



**Homeland
Security**

RECOMMENDATION FROM THE CIS OMBUDSMAN TO THE DIRECTOR, USCIS

To: Robert Divine, Acting Deputy Director, USCIS
cc: Michael Jackson, Deputy Secretary

From:: Prakash Khatri, CIS Ombudsman

Date: October 12, 2005

Re: Recommendation to USCIS that all asylum decisions, whether referrals to the immigration judge or conditional/final grants, should be sent certified return/receipt or regular mail via the US Postal Service to all asylum applicants, thereby eliminating the existing 'pick up' decision delivery process.

I. RECOMMENDATION

Recommendation to USCIS that all asylum decisions, whether referrals to the immigration judge or conditional/final grants, should be sent certified return/receipt or regular mail via the US Postal Service to all asylum applicants, thereby eliminating the existing 'pick up' decision delivery process.

II. BACKGROUND

At the beginning of an interview, an Asylum Officer verifies the current physical and postal address while reviewing the asylum application (Form I589) with the applicant. Upon conclusion of the interview conducted at any of the eight USCIS asylum offices, the Asylum Officer provides a 'pick up' letter to applicants who are out-of-status. The 'pick up' letter states the applicant is to return to the asylum office approximately two weeks later, designating a specific date and time, in order to obtain the decision on his/her application. Thus applicants are again requested to travel to asylum offices, many over significant distances (i.e. York, Pennsylvania (179 miles) or Hartford, Connecticut (124 miles) to Newark Asylum Office; Orlando, Florida (220 miles) to Miami Asylum Office; Dallas, Texas (239 miles) to Houston Asylum Office) whether by auto, bus, train, walking, or a combination thereof, expending substantial amounts of time and money.

When the applicant returns to the asylum office, he/she often waits a considerable amount of time to be served with his/her decision - either charging documents placing the individual in immigration removal proceedings or a conditional/final grant of asylum. The actual service of each decision lasts no longer than 5 - 10 minutes. Yet, many times applicants arrive at the asylum office on the appointed date/time and the decision is not ready for 'pick up,' resulting in further wasted time and expense. In addition, a significant number of applicants never show for their scheduled 'pick up' date. These decisions are ultimately mailed anyway like 'circuit ride' cases, and now require further preparation for mail out by asylum office employees.

'Circuit ride' cases are asylum interviews conducted at locations other than at one of the eight USCIS Asylum Offices. For example, Newark Asylum Office (ZNK) handles cases in Boston, Massachusetts and Buffalo, New York; Chicago Asylum Office (ZCH) interviews in Helena, Montana; Arlington Asylum Office (ZAR) circuit rides to Atlanta, Georgia; and Miami Asylum Office (ZMI) interviews in Jacksonville, Florida, San Juan, Puerto Rico, and St. Thomas, Virgin Islands. All decisions from circuit ride cases are mailed to all asylum applicants regardless of whether it is a referral or a conditional/final grant of asylum. There is no 'pick up' process for circuit ride cases.

In addition, the necessity for in-person service of charging documents by a USCIS Officer has been and is currently not required. It has been a long standing, accepted practice by ICE/EOIR that the return/receipt mail process acts as valid service of charging documents upon an immigration applicant for the purpose of immigration removal proceedings. The return/receipt card initially completed by the asylum office, which shows a signature signifying proof of delivery, is forwarded to the district office having jurisdiction over the case for ICE/EOIR action.

This bifurcated decision delivery process not only causes an inequitable burden on many asylum applicants, but is an inefficient USCIS process as it results in duplicative handling and expense.

III. JUSTIFICATION

Maintaining separate decision delivery processes within the asylum office is only logical when different processes are necessary due to the type of decision being delivered. However, this is not the current situation. The only difference affecting the current decision delivery process is whether or not an asylum applicant is within a specific geographical radius of the asylum office. Applicants within this radius must personally appear to receive their decision, while those outside of the radius receive their decision including any applicable charging documents by mail.

As USCIS progresses towards greater efficiency in its operations, the need to timely accomplish its tasks with reduced costs and labor necessitates greater reliance on singular, standardized, and uniform processes. Having all asylum decisions mailed in all circumstances leads USCIS towards this goal, and is beneficial to all asylum applicants.

IV. BENEFITS

Customer Service:

The benefits to asylum applicants and corresponding improved customer service include:

1. *Reducing the applicants' financial burden* - Applicants are only subjected to a one-time cost of transportation for an asylum interview and receipt of decision.
2. *Eliminating frustration and anger* - Sometimes decisions are not ready for 'pick up' as cases may have been improperly prepared, temporarily misplaced, or not timely completed by the Asylum Officer. Other cases may have later been determined as necessitating USCIS HQ review (i.e. if not realized upfront at time of interview), and the

applicant was never sent or timely received a letter stating not to return for 'pick up.' Thus, the applicant has made the trip to the asylum office for naught; leaving annoyed and empty-handed while expending additional time and financial resources.

3. *Reduced need to access USCIS* - A uniform mail out system for all asylum decisions is more customer-friendly. It reduces contact with USCIS employees, decreases confusion regarding processes, avoids wasted time/money, and eliminates the frustration of lengthy wait times (one to two hours, sometimes longer) for in-person service of decisions.

USCIS Efficiency:

The benefits to USCIS include:

1. *Eliminating unnecessary and additional processing* - Having all cases prepared one way promotes timeliness and efficiency, and streamlines the process. Cases initially prepared for in-person service need to be shifted for mail out processing if an applicant does not show for 'pick up,' whereby incurring additional time and expense in terms of labor resources.
2. *Improved use of labor resources* – Asylum office employees can complete more mail out decisions in a shorter amount of time than in-person services, whereby allowing a reallocation of labor to assume other responsibilities.
3. *Promotes consistency with other USCIS decisions* - The district offices do not require in-person service or 'pick ups' for decisions. Adjustment of Status cases that are denied are mailed certified return/receipt, and approvals and Notices to Appear (NTA) for applicants who are out-of-status or entered without inspection (EWI) are sent regular mail via the U.S. Postal Service.
4. *No effect on timeliness of decisions* - As the timeliness and quality of Asylum Officers' decisions are guided by their performance work plans (PWPs), not 'pick up' dates, this recommendation has no adverse impact on officers' adjudications.
5. *Decreased operational cost* - When comparing the expense of mailing all decisions via certified return/receipt or regular mail to the current expense of labor in terms of time, delivery, and processing of in-person service and mail outs, this recommendation should reduce operational costs of the decision delivery process.
6. *Establishing and promoting a uniform system* - As federal law governs immigration benefits, all asylum applicants should be handled similarly regardless of their location in the United States; otherwise it is counterproductive to customer service, quality, and efficiency.

National Security:

This recommendation enhances national security as applicants will be more inclined to be truthful and accurate about their address in anticipation of a positive asylum decision. This could

positively impact immigration enforcement efforts should it be determined that the applicant is ultimately removable from the US.