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DACA Update for Employers - September 5, 2017

Rescission of DACA Program

The current Administration [announced](#) the rescission of the Department of Homeland Security's 2012 [policy](#), *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children*, commonly referred to as "DACA." Based upon the current information, this update is intended to provide employers with information relating to the employment authorization of certain employees who have been granted "deferred action" and granted temporary, Employment Authorization Documents ("EADs").¹ It is important to keep in mind that today's rescission announcement provides somewhat clear guidelines on certain issues, but also lacks answers to certain key questions. As this policy is implemented, the relevant agencies, the Department of Homeland Security ("DHS") and the U.S. Citizenship & Immigration Services ("USCIS"), should provide additional information.

Impact on Current DACA Beneficiaries/Employees

- The current periods of employment authorization on EAD cards should remain valid through the listed end dates.
- Pending renewal applications and EAD of DACA beneficiaries should be processed according to existing standards.²
- The USCIS will accept DACA and EAD renewals for a limited number of DACA beneficiaries:
 - The applicant's current DACA and EAD documents must expire prior to March 6, 2018; and
 - The renewal applications must be properly filed and accepted by the USCIS no later than as of October 5, 2017.
- If a DACA beneficiary's EAD expires after March 5, 2018, his or her DACA employment authorization will terminate on the end-date listed on the current EAD card. The individual will be required to provide other work authorization documentation by the end of the DACA EAD to continue authorized employment.

The Rescission Memorandum states that no initial requests for DACA deferred action or work authorization will be accepted after September 5, 2017. In essence, the doorway to DACA has closed.

Next Steps for DACA Policy

Future policy decisions relating to DACA now depend upon Congress to take up the issue. If Congress passes legislation targeting DACA beneficiaries, the Administration will be required to act upon it. The future of approximately 800,000 young people, and their employers, will remain an active one over the next six months.

Disclaimer: This information is intended only to provide general information in summary form on legal topics. The contents hereof are not legal advice and should not be relied upon as such. Specific legal advice should be sought in particular matters. The choice of a lawyer is an important decision and should not be based solely upon advertisements.

¹ Individuals granted DACA deferred action and employment authorization possess EAD cards with the [category code](#) of C33.

² The 2012 Memorandum and existing USCIS practice provide for 2-year extensions of DACA and EADs. The Rescission Memorandum does not explicitly state these periods of approval continue to be granted.