an accommodation for a beneficiary with disabilities or impairments, they must fill out this section.

USCIS is committed to providing reasonable accommodations for qualified individuals with disabilities and/or impairments that will help them fully participate in USCIS programs and benefits.

Reasonable accommodations vary with each disability and/or impairment. They may involve modifications to practices or procedures. There are various types of reasonable accommodations that we may offer. Examples include but are not limited to:

1. If the beneficiary is deaf or hard of hearing, USCIS may provide them with a sign-language interpreter at an interview or other immigration benefit-related appointment;
2. If the beneficiary is blind or has low vision, USCIS may permit them to take a test orally rather than in writing; or
3. If the beneficiary is unable to travel to a designated USCIS location for an interview, USCIS may visit them at their home or a hospital.

If you believe that you need USCIS to accommodate the beneficiary’s disability and/or impairment, select “Yes” and then any applicable box on Form I-129CW, **Part 11., Item Numbers 4.a. - 4.c.**, and Form I-129CW Classification Supplement, **Part 2., Item Numbers 4.a. - 4.c.** (if applicable), that describes the nature of their disabilities and/or impairments. Also, describe the types of accommodations the beneficiary is requesting on the lines provided. If the beneficiary is requesting a sign-language interpreter, indicate for which language. If you need extra space to complete this section, use the space provided in **Part 10. Additional Information**.

**NOTE:** All domestic USCIS facilities meet the Accessibility Guidelines of the Americans with Disabilities Act, so you do not need to contact USCIS to request an accommodation for physical access to a domestic USCIS office. However, on Form I-129CW **Part 11.**, or Form I-129CW Classification Supplement **Part 2.**, you can indicate whether the beneficiary uses a wheelchair. This will allow USCIS to better prepare the beneficiary’s visit.

**NOTE:** USCIS also ensures that limited English proficient (LEP) individuals are provided meaningful access at an interview or other immigration benefit-related appointment, unless otherwise prohibited by law. LEP individuals may bring a qualified interpreter to the interview.



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USCIS considers requests for reasonable accommodations on a case-by-case basis, and we will make our best efforts to reasonably accommodate a beneficiary's disabilities and/or impairments. USCIS will not exclude them from participating in USCIS programs or deny their petition because of their disabilities and/or impairments. Requesting and/or receiving an accommodation will not affect their eligibility for an immigration benefit.

### **Initial Grant of CW-1 Status**

An alien who was admitted to the CNMI prior to November 28, 2009 may not currently hold a Federal nonimmigrant classification that permits a change of status. However, under the CNMI-Only Transitional Worker regulations the petitioner may in certain situations request that the alien be granted an *initial* CW-1 status in the CNMI. This will allow certain beneficiaries who were present in the CNMI prior to the transition date to be granted an *initial* CW-1 status without having to depart the CNMI. Additionally, an alien who is currently in parole status in the CNMI may also be granted an *initial* CW-1 status in the CNMI.

A petition for a grant of initial CW-1 status for a beneficiary currently in the CNMI whose lawful status is solely based upon a CNMI issued permit must have been filed on or before November 27, 2011. In addition to the initial evidence for the CW-1 classification, a petition requesting an initial grant of CW-1 status must be accompanied by evidence that each beneficiary is currently lawfully present in the CNMI.

If you are requesting that the beneficiary be granted initial CW-1 status in the CNMI, you must select **Item Number 2.a.** in **Part 2.**, and select **Item Number 5.b.** in **Part 2.** Additionally, you must select the sub-category box "1." in **Part 2.**, **Item Number 5.b.**

**NOTE:** Dependent aliens (for example, qualifying family members of a CW-1 beneficiary) must use Form I-539, Application to Change/Extend Nonimmigrant Status, to apply for an initial grant of CW-2 status.

**Please note** that an alien present in the CNMI with an unexpired nonimmigrant classification (such as F-1 or H-2B) should file the petition requesting a Change of Status as discussed in the Change of Status section below.

### **Change of Status**

A beneficiary who was lawfully admitted to the CNMI under Federal immigration laws on or after the transition program effective date of November 28, 2009 and who currently holds an unexpired eligible nonimmigrant status may change status to CW-1 status with this petition.

