

# Instructions for I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker

## Instructions

Read these instructions carefully to properly complete this form.

This Table of Contents will help you locate information on the form and supplement:

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### Who May File This Form?

**General.** An employer may file this form and applicable supplement 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; and
3. All be employed in the same location.

**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.

### What Is the Purpose of This Form?

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 (Act).

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.

### General Filing Instructions

Complete the basic form and the related supplement. Answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If the answer is none, write "None."

If you need extra space to answer any item, go to **Part 8** and write the number of the item to which the answer refers. You must file your petition with the required initial evidence. The petition must be properly signed and filed with the proper fee.

**NOTE:** Submit the petition and all supporting documentation in duplicate if you would like the U.S. Department of State (DOS) to be notified of the approval of this petition.

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## Petition Always Required

You must file 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 a change of status or extension of stay. However, a petition for an extension based on an unchanged continuation of previously approved employment should only be filed with the initial evidence required in the separate extension-of-stay 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, 2014, unless the CNMI-Only Transitional Worker program is extended by the U.S. Secretary of Labor.

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.

The alien is lawfully present in the CNMI if the alien was lawfully admitted to the CNMI under the immigration laws of the CNMI in a category other than short-term visitor for pleasure or business, or was lawfully admitted to the CNMI under the immigration laws on or after the transition program effective date, other than an alien admitted as a visitor for business or pleasure.

**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 requesting initial CW-1 status from within the CNMI, during the first two years of the transition period, list current CNMI status in any block requesting "Current Nonimmigrant Status". If an I-94 Number has not been issued, list current CNMI permit number in any block requesting the "I-94 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)(ii), 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.

## CW-1 Classification Supplement

An employer seeking to classify an alien as a CW-1 CNMI-Only Nonimmigrant Transitional Worker must file one supplement per beneficiary concurrently 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)(i);
3. The employer is a legitimate business as defined in 8 CFR 214.2(w)(1)(v);

4. The beneficiary meets the qualifications for the position;
5. The beneficiary, if present in the CNMI, is lawfully present in the CNMI;
6. 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
7. The position falls within the list of occupations designated by the Secretary at 8 CFR 214.2(w)(1)(viii):
  - 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.

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

Please note that the CW Classification Supplement also provides a section for a request for disability accommodations. USCIS is committed to providing customers with disabilities the same access to programs, activities, and facilities that customers without disabilities have. To achieve that objective, we provide reasonable accommodations to customers with disabilities.

Accommodations vary depending on the individual's disability and involve modifications to practices or procedures that allow applicants with disabilities to participate in immigration processes. For example, a customer who is:

1. Unable to use his or her hands may be permitted to take a test orally rather than in writing;
2. Hearing-impaired may be provided with a sign-language interpreter for a USCIS-sponsored training session; or
3. Unable to travel to a designated USCIS location for an interview may be visited at his or her home or a hospital.

If you believe you need us to accommodate your beneficiary's disability, check the "Yes" box and then check the box that describes the nature of your disability. Also, write the type of accommodation you are requesting on the line provided. If you are requesting a sign-language interpreter, be sure to indicate the language. If you need more space go to **Part 8** on the form.

**NOTE:** All domestic USCIS facilities meet the Accessibility Guidelines of the Americans with Disabilities Act, so you do not need to contact us to request an accommodation that would enable or facilitate you having physical access to a domestic USCIS office.

USCIS consider requests for accommodations on a case-by-case basis. Asking for an accommodation will not effect your beneficiary's eligibility for the benefit.

### **Change of Status**

In addition to the initial evidence for the 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.

**NOTE:** Dependent aliens (i.e., 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 is not valid, 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 of 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, Nonimmigrant Arrival-Departure Record;
2. 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. Evidence that the beneficiary or beneficiaries:
  - i. Continuously maintained the terms and conditions of CW-1 status; and
  - ii. Remains admissible to the United States; and
  - iii. Remains eligible for CW-1 classification.
4. Evidence of licensure if the occupation requires a Commonwealth or local license; and
5. If there has been a change in the circumstances of employment (i.e., new employer), submit the evidence required for a new petition.

**NOTE:** Dependent aliens (i.e., 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 is not valid, include a full explanation with your petition.

## General Evidence

**Translations.** Any foreign language document must be accompanied by a full English translation that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.

**Copies.** Unless specifically required that an original document be filed with an application or petition, an ordinary legible photocopy (standard 8 1/2 X 11 letter size) may be submitted. An original document submitted when not required will remain a part of the record.

