



FROM THE EDITOR'S DESK

A hearty welcome back to our regular readers and our new readers. The **Thanksgiving Day** marks the beginning of the traditional Christmas shopping season in the U.S. With the onset of fall and the approach of winter it's been getting quite chilly in the U.S., however, people are heartily enjoying the weather and change of seasons. The happiness is doubled as we see signs of the economy moving back to normal.

The hot immigration news this month once again involves the **H-1B** visa program. After months of slow movement H-1B usage surged in October and early November. According to the latest figures from the U.S. Citizenship and Immigration Services (USCIS) for Fiscal Year (FY) 2010 the pool of 20,000 H-1B numbers for holders of U.S. advanced degrees has now been exhausted. USCIS will continue to accept H-1B petitions for employment in FY 2010, however, any petition that is filed on behalf of a foreign national with a U.S. advanced degree will now be counted against the standard H-1B cap.

As of November 20, 2009 the USCIS has advised that 55,600 petitions had been filed against the 2010 cap. This is a jump of 1,800 visa application in just two weeks, and 7,800 since September 25. The surge can be attributed to the improving economy and the upcoming December graduation season.

Though filing rates were sluggish earlier this year, this recent uptick suggests that demand for H-1B workers is increasing. This means that remaining FY 2010 cap numbers could disappear more quickly than previous usage indicated. It also means that there could be more competition for FY 2011 cap numbers when next year's filing season opens on April 1, 2010.

Now on to some other interesting news... Let's continue with our voyage of knowledge and wisdom with one of the most pleasant announcements of the year. Guess??? No, I'm not talking about the H-1B visa (we already hit that topic). I'm talking about **President Obama's** decision to end America's **22-year** HIV ban. President Barack Obama's administration

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published a final rule on November 2, 2009, that will end the U. S. ban on HIV-positive foreign visitors and immigrants. The change will take effect in January 2010.

The President announced on October 30, 2009, the elimination of the HIV entry ban. Since 1987, HIV-positive travelers and immigrants have been banned from entering or traveling through the United States without a special waiver. In July 2008, Congress removed all legislative barriers to repealing the ban and paved the way for HHS to repeal the ban.



"We talk about reducing the stigma of this disease, yet we've treated a visitor living with it as a threat. We lead the world when it comes to helping stem the AIDS pandemic, yet

we are one of only a dozen countries that still bar people with HIV from entering our own country. If we want to be the global leader in combating HIV/AIDS, we need to act like it."

"Twenty-two years ago, in a decision rooted in fear rather than fact, the United States instituted a travel ban on entry into the country for people living with HIV/AIDS," Obama said, announcing the new policy on October 30.

Effective January 2010, non-U.S. citizens who are HIV positive will be able to enter the U.S. just like any other person does. This is a major step in ending the stigma associated with HIV and we heartily congratulate President for taking such a bold step to keep the unity and humanity alive in the world.

Obama's Health Care Insurance Plan

Sometime this year, President Obama will press Congress to approve his national health insurance plan. Obama's plan, perhaps best described in Jacob Hacker's "Health Care for America" plan has the ambitious and expensive goal of providing affordable health insurance to all Americans through a combination of a new federal "Medicare-like" program and existing employer-provided health plans.

We still don't know what the final health insurance plan will look like, but the image below may give you some idea on the Obama administration's idea of the Health Care for America plan.

YOUR OPINION

Do you think Obama has made a thoughtful decision by lifting the HIV ban?

- a. Yes
- b. No
- c. Can't say

[Cast Your Vote](#)

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IMMIGRATION QUIZ

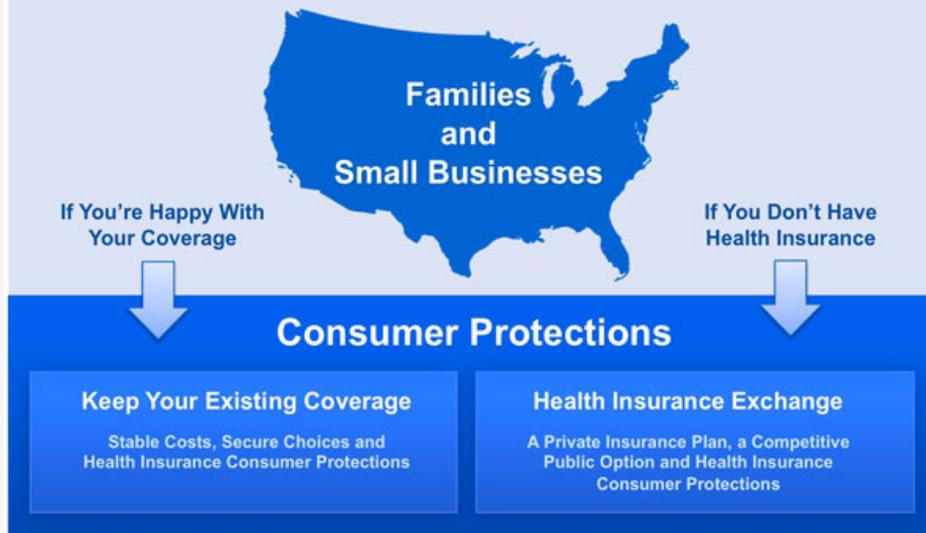
Win a FREE Online Consultation!