In addition to the initial evidence for CW-1 classification, a petition requesting a change of status for an alien in the CNMI must be submitted with a copy of the employee's Form I-94, Nonimmigrant Arrival-Departure Record.

If you are requesting a change of a Federal nonimmigrant status to that of CW-1 status you must select **Item Number 2.a.** in **Part 2.**, and select **Item Number 5.b.** in **Part 2.** Additionally, you must select the sub-category box "2." in **Part 2.**, **Item Number 5.b.**

**NOTE:** Dependent aliens (for example, qualifying family members of a CW-1 beneficiary) must use Form I-539, Application to Change/Extend Nonimmigrant Status, to apply for a change of status.

A nonimmigrant who must have a passport to be admitted must keep that passport valid during his or her entire stay. If a required passport will not be valid for the entire requested period of stay, include a full explanation with your petition.

### **Extension of Stay**

A petition requesting an extension of stay for an employee in the CNMI may be filed only if the validity of the original petition has not expired. Requests for extensions of CW-1 status may be granted for periods up to one year until the end of the transition period, subject to the numerical limitation.

A petition requesting an extension of stay must be filed with:

1. A copy of the employee's Form I-94 Arrival-Departure Record Number;
2. Form I-129CW Classification Supplement per beneficiary submitted with evidence that supports the elements in the attestation, to the extent available;

3. Evidence that the beneficiary or beneficiaries:
  - A. Continuously maintained the terms and conditions of CW-1 status;
  - B. Remains admissible to the United States;
  - C. Remains eligible for CW-1 classification; and
4. Evidence of licensure if the occupation requires a Commonwealth or local license. If there has been a change in the circumstances of employment (for example, a new employer), submit the evidence required for a new petition.

**NOTE:** Dependent aliens (for example, qualifying family members of a CW-1 beneficiary) must use Form I-539, Application to Change/Extend Nonimmigrant Status, to apply for an extension of status.

A nonimmigrant who must have a passport to be admitted must keep that passport valid during his or her entire stay. If a required passport is not valid, include a full explanation with your petition.

### What Evidence Must You Submit?

You must submit all evidence requested in these Instructions with your petition. If you fail to submit required evidence, USCIS may reject or deny your petition for failure to submit requested evidence or supporting documents in accordance with 8 CFR 103.2(b)(1) and these Instructions.

#### Initial Evidence

A CNMI-Only Transitional Worker (CW-1) is an alien worker who will enter or remain in the CNMI for the purpose of employment during the transition period, and is ineligible for another classification under the Act. In order to obtain the status, the worker must either be lawfully present in the CNMI, or must be coming from abroad to the CNMI with a CW-1 visa. The alien cannot be present in the United States, other than in the CNMI.

The CW-1 classification is only available during the transition period. The transition period is the period beginning on the transition program effective date, November 28, 2009, and ending on December 31, 2019.

The alien is lawfully present in the CNMI if the alien was lawfully admitted to the CNMI under the immigration laws of the CNMI prior to November 28, 2009 and is still within the authorized period of stay, or was lawfully admitted or paroled into the CNMI under federal immigration laws on or after November 28, 2009, other than an alien admitted or paroled as a visitor for business or pleasure (B-1 or B-2) or under any visa-free travel provision including but not limited to the parole program for certain visitors from Russia and the People's Republic of China.

Employers may file petitions until December 31, 2019. However, the petitioner should file the petition as early as possible to ensure adjudication prior to December 31, 2019 as this is the expiration date of the CW program and all CW status. When filing the petition, an employer may not include more than one requested action on each petition (i.e. initial grant of CW-1 status, change of status, extension of status, or consular processing); doing so may result in delay of the petition.

The CW-1 employer must be a legitimate business. A legitimate business is a real, active, and operating commercial or entrepreneurial undertaking that produces goods or services 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. The U.S. Secretary of Homeland Security will determine whether a business is legitimate.

