

# Instructions for Form 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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### 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 (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 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;
3. All be employed in the same location; and
4. All be requesting the same action in **Part 2** of the Form I-129CW.

**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 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.

### 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.

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## 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 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, 2014. However, the petitioner should file the petition as early as possible to ensure adjudication prior to December 31, 2014 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 requesting initial CW-1

status from within the CNMI, during the first 2 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)(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.

## 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)(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.

### Accommodations for Individuals With Disabilities and Impairments

Note that the CW Classification Supplement also provides a section for a request for disability accommodations.

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

Reasonable accommodations vary with each disability or impairment. They may involve modifications to practices or procedures. There are various types of reasonable accommodations that may be offered. Examples include:

1. If you are unable to use your hands, you may be permitted to take a test orally rather than in writing;
2. If you are hearing-impaired, you may be provided with a sign-language interpreter at an interview or other application related appointment; or
3. For those unable to travel to a designated USCIS location for an interview, you may be visited at your 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 USCIS to request an accommodation that for physical access to a domestic USCIS office. However, on the space provided, you can indicate whether you use a wheelchair. This will allow USCIS to better prepare for your visit and have a wheelchair accessible interview room available for you once you enter the facility.

USCIS considers requests for reasonable accommodations on a case-by-case basis and will use its best efforts to reasonably accommodate all applicants with disabilities or impairments. Qualified individuals will not be excluded from the participation in, or be denied the benefits of, USCIS's programs solely on the basis of their disability(ies) or impairment(s). Requesting and/or receiving an accommodation will not affect your eligibility for a USCIS 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 be 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 check box "a" in **Part 2, question 2** and check box "b" in **Part 2, question 5**. Additionally, you must check the sub-category box "1" in **Part 2, question 5**.

**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 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 check box "a" in **Part 2, question 2** and check box "b" in **Part 2, question 5**. Additionally, you must check the sub-category box "2" in **Part 2, question 5**.

**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 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 1 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 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.

## 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 6 months prior to the date employment is scheduled to begin.

## 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

## For commercial carrier and Express Mail 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 "FORMS" 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" 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 **\$325**.

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 **\$325** petition filing fee, and an additional **\$150** for the supplemental CNMI education fee.

An additional biometric service 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 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.**

1. The check or money order 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 check or money order 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."

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](http://www.uscis.gov), select "FORMS," and check the appropriate fee; or
2. 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.

## 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

**AUTHORITIES:** 8 CFR § 214.2(w) authorizes USCIS to collect the information and the associated evidence for this benefit application.

**PURPOSE:** The primary purpose for providing the requested information on this form is to petition USCIS for an alien who is ineligible for another employment-based nonimmigrant classification to work as a nonimmigrant in CNMI temporarily as a CW-1, CNMI-Only Transitional Worker. USCIS will use the information you provide to grant or deny the employment benefit you seek on behalf of the listed beneficiary.

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in denial of your benefit request.

**ROUTINE USES:** The information you provide on this benefit application may be disclosed to other federal, state, local, and foreign government agencies and authorized organizations in accordance with approved routine uses, as described in the associated published system of records notices, DHS-USCIS-007 - Benefits Information System and DHS-USCIS-001 - Alien File, Index, and National File Tracking System of Records, which can be found at [www.dhs.gov/privacy](http://www.dhs.gov/privacy). The information may also be made available, as appropriate for law enforcement purposes or in the interest of national security.

## USCIS Forms and Information

You can get USCIS forms and immigration-related information on the USCIS Internet Web site at [www.uscis.gov](http://www.uscis.gov). You may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by telephoning our National Customer Service Center at **1-800-375-5283**.

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 Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2020, OMB No. 1615-0111. **Do not mail your Form I-129CW to this address.**