



## IMMIGRATION UPDATE - NOVEMBER 4, 2019

*Posted on November 4, 2019 by Cyrus Mehta*

### Headlines:

**Trump Wants Cuccinelli as DHS Secretary, Hesitant Due to Senate's Reluctance** – Donald Trump wants current acting director of USCIS Ken Cuccinelli to take over as secretary of DHS. Senate confirmation has him weary, as Senate Republicans have indicated they would not support Cuccinelli.

**USCIS Removes Means-Tested Benefit Criteria From Form I-912** – United States Citizenship and Immigration Services (USCIS) revised Form I-912, Request for Fee Waiver, removing the means-tested benefit criteria. The criteria was previously utilized as a factor in determining an applicant's qualification for exemption from paying for filing fees or biometric services.

**USCIS Initiates Production of Security-Enhanced Travel** – In an effort to prevent the tampering, counterfeiting, and fraudulence of secure documents, on October 24, USCIS initiated the production of a new security-enhanced document, which resembles a U.S. passport and has two purposes.

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### Details:

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#### **Trump Wants Cuccinelli as DHS Secretary, Hesitant Due to Senate's Reluctance**

Donald Trump has expressed support for Ken Cuccinelli, current acting director of United States Citizenship and Immigration Services (USCIS), to take over as secretary of the Department of Homeland Security (DHS). The legitimacy of Cuccinelli's appointment as acting director has come under fire, as federal vacancy laws prohibit him from taking that position. Those laws would also prevent him from the position Trump wants him to hold.

In addition to the legal hurdles, Trump also faces a contentious Senate vote, with many senate Republicans opposing Cuccinelli's appointment. Cuccinelli made enemies with many Republican senators when he was leader of a group highly critical of incumbent Republican senators, including Senate Majority Leader Mitch McConnell.

These factors have led to a stalemate, with Trump not moving forward, seeing the impending futility of his efforts, but nevertheless stubbornly supporting his primary choice.

Details:

<https://www.npr.org/2019/10/23/772730225/exclusive-trump-wants-to-pick-cuccinelli-for-dhs-but-worries-senate-would-balk>.

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### **USCIS Removes Means-Tested Benefit Criteria From Form I-912**

United States Citizenship and Immigration Services (USCIS) revised Form I-912, Request for Fee Waiver, removing the means-tested benefit criteria. The criteria was previously utilized as a factor in determining an applicant's qualification for exemption from paying for filing fees or biometric services. Individuals are still permitted to request a fee waiver, but only if their documented annual income is below 150% of the Federal Poverty Guidelines or if they are capable of adequately demonstrating financial hardship.

The means-tested benefit is a public benefit, provided by federal, state, or local agencies, the eligibility for which and the amount of relief received are determined by an individual's income and resources. USCIS previously considered Medicaid, Supplemental Nutrition Assistance Program, Temporary Assistance to Needy Families, and Supplemental Security income during eligibility evaluations.

Justifying the removal of the means-tested benefit criteria, USCIS stated that the criteria is ineffective in reviewing fee-waiver review requests, with great variations existing in the income levels used to decide local assistance eligibility from state to state. USCIS also noted how reliant USCIS is on fees, citing that more than 95% of the USCIS budget comes from fees.

Based on the revised criteria, individuals may still request a fee waiver if their documented annual household income is at or below 150% of the Federal

Poverty Guidelines or if they can demonstrate financial hardship. USCIS still requires applicants to fill out a Form I-912 and submit supporting documentation, including federal tax transcripts, and the agency will not accept a letter affirming the applicant's inability to afford filing fees or biometric services without a completed Form I-912.

Beginning December 2, fee waiver seekers need to submit the 10/24/19 version of Form I-912. After that date, USCIS will reject any Form I-912 submitted which has an edition date of 03/13/18 or earlier, a fee waiver request submitted with a letter, or documentation of receipt of means-tested benefit showing eligibility for a fee waiver. Under the previous policy, AFM 10.9, Waiver of Fees, USCIS will adjudicate all fee waiver requests which are postmarked before December 2.

Details:

<https://www.uscis.gov/news/news-releases/uscis-updates-fee-waiver-requirements>.

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### **USCIS Initiates Production of Security-Enhanced Travel**

In an effort to prevent the tampering, counterfeiting, and fraudulence of secure documents, on October 24, USCIS initiated the production of a new security-enhanced document, which resembles a U.S. passport and has two purposes. The new travel document can be used in lieu of:

- Form I-327, Permit to Reenter the United States. Lawful permanent residents utilize the Form I-327 in order to return from temporary travel outside the U.S. and, in some instances, can use it instead of a passport; and
- Form I-571, Refugee Travel Document. Individuals who have refugee or asylum status use the Refugee Travel Document in order to temporarily travel outside of the U.S. and, in some instances can use it instead of a passport.

There are numerous security features included in the new travel document, including:

- Redesign of the booklet cover
- Four montages containing three images of recognizable U.S. architecture utilized throughout the booklet

- Combined use of first-, second-, and third-level security features (overt, covert, and forensic):
  - **Overt:** identifiable by visual inspection, such as the central image of the Statue of Liberty.
  - **Covert:** requiring a specialized tool, such as a magnifying glass, to identify fine detail artwork.
  - **Forensic:** requiring laboratory examination in order to identify.

Previous editions of the travel document will remain valid until their given expiration date.

Details:

<https://www.uscis.gov/news/alerts/uscis-begins-producing-security-enhanced-travel-documents>.

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### Firm in the News

**Mr. Mehta** spoke on a panel entitled “Letter from America: how has the Trump administration changed the United States immigration system?” at the 9<sup>th</sup> Biennial Global Immigration Conference, London, United Kingdom, on November 1, 2019.

**Cyrus Mehta** was quoted by the *Law 360* in an article entitled “Dems’ Fix For Green Card Backlog May Mean No Fix At All”. The article is at <https://www.law360.com/articles/1210277/dems-fix-for-green-card-backlog-may-mean-no-fix-at-all>

**Cyrus Mehta** was quoted by the *India West* in an article entitled “Immigrant Activists Cheer as Multiple Courts Block Implementation of Public Charge Rule”. The article is at [https://www.indiawest.com/news/global\\_indian/immigrant-activists-cheer-as-multiple-courts-block-implementation-of-public/article\\_1a5720fee9-11e9-8f3c-8f61b4ad967a.html](https://www.indiawest.com/news/global_indian/immigrant-activists-cheer-as-multiple-courts-block-implementation-of-public/article_1a5720fee9-11e9-8f3c-8f61b4ad967a.html)

**Cyrus Mehta** was quoted by the *Media India Group* in an article entitled “H-1B visa holders’ children over 21 years can’t stay in US as dependents. The uncertain future of the aged out kids in US”. The article is at <https://mediaindia.eu/diaspora/h-1b-visa-holders-children-over-21-years-cant-stay-in-us-as-dependants/>

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