

## Motor Vehicle Division Policy Memo # 18-01

*SAVE cases & issuance processes for customers with expired documentation, no documentation, application pending, and conditional permanent residents*

ORIGINALLY ISSUED: February 15, 2018

REVISION DATE: May 13, 2019, August 21, 2020, January 8, 2021, December 15, 2021

FROM: MVD Policy & Compliance Team

TO: All Motor Vehicle Division Staff and Iowa County Treasurers and County Treasurers' staff that issue driver's licenses and non-operator's identification cards.

EFFECTIVE DATE: *This procedure is effective immediately.*

### SUBJECT

This memo explains the process for verifying a customer's lawful status when it doesn't verify through VLS, specifically, initiating additional verification cases in SAVE for customers who present either no lawful status documentation or expired proof of lawful status documents (pending renewal by the United States Citizenship & Immigration Services - USCIS).

The memo also outlines the validity periods for issuing a new or renewed credential when the additional verification through SAVE returns an "application pending" response with no duration of stay listed, or a "conditional resident" response.

### EXPLANATION

Federal REAL ID regulations in 6 C.F.R. §37.11 require all foreign national customers provide proof of their legal status documents issued by USCIS to be considered for issuance of an Iowa REAL ID credential. Further, 6 C.F.R. §37.13 requires us to verify all lawful status documents presented by running them through VLS (Verification of Legal Status) or SAVE (Systematic Alien Verification for Entitlements). Iowa credentials may only be issued for the length of time returned through VLS or SAVE, for up to one year if SAVE returns an "application pending" response with no duration of stay listed, for up to 2 years if the applicant has a temporary status, or for up to 8 years if SAVE verifies that the applicant has a permanent status, including if the applicant is a conditional permanent resident.

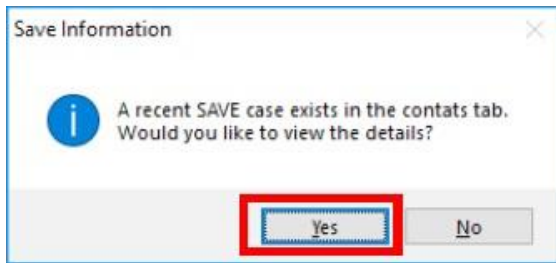
**Application Pending:** In cases where customers are seeking to renew their Iowa credential, and the document they are using to prove lawful status (i.e. I- 766, H1B, etc.) is **expired and pending USCIS renewal**, they may still have lawful status and be eligible for up to a one-year renewal of their DL or ID. To verify the eligibility of a customer who presents questionable proof of lawful status documents, follow the procedure outlined below.

**Conditional Permanent Residents:** In cases where the customer presents documentation listing their status as a "conditional permanent resident," they are entitled to a full term license issuance, regardless of the expiration date listed on their conditional permanent resident card, provided that the SAVE response verifies their conditional resident status. Documentation provided could include an I-551 Conditional Permanent Resident Card or a foreign passport endorsed with a temporary I-551 stamp. The SAVE response may or may not indicate "employment authorized," and the employment authorization status for these customers does not impact their lawful status as a conditional permanent resident.

### PROCEDURE FOR VERIFYING LAWFUL STATUS THROUGH SAVE

If a customer presents an expired legal status document, an I-797 notice of action, or even no lawful status documentation, take the following steps:

When pulling up the customer's record in ARTs, do you see this pop-up box?



If yes, 'click yes' to view the details. If the notes indicate the customer is **approved**, continue the issuance transaction. If the notes indicate the customer is **denied**, read the statement thoroughly and discuss what additional documentation is needed from the customer to proceed.

If no pop-up box appears, ask the customer, "HAVE YOU STARTED YOUR DOCUMENT RENEWAL PROCESS WITH USCIS?" If the answer is:

**Yes.** Scan the customer's renewal documentation paperwork into ERMS and attempt to verify their lawful status through VLS using their most current USCIS document. If the customer doesn't have their USCIS document with them use their most recent USCIS document on file in ERMS. If VLS doesn't verify, initiate additional verification. Let the customer know that sometimes USCIS doesn't automatically validate lawful status. This could be for a variety of reasons but shouldn't cause immediate concern. Rather, we have to initiate what is called additional verification, a SAVE case for USCIS to manually verify their lawful status. Print the SAVE Case Number Notification, provide it to the customer, advise they can follow-up on the SAVE website provided on the notification to track the response, and provide them with your service center number for follow-up by phone if they have questions.