**Basic Requirements.** An employer must file the petition. The employer must:

1. Complete Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker. Complete all parts and make sure to write **CW-1** in the requested classification block in **Part 2**. If a Form I-94 Arrival-Departure Record Number has not been issued, list the current CNMI permit number in any block requesting the "Form I-94 Arrival-Departure Record Number" (write "CNMI" followed by the current CNMI permit number).

2. Complete one CW Classification Supplement to Form I-129CW per beneficiary and submit with evidence, to the extent available, that supports the elements in the attestation.
3. Submit evidence demonstrating that the petitioner meets the definition of an employer as defined by 8 CFR 214.2(w)(1)(iii), including but not limited to a copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien may be employed; and
4. A copy of any required Commonwealth or local license for an individual to fully perform or practice the duties of the occupation.
5. Submit evidence demonstrating that the petitioner has posted a job vacancy announcement for the proffered position on the CNMI Department of Labor website as required by CNMI law.

### Instructions for Occupation Codes

You can obtain the Standard Occupational Classification (SOC) codes from DOL, Bureau of Labor Statistics at [www.bls.gov/soc](http://www.bls.gov/soc). Type or print the code from left to right, one digit in each of the six boxes.

To determine whether the beneficiary's proposed employment qualifies for a CW-1 visa, USCIS will review the totality of the record, including the listed SOC code, Job Vacancy Announcement and any additional evidence submitted by the CW-1 petitioner. USCIS may request additional information if the SOC code is blank or if the evidence submitted with the Form I-129CW does not establish that the proposed employment matches the SOC code listed on the petition. In determining whether the proposed employment matches the listed SOC code, USCIS will consider factors, including, but not limited to the job duties and responsibilities of the proposed employment, and any educational, experience, and/or training requirements.

### Liability for Return Transportation

Under 8 CFR 214.2(w)(11), a petitioning employer is liable for the reasonable cost of return transportation for a CNMI-Only Transitional Worker who is dismissed before the end of the period of authorized employment.

### When To File?

Generally, Form I-129CW may not be filed more than 6 months prior to the date employment is scheduled to begin.

### What Is the Filing Fee?

The filing fee for Form I-129CW is **\$460**.

Public Law 110-229, as revised by the Northern Mariana Islands U.S. Workforce Act of 2018, requires a fraud prevention and detection fee of **\$50** per petition and a supplemental CNMI education funding fee of **\$200** per beneficiary, per year.

An employer filing Form I-129CW for a CNMI-Only Nonimmigrant Transitional Worker must submit the **\$460** petition filing fee, the **\$50** fraud prevention and detection fee, and an additional **\$200** per beneficiary, per year for the supplemental CNMI education fee.

An additional biometric services fee of **\$85** per beneficiary is required if the alien is present in the CNMI when filing for **initial** grant of CW-1 status. (See 8 CFR 103.7(b)). After submission of the petition, USCIS will notify the beneficiary about when and where to go for biometric services.

### Exceptions

You may be eligible for a fee waiver under 8 CFR 103.7(c). However, note that the fraud prevention and detection fee and the CNMI education funding fee cannot be waived.

USCIS will use the Poverty Guidelines published annually by the U.S. Department of Health and Human Services as the basic criteria in determining the applicant's eligibility when economic necessity is identified as a factor.

The Poverty Guidelines will be used as a guide, but not as a conclusive standard, in adjudicating fee waiver requests.

**NOTE:** The filing fee and biometric services fee are not refundable, regardless of any action USCIS takes on this petition. **DO NOT MAIL CASH.** You must submit all fees in the exact amounts.

**Use the following guidelines when you prepare your checks or money orders for the Form I-129CW filing fee and biometric services fee:**

1. The checks or money orders must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
2. Make the checks or money orders payable to **U.S. Department of Homeland Security.**

**NOTE:** Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

3. If you live outside the United States, contact the nearest U.S. Embassy or U.S. Consulate for instructions on the method of payment.

**Notice to Those Making Payment by Check.** If you send USCIS a check, we will convert it into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and your bank will show it on your regular account statement.

You will not receive your original check back. We will destroy your original check, but will keep a copy of it. If USCIS cannot process the EFT for technical reasons, you authorize us to process the copy in place of your original check. If your check is returned as unpayable, USCIS will re-submit the payment to the financial institution one time. If the check is returned as unpayable a second time, we will reject your petition and charge you a returned check fee.