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of November 2009.

I'm currently in the U.S. on an H-1B visa with Company A. Company B is ready to transfer my H-1B visa. Now, my concern is, I was working as a Marketing Executive in Company A whereas Company B has offered me a job as a Marketing Manager. Will my H-1B transfer be denied because of the change in the job duties.

[Submit Your Answer](#)

Stable and Secure Health Care for America



Supporters of the Health Care for America plan say it would provide the U.S. with universal health care coverage by:

- being available to any **legal** U.S. resident without good workplace coverage;
- requiring that employers (and the self-employed) either purchase coverage comparable to Health Care for America for all their workers or pay a relatively modest payroll contribution (6% of payroll) to fund Health Care for America coverage for all their employees; and
- requiring that Americans who remain without insurance either purchase private coverage or buy into the Health Care for America Plan.

For persons already covered by employer-provided health insurance, Health Care for America would virtually eliminate the suddenly very real threat of losing coverage because of layoffs.

Other Developments in Immigration Law

Rapid Increase in H-1B Visa Usage Continues, USCIS Received 1600 New Petitions in Just One Week

USCIS has observed a rapid increase in the H-1B filings as 1600 H-1B petitions were received in just one week. As of November 20, 2009, USCIS has received approximately 56,900 H-1B cap-subject petitions. The rapid increase in the H-1B filings indicates that H-1Bs for FY2010 will go off soon.

USCIS Will Temporarily Accept H-1B Petitions Without Certified

Immigration Question?

Consult Our Experienced Attorneys



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Winner of the Immigration Quiz - October 2009:

Dominic Rattansey

The Question:

Mr. Partho is currently in the US on an L-1B visa. He is now receiving interesting job offer from other companies in the US and wants to change his status from L-1B to H-1B. Can someone who is in the US on an L-1B visa change his or her status to H-1B visa?

The Winning Response:

Yes, if you meet all the requirements for an H-1B visa and your potential new employer is ready to file an H-1B petition for you, then you are eligible to file to change your status to an H-1B visa. When changing from L-1B to H-1B you cannot begin employment with the new employer until they have filed a petition for you and that petition has been approved.

Labor Condition Applications (LCAs)

USCIS, on November 5, 2009, announced that it will temporarily accept H-1B petitions filed without Labor Condition Applications that have been certified by the Department of Labor.

Tuberculosis Screening Required for Adjustment of Status Applicants

USCIS has issued Q&A on the recent revisions to Form I-693, Report of Medical Examination and Vaccination Record, and changes to the tuberculosis testing requirement for adjustment of status applicants.

Immigration Articles and Other Fun Stuff:

Now for the regulars – this month's Immigration Article throws a light on **Fiancée Visa Processing in East Asian Countries**. Also check out our In Focus section for this month, entitled 'U.S. Travel Tips - 7 Tips for Travelers to the U.S. for a Safe Journey,' which will help the travelers to the U.S. to be prepared for a safe journey and a secure stay in the U.S.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **76.92%** of the respondents believe that the Recovery Act has made significant progress. We appreciate that people take interest in the opinion question and cast their vote to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We congratulate **Dominic Rattansey** for winning last month's **Immigration Quiz**. Again, we received a significant number of responses from our readers, who talked about various solutions to support their position, but **Dominic Rattansey** gave the correct answer and won

free online consultation to discuss the concerned Immigration issues. So it's time to get ready for this month's quiz. If you know the correct answer your name might be featured in next month's newsletter. All the Best!!!

To ensure you receive your Immigration Newsletter, please add Immigration-Monitor@VisaPro.com to your address book or safe list.

See you next month with a lot more noise from the Immigration World!

Christine

Dominic Rattansey receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of November 2009.

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VisaPro Attorney
Mr. Thomas Joy
at Bangalore



Consular Interview
Mock Session



Seminar Attendees
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LATEST NEWS

[USCIS Extends Grace Period for Accepting Previous Version of Form G-28](#)

USCIS on November 9, 2009, announced that the previous version of the Notice of Entry of Appearance as Attorney or Representative (Form G-28) will be accepted until further notice. USCIS encourages attorneys and accredited representatives to use the new Form G-28; however, USCIS will not reject filings of the previous Form G-28 version until further notice.

[State Department Releases Visa Bulletin for December 2009](#)

The Department of State (DOS) has released the Visa Bulletin for December 2009. The cut-off dates for employment-based preference categories remain unchanged except a slight advancement by 8 days for India under EB-3 category.

