



# USCIS Update

Aug. 31, 2009

## **USCIS Issues Guidance for Surviving Spouses of U.S. Citizens** *Deferred Action Authorized for Certain Spouses and Children*

WASHINGTON – U.S. Citizenship and Immigration Services (USCIS) today issued guidance on requesting deferred action for surviving spouses of U.S. citizens who died before the second anniversary of their marriage. Surviving spouses qualify for this temporary program if they were married to, but not legally separated from, their U.S. citizen spouse at the time of that spouse’s death; did not remarry; and are currently residing in the United States.

Surviving spouses qualify for deferred action regardless of whether the U.S. citizen spouse filed a Form I-130 petition for them. Surviving spouses may ask to have their qualifying children included in their deferred action request. To be considered a “qualifying child” of a surviving spouse, the child must be younger than age 21 or otherwise qualify as a child when the deferred action request is submitted; currently reside in the United States; and be unmarried.

USCIS has revised the instructions to the Forms I-360, *Petition for Amerasian, Widow(er), or Special Immigrant*, I-765, *Application for Employment Authorization*, and I-131, *Application for Travel Document*, as they relate to this temporary new program.

Surviving spouses who apply for deferred action will need to file Form I-360 with supporting documentation and the \$375 filing fee with the Vermont Service Center.

Work authorization will be available to surviving spouses and qualifying children who are granted deferred action and who can establish economic necessity. Form I-765 is used for this purpose (separate applications are required for each person seeking work authorization).

Travel authorization will also be available to surviving spouses and qualified children granted deferred action under this program.

USCIS has posted on the Web, an accompanying list of questions and answers and a fact sheet about this program. For additional information about this and other immigration services, please call the National Customer Service Center at (800) 375-5283, or visit our Web site, <http://www.uscis.gov>.