## 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 six months prior to the date employment is scheduled to begin. Petitioners should review the appropriate regulatory provisions in 8 CFR that relate to when petitions may be filed prior to November 28, 2009.

## Where To File?

### E-Filing

Form I-129CW is currently not eligible for electronic submission.

Form I-129CW is filed at the **California Service Center**. Failure to follow these instructions may result in your application or petition being rejected, delayed, or denied.

Send Form I-129CW to the California Service Center at the following address:

USCIS  
California Service Center  
ATTN: CW-1  
P.O. Box 10698  
Laguna Niguel, CA 92607-1098

### Courier/express deliveries

USCIS  
California Service Center  
ATTN: CW-1  
24000 Avila Road  
2nd Floor, Room 2312  
Laguna Niguel, CA 92677

## Updated Filing Address Information

The filing addresses provided on this form reflect the most current information as of the date this form was last printed. If you are filing Form I-129CW more than 30 days after the latest edition date shown in the lower right-hand corner, visit us online at [www.uscis.gov](http://www.uscis.gov) before you file, and check the "Forms and Fees" page to confirm the correct filing address and version currently in use. Check the edition date located in the lower right-hand corner of the form. If the edition date on your Form I-129CW matches the edition date listed for Form I-129CW on the online "Forms and Fees" page, your version is current and will be accepted by USCIS. If the edition date on the online version is later, download a copy and use the online version. If you do not have Internet access, call Customer Service at **1-800-375-5283** to verify the current filing address and edition date. **Improperly filed forms will be rejected, and the fee returned with instructions to resubmit the entire filing using the current form instructions.**

## What Is the Filing Fee?

The base filing fee for this petition is **\$320**.

Public Law 110-229 requires a supplemental CNMI education funding fee of **\$150**, per beneficiary, per year. Accordingly, employers filing CW-1 petitions must submit an additional fee of **\$150**, per beneficiary, per year.

An employer filing Form I-129CW for a CNMI-Only Nonimmigrant Transitional Worker must submit the **\$320** petition filing fee, and an additional **\$150** for the supplemental CNMI education fee.

An additional biometric fee of **\$80** per beneficiary is required if the alien is present in the CNMI when filing for **initial** CW-1 or CW-2 status. After submission of the form, 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 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.

### Payment

A petitioner filing Form I-129CW may make the payment in the form of a single check or money order for the total amount due or as separate checks or money orders, one for the additional fee, one for the petition fee, and one for the biometric fee, if applicable.

The fee must be submitted in the exact amount. It cannot be refunded. **Do not mail cash.** All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in U.S. currency. The check or money order must be made payable to the **Department of Homeland Security**.

When preparing the check or money order, spell out Department of Homeland Security. Do not use the initials "DHS" or "USDHS."

Checks are accepted, subject to collection. An uncollected check will render the petition and any document issued invalid. A charge of \$30 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

**How to check if the fee is correct.** The fee on this form is current as of the publication date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fee is correct by following one of the steps below.

1. Visit our Web site at **www.uscis.gov** and scroll down to "Immigration Forms" and check the appropriate fee;
2. Review the Fee Schedule included in your form package, if you called us to request the form; or
3. Telephone our National Customer Service Center at **1-800-375-5283** and ask for the fee information.

**Note:** If your petition requires payment of a biometric service fee for USCIS to take your fingerprints, photograph, or signature, you can use the same procedure to obtain the correct biometric fee.

## Processing Information

**Any form that is not signed or accompanied by the correct fee will be rejected with a notice that the form is deficient.**

You may correct the deficiency and resubmit the form. An application or petition is not considered properly filed until accepted by USCIS.

**Initial processing.** Once a form has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without the required initial evidence, you will not establish a basis for eligibility, and we may deny your form.

**Requests for more information or interview.** We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you submit the original documents instead of copies. We will return these originals when they are no longer required.

**Decision.** The decision on a form involves a determination of whether you have established eligibility for the requested benefit. You will be notified of the decision in writing.

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## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this petition, we will deny the petition and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

## Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information can be found in the Immigration and Nationality Act, as amended. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your form.

## USCIS Forms and Information

To order USCIS forms, call our toll-free number at **1-800-870-3676**. You can also get USCIS forms and information on immigration laws, regulations, and procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our Internet Web site at **www.uscis.gov**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our Internet-based system, **InfoPass**. To access the system, visit our Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

## 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 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 and completing and submitting the form. 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 Products Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529-2210. OMB No. 1615-XXXX. **Do not mail your application to this address.**

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