



EXPANSION OF EXPEDITED REMOVAL TIP SHEET

On July 23, 2019, Department of Homeland Security (DHS) announced they are expanding the scope of individuals who they can remove (deport) from the United States without an opportunity to appear before an immigration judge. Until July 22, 2019, DHS only issued expedited removal orders to noncitizens who DHS encountered within 100 miles of the border and within 14 days of their entry.

Who is at risk of expedited removal now?

Expedited removal may apply to:

- individuals who entered without inspection or with false documents, **and**
- are encountered by ICE or Customs and Board Patrol **anywhere** in the United States, **and**
- who cannot prove physical presence in the U.S. for at least 2 **years**.

This means undocumented individuals who entered without inspection or with false documents can be legally removed without ever seeing an immigration judge if they have not been continuously physically present for at least two years, even if they have U.S. citizen children or other strong ties to the United States.

Expedited Removal DOES NOT APPLY to:

The following individuals are not subject to expedited removal:

- United States citizens, lawful permanent residents, asylees and refugees;
- Noncitizens who have been admitted or paroled, for example, individuals who entered with a valid visa and overstayed;
- Unaccompanied children;
- Noncitizens who can show they have been physically present in the U.S. for at least two years, even if they entered without proper entry documents or with false documents.

Can a noncitizen avoid expedited removal even if it applies to them?

Individuals can request prosecutorial discretion to avoid expedited removal by showing sympathetic factors such as a serious medical condition or substantial connections to the United States.

Individuals who are afraid to return to their home country should request a “credible fear interview” with an asylum officer, which could result in being placed into removal proceedings before an immigration judge instead.

What can patients do to decrease the risk of being subject to expedited removal?

Individuals should consider carrying proof that they are not subject to expedited removal or that DHS should exercise prosecutorial discretion. This proof could include:

- Proof of U.S. citizenship (a copy of a naturalization certificate, U.S. passport, or U.S. birth certificate).
- Proof of lawful permanent residence, refugee status, or asylum status in the United States.
- Proof of having been lawfully admitted or paroled into the United States (such as a copy of an admission stamp in a passport; an I-94 card or print out). Providing these documents to ICE may show that a patient overstayed or violated their immigration status. Patients with this concern should be referred to LegalHealth for the advice of an attorney.
 - For those who entered without inspection:
 - Proof of two years' residence in the United States such as:
 - A lease.
 - Bills (phone bills, electricity bills, medical bills).
 - School records (with parents' name(s) if applicable).
 - If the noncitizen entered without inspection and has been here fewer than two years, proof that could merit a favorable exercise of DHS prosecutorial discretion such as:
 - Serious medical conditions.
 - Substantial ties to the United States (such as, for example, a U.S. citizen child).
 - A pending application with USCIS for lawful status.
 - An intent to apply for asylum.

How can I help my immigrant patients prepare?

You can help your patient identify documents to establish their presence in the United States, such as:

- Prepare a letter on hospital stationery stating the dates of treatment if started two years ago.
- Copies of bills ((phone bills, electricity bills, medical bills) from two years ago.

Is there any chance this will not go into effect?

National advocacy groups have said they will sue to stop the expansion of expedited removal, but as of July 31st, 2019, no lawsuits have been filed.

Concerned patients should be referred to the LegalHealth clinic for individual case consultation.