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# H-1 denial, appeal, MTR

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Submitted by Chief Editor on Jun 11th 2009

### **ANSWER:**

- 1) When an H-1B is denied and your I-94 has expired, your out of status immediately upon denial AND you are accruing unlawful presence. An appeal or an MTR does not give you status nor does it stop the running of unlawful presence.
- 2) You are still out of status AND unlawfully present because the new H-1 was applied after your I-94 expired.
- 3) Too many variables. Generally speaking, USCIS is supposed to hold a new case pending if an appeal has been filed on exactly the same case.
- 4) No.
- 5) No.
- 6) This is totally in the discretion of USCIS. They can "forgive" your being out of status if there are VERY good reasons for it.
- 7) In your case, from the date of the denial. You were protected until the timely filed extension was pending.

### **Nonimmigrant Visas:**

H Visa <sup>[2]</sup>

General Nonimmigrant Visa <sup>[3]</sup>

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H Visa <sup>[2]</sup>

General Nonimmigrant Visa <sup>[3]</sup>

H Visa <sup>[2]</sup>

General Nonimmigrant Visa <sup>[3]</sup>

### **Profession/Occupation:**

Employee <sup>[4]</sup>

Employee <sup>[4]</sup>

Employee <sup>[4]</sup>

Employee [4]

**Unless the context shows otherwise, all answers here were provided by Rajiv [5] and were compiled and reported by our editorial team from comments and blog on immigration.com [6]**

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[3] <https://immigration.com/visa/nonimmigrant-visas/general-nonimmigrant-visa>

[4] <https://immigration.com/profession/professionoccupation/employee>

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[6] <http://www.immigration.com>

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