**No.** Let the customer know that they need to initiate their document renewal process with USCIS. Attempt to verify their lawful status through VLS using their most current USCIS document. If the customer doesn't have their USCIS document with them use their most current renewal document on file in ERMS. If VLS doesn't verify, initiate additional verification. Let the customer know that sometimes USCIS doesn't automatically validate lawful status. This could be for a variety of reasons but shouldn't cause immediate concern. Rather, we have to initiate what is called additional verification, a SAVE case for USCIS to manually verify their lawful status. Print the SAVE Case Number Notification, provide it to the customer, advise they can follow-up on the website provided on the notification to track the response, and provide them with your service center number for follow-up by phone if they have questions.

INITIATING VLS & THE SAVE CASE PROCESS: We must *always* attempt to verify a customer's lawful status regardless of whether they have their lawful status documentation at time of renewal. Using the logic above, we should always attempt to verify through VLS first and initiate additional verification, if necessary.

Your supervisor, county liaison, or AAll will create and submit the case to SAVE/WEB3 in one of two ways:

- 1) If there are no current documents in ERMS (customer doesn't have current documents), your supervisor, county liaison, or AAll will create the SAVE case and notate within ARTS "IAV w/o docs-mv" which stands for "institute additional verification without documents – (initials of team member who submitted the SAVE case)."
- 2) If there are current documents in ERMS (customer may have provided same day), your supervisor, county

Liaison, or AAll will send the case in SAVE with documents and notate “IAV with docs-mv” which stands for “institute additional verification with documents – (initials of team member who submitted the SAVE case).

This sends a request to USCIS for review. Once reviewed, USCIS will enter a response into SAVE/WEB3. Your supervisor, county liaison, or AAll will regularly check SAVE and once they receive the USCIS response they will enter that response from SAVE into ARTS.

SAVE CASE RESULTS. The SAVE case will generally return one of the following responses:

**A valid response from SAVE.** We are able to issue or renew an Iowa credential through the date of authorized stay for up to two years (or indefinitely, in the case of a citizen or resident status) when the SAVE response is valid, such as: U.S. Citizen, Lawful permanent resident, conditional resident, F1 until MM/DD/YYYY, H1B until MM/DD/YYYY, or B2 until MM/DD/YYYY.

**Application pending with a date.** In these instances, the customer can be issued for the time indicated on the returned SAVE case. A *common example* is someone pending H1B status. Customers pending H1B approval are allowed to work for 240 days if they have applied for H1B renewal. The expected SAVE response here would be application pending-employment through with a specific *month/date/year*.

**Application pending with NO date.** In these instances, we can issue a temporary driver’s license or ID for up to one year. The reason for allowing a one-year issuance is that federal regulations allow a temporary driver’s license or ID to be issued for a period of one year if there is no definite end to the period of authorized stay. Additionally, based on the customer’s status as “application pending,” we know that they are lawfully present in the U.S. and are simply in the middle of the USCIS renewal process, which often exhibits long application processing delays.

**Document appears to be expired.** This response indicates the customer has not initiated their document renewal process, and we cannot issue or renew the customer’s DL or ID. By having this information, we’re better prepared to have the conversation with the customer and provide them with information which will ultimately help them reach their goal of renewing their Iowa credential. Example: At this time, you are not eligible to renew your Iowa credential. You must contact USCIS to initiate your document extension renewal prior to being eligible to renew your Iowa credential (Print the SAVE Case Notification and give to the customer and provide them with your service center number to follow- up by phone if they have further questions.)

**Other responses:** Examples of other responses where we would *not* be able to issue an Iowa credential include:

- Documents Appear Altered
- Documents Appear to be Counterfeit
- Unable to determine eligibility, ‘submit current documents’
- No status

## HELPFUL QUESTIONS AND ANSWERS

### **IS A PERSON WITH A SAVE RESPONSE OF “APPLICATION PENDING” CONSIDERED TO BE LAWFULLY PRESENT IN THE U.S.?**

Yes. A person is lawfully present in the U.S. and they are allowed to continue residing in the U.S. when they have applied for adjusted status or status renewal, and are pending the outcome of their USCIS application.

Furthermore, according to REAL ID regulation 6 CFR 37.21, when there is no duration of stay provided in the SAVE response, the customer may receive a temporary credential valid for up to one-year.