[Read More News](#)

IN FOCUS



U.S. Travel Tips - 7 Tips for Travelers to the U.S. for a Safe Journey

Travelers to the U.S. get so excited by the thought of going to the U.S. that they fail to undertake the basic precautions for a safe journey to the U.S. and ultimately they land in trouble. In this article, we discuss 7 travel tips which will help the travelers to the U.S. to be prepared for a safe journey and a secure stay in the U.S. Read the article 'U.S. Travel Tips - 7 Tips for Travelers to the U.S. for a Safe Journey' to learn what are the things the travelers to the U.S. should take care and what are the things they should avoid to ascertain a safe journey to the U.S.

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IMMIGRATION ARTICLE XML

Fiancée Visa Processing in East Asian Countries

Many Consular Posts implement and follow varied visa application procedures and policies depending on the local conditions and requirements. In this article we attempt to cover K-1 visa processing procedures followed by Consular Posts in East Asian countries like China, Korea, Philippines, Thailand and Vietnam. The information below will help foreign national fiancés from these countries be better prepared for the K-1 visa interview.

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PROCESSING TIMES XML

▶ [Visa Bulletin](#)

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DISCUSSION CORNER

[Australian to US on a L1 & Brining family](#)

By Sillybilly

[When to file out Applicant Documents \(DSL forms\)](#)

By Nova1

[Filing I485](#)

By Prisanpires

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2009 H-1B Cap Strategies

How to beat the Cap?

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QUESTIONS AND ANSWERS

1. **Is the E-3 with personal trainer/nutritionist as my specialty occupation the best way to go, given my degree and experience? (And is it likely to work?) Is it correct that the H1B has the same criteria for approval as the E3, but the E3 has better quotas for Australians?**

The [E-3](#) visa is specifically for Australian citizens. There is no quota issue attached with E-3. There are three basic elements for an E-3 visa (and yes they are very similar to the requirements for the [H-1B](#)):

1. You must have either a 4 year American university degree in a professional field (a bachelor's degree) or a foreign degree which is equivalent to a 4 year American university degree, or alternatively a combination of education and experience that is equivalent of a 4 year American university degree;
2. The job offered to you must be a job that requires a minimum of bachelor's degree in the related professional field; and
3. The company must agree to pay you at least prevailing wage or higher for that type of position in that geographic area.

The prevailing wage can be determined from the U.S. Department of Labor's (DOL) website. The website has four levels for the prevailing wage: Level 1 is entry level requiring no experience; Level 2 requires some experience; Level 3 requires significant experience; and Level 4 requires additional experience that involves supervisory duties. Since you want the prevailing wage to be as lower as possible, you will be coming in at the entry level, Level 1. The LCA is filed and approved electronically.

You do not need prior approval from the USCIS, you can file directly with the US consulate in Sydney (Australia). In order to get a visa at a US consulate you have to make an appointment for an interview. You need to have a completed nonimmigrant E-3 visa application form, a certified LCA, and required supporting documentation. The supporting documentation includes a letter from your employer describing the employer, the position you have been offered, your qualification and the terms of employment, your original credentials, transcripts and academic certificates, and your passport.

The E-3 visa is a multiple entry visa which allows you to remain in the US for up to 2 years. You can travel outside US during this period. The E-3 visa is an employer specific visa, i.e., you can only work for the sponsoring employer unless you get prior approval from the USCIS to change employers. However, you are certainly allowed to take ongoing education and career development courses on part time basis as long as the primary purpose of entering the U.S. is to work.

2. **In Nov 2004, my sister (US Citizen) filed an [I-130](#) petition. I would like to know how I can expedite issuance of my Resident Visa.**

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in every issue.

Note: Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

[Ask Your Question](#)

When one may apply and receive an immigrant visa (green card) is controlled by a "priority date" system which essentially allows those who applied first to obtain their green cards before those who applied later to receive theirs. Currently most preference based immigrant visa categories have backlogs, i.e., more people have applied than there are visas for setting up a waiting period. In these categories you must wait until your priority date becomes current before you can apply for your visa.

You fall into what is known as the Family-based "Fourth Preference" category, namely, brothers and sisters of U.S. citizens. The priority date for this category is October 22, 1985. This means that only those individuals whose U.S. citizen brother or sister filed a petition for them on or before October 22, 1995 may now apply for their green cards. Beneficiaries of petitions filed after that date must wait until their priority date (the date their petition was filed) is current before they can apply for their green cards, which essentially means you may have to wait another 10 years from the date your sister filed the petition before you may be eligible to apply for the green card.

[More Q&A](#)

SUCCESS STORIES

"My company tasked me with the job of acquiring an [\[L-1B Visa\]](#) with a strict deadline. Not knowing where to turn, I did some research on the web and found VisaPro. Very quickly I felt the relief of knowing that I found the right company to help me get the job done. They walked me through the process and answered all my questions. They were there every step of the way for me. The process happened exactly as they said it would! I know exactly who to turn to the next time I have immigration need.

Thank you VisaPro!"

Kind Regards,

Sandy Piazza, HR Manager
[Piller USA, Inc.](#)

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