



GMS Flash Alert

Immigration Edition

2020-419 | October 2, 2020



United States - Injunction Granted to Block USCIS Fee Changes

A final rule was published on August 3, 2020, that significantly increased the fees payable to U.S. Citizenship and Immigration Services (USCIS) to process certain applications and petitions for immigration benefits. The rule, scheduled to take effect on October 2, 2020, also referenced new form versions and an extended time limit for premium processing. Some of the key changes set out in the final rule were highlighted in our [prior coverage](#) (GMS Flash Alert 2020-345, August 7, 2020).

The Immigrant Legal Resource Center and several other non-profit organizations filed suit in the U.S. District Court for the Northern District of California on August 20, 2020, to stop and invalidate the final rule. On September 29, 2020, the U.S. District Court for the Northern District of California granted the plaintiffs' request for a nationwide temporary injunction blocking the Department of Homeland Security (DHS) from implementing the final rule published on August 3, 2020. The preliminary injunction took effect immediately and shall remain in effect pending final adjudication of the case of *Immigrant Legal Resource Center, et al., v. Chad F. Wolf, et al.*

WHY THIS MATTERS

Employers and immigration legal professionals should be aware that while the injunction remains in effect, USCIS must continue to use its current fee schedule and accept the current version of all forms. The agency must also honor the premium processing timeline of fifteen (15) calendar days, as opposed to the extended timeline of fifteen (15) business days set forth in the final rule.

Details of Motion for Preliminary Injunction

The District Court's recent order, rendered by Judge Jeffrey S. White, stated that the plaintiffs are likely to succeed on the merits of their claims that two acting DHS officials were improperly appointed and that the issuance of the new fee rule violated the Administrative Procedure Act.

The District Court found that the plaintiffs met their burden to show that the public interest weighed in favor of an injunction.

KPMG NOTE

DHS has sixty (60) days to appeal the temporary injunction granted by the U.S. District Court on September 29, 2020. It is expected that the Department will launch a timely appeal.

Employers and employees are encouraged to file petitions and applications on an urgent basis to benefit from the temporary injunction while it remains in effect.

KPMG Law LLP in Canada will carefully monitor litigation of the fee regulation and keep readers of *GMS Flash Alert* informed of any important developments.

FOOTNOTES:

- 1 Order Granting Motion for Preliminary Injunction signed by Judge Jeffrey S. White on September 29, 2020 is currently posted on the [American Immigration Lawyers Association \(AILA\) website](#). *(Please note that the link takes readers to the AILA, which is a third-party (non-governmental, non-KPMG) member log-in website. Providing this link does not represent an endorsement of this website by KPMG.)*
- 2 USCIS [Final Rule](#) published in the *Federal Register* on August 3, 2020.
- 3 [Complaint](#) for Injunctive Relief filed against USCIS on August 20, 2020 with the U.S. District Court of Northern District of California, currently posted on the AILA web site.
- 4 For prior coverage, see *GMS Flash Alert 2020-345* (August 7, 2020).
- 5 USCIS [New Policy Guidance on Final Fee Rule](#) (September 2, 2020).
- 6 USCIS news release dated July 31, 2020, click [here](#).

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Canada:



Aurélie Espana

Manager, U.S. Immigration

KPMG Law LLP – Tax + Immigration, Canada

Tel. +1 514-840-8610

aurelieespana@kpmg.ca



Stephanie Lipstein

Partner, Immigration

KPMG Law LLP – Tax + Immigration, Canada

Tel. +1 514-840-2119

slipstein@kpmg.ca

** Please note that KPMG LLP (U.S.) does not provide any immigration or labor law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration and labor matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in Canada.

© 2020 KPMG Law LLP, a tax and immigration law firm affiliated with KPMG LLP, each of which is a Canadian limited liability partnership. KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2020 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.