**How To Check If the Fees Are Correct**

Form I-129 CW's filing fee and biometric services fee are current as of the edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fees are correct by following one of the steps below.

1. Visit the USCIS website at [www.uscis.gov](http://www.uscis.gov), select "FORMS," and check the appropriate fee; or
2. Call the USCIS National Customer Service Center at **1-800-375-5283** and ask for fee information. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

**Fee Waiver**

You may be eligible for a fee waiver under 8 CFR 103.7(c). If you believe you are eligible for a fee waiver, complete Form I-912, Request for fee Waiver (or a written request), and submit it and any required evidence of your inability to pay the filing fee with this petition. You can review the fee waiver guidance at [www.uscis.gov/feewaiver](http://www.uscis.gov/feewaiver).

**Where To File?**

Please see our website at [www.uscis.gov/I-129CW](http://www.uscis.gov/I-129CW) or call our National Customer Service Center at **1-800-375-5283** for the most current information about where to file this petition. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

## Address Change

A petitioner who is not a U.S. citizen must notify USCIS of his or her new address within 10 days of moving from his or her previous residence. For information on filing a change of address, go to the USCIS website at [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange) or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

**NOTE:** Do not submit a change of address request to the USCIS Lockbox facilities because the Lockbox does not process change of address requests.

## Processing Information

You, the Petitioner, must have a United States address to file this petition (a P.O. box is acceptable).

**Initial Processing.** Once USCIS accepts your petition, we will check it for completeness. If you do not completely fill out this petition, you will not establish a basis for your eligibility and USCIS may reject or deny your petition.

**Requests for More Information.** We may request that you provide more information or evidence to support your petition. We may also request that you provide the originals of any copies you submit. If we request an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

**Requests for Interview.** We may request that you appear at a USCIS office for an interview based on your petition. At the time of any interview or other appearance at a USCIS office, we may require that you provide your biometrics to verify your identity and/or update background and security checks.

**Decision.** The decision on Form I-129CW involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of the decision in writing.

## USCIS Forms and Information

To ensure you are using the latest version of this petition, visit the USCIS website at [www.uscis.gov](http://www.uscis.gov) where you can obtain the latest USCIS forms and immigration-related information. If you do not have Internet access, you may order USCIS forms by calling the Forms Request Line at **1-800-870-3676**. You may also obtain forms and information by calling the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Instead of waiting in line for assistance at your local USCIS office, you can schedule an appointment online at [www.uscis.gov](http://www.uscis.gov). Select "Make an Appointment" and follow the screen prompts to set up your appointment. Once you finish scheduling an appointment, the system will generate an appointment notice for you.

## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-129CW, we will deny your Form I-129CW and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.



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## DHS Privacy Notice

**AUTHORITIES:** The information requested on this petition, and the associated evidence, is collected under Title VII of the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110-229 and the Northern Mariana Islands Economic Expansion Act, Public Law 115-53 (both codified in 48 U.S.C. section 1806(d)); Immigration and Nationality Act, section 214 (8 U.S.C. section 1184); and 8 CFR section 214.2(w).

**PURPOSE:** The primary purpose for providing the requested information on this petition is for an employer to petition for an alien to perform labor as a CW-1, CNMI-Only Transitional Worker. DHS uses the information you provide to grant or deny the immigration benefit you are seeking.

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, including your Social Security number (if applicable), and any requested evidence, may delay a final decision or result in denial of your petition.

**ROUTINE USES:** DHS may share the information you provide on this petition and any additional requested evidence with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notice [DHS/USCIS-007 - Benefits Information System] and the published privacy impact assessment [DHS/USCIS/PIA-016a Computer Linked Application Information Management System and Associated Systems] which you can find at [www.dhs.gov/privacy](http://www.dhs.gov/privacy). DHS may also share this information, as appropriate, for law enforcement purposes or in the interest of national security.

## Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for this collection of information is estimated at 3 hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing the petition, preparing statements, attaching necessary documentation, and submitting the petition. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0111. **Do not mail your completed Form I-129CW to this address.**