Lawful presence is separate and distinct from work authorization. In many cases, a customer whose SAVE response is “application pending” with no date is *not* authorized to work in the U.S., but they still have lawful status. Here is an example of a SAVE response for a customer who is **lawfully present in the U.S.**, and whose EAD renewal application is pending:

**Applicant Status:** Application Pending  
**Employment Eligibility:** Not Employment Authorized

A non-national of the U.S. that has filed an application with USCIS for an extension, change or adjustment of status or to obtain employment authorization, but a decision has not yet been made. The applicant is not authorized to work in the U.S. See the Guide to Understanding SAVE Verification Responses for additional information. You will need to follow your agency's policy when determining whether this applicant is eligible for benefits.

### **IS IT OK TO RENEW AN IOWA CREDENTIAL WHEN THE CUSTOMER PRESENTS AN EXPIRED LAWFUL STATUS DOCUMENT, BUT THE SAVE CASE RETURNS AN APPROVED RESPONSE?**

Yes, this is permitted as the SAVE response from USCIS is the method of verification of the validity of the underlying lawful status document. We know there can be delays in the processing of renewals with USCIS and in some cases, USCIS will not renew the identity document at all if the person's lawful status is extended temporarily via federal register notice.

An example of this is when the Deferred Enforced Departure for certain eligible Liberians was extended for an additional 12 months. That temporary extension was published in the Federal Register and USCIS issued guidance specifically directing employers and government agencies that they could rely on the federal register notice for continuing validity of an expired employment authorization document (EAD).

Our method of confirming the validity of the extension is to run the SAVE case. Because customers can sometimes wait months to receive their renewed documents or may not receive a renewed document at all, we can feel confident in renewing an existing Iowa credential based on the expired lawful status document in conjunction with the approved SAVE case response, as this is the approved method of verifying the validity of the identity document with the source agency. For a customer whose legal status has been extended temporarily as part of a federal register notice, that federal register notice is a third piece of evidence we can rely on to know we are issuing the customer a credential correctly under REAL ID requirements.

Because of this, it is important to the SAVE case every time and rely on the SAVE case results so that we do not turn customers away unnecessarily.

### **CAN WE ISSUE AN IOWA CREDENTIAL TO A CUSTOMER WHOSE PROOF OF LAWFUL STATUS DOCUMENT IS EXPIRED?**

Yes. It is OK for an existing cardholder's proof of lawful status document to be expired if we can use the expired lawful status document to run a SAVE case and we receive a positive “application pending” or duration of stay response. For a new Iowa card applicant, the applicant must also provide **unexpired** proof of identity. However, it

should be noted that the proof of identity document typically also serves as their proof of lawful status (with the exception of an applicant using an out-of-state REAL ID as their proof of identity document, or certain exempt Afghan evacuees).

Here is a helpful chart to reference when determining what documentation is acceptable from a foreign national seeking Iowa licensure for the first time:

<b>If a <u>new</u> Iowa customer’s proof of identity is an:</b>	<b>Then their proof of <u>lawful status</u>:</b>
Unexpired permanent resident card	Is already met (provided satisfactory VLS/SAVE response)
Unexpired EAD	Is already met (provided satisfactory VLS/SAVE response)
Certificate of Citizenship or Naturalization	Is already met (provided satisfactory VLS/SAVE response)
Unexpired foreign passport with I-94	Is already met (provided satisfactory VLS/SAVE response)
Out-of-state REAL ID	Requires another DHS document (such as an expired or unexpired EAD, I-797 notice of action, expired permanent resident card, etc) that can be used to run a SAVE case with a satisfactory duration of stay or “application pending” response
I-94 alone (in the case of a verified refugee, parolee, or asylee status)	Is already met (provided satisfactory VLS/SAVE response) <i>*NOTE: due to refugee/parolee/asylee status, staff will need to fill out and file form 430307 in ERMS.</i>
Alternate identity document listing full name and date of birth (for eligible Afghan evacuees only; see PM 21-07)	Is already met (provided satisfactory VLS/SAVE response)

**IS AN I-797 (NOTICE OF ACTION OR CHANGE IN STATUS APPLICATION) ACCEPTABLE PROOF OF LAWFUL STATUS?**

Yes. An I-797 notice is used by USCIS to communicate with applicants that they have received their application or payment, are requesting additional evidence from the applicant, or are approving the person’s status. While an I-797 does not typically confer status in and of itself, it is an acceptable document that we may use to run a SAVE case and therefore, constitutes acceptable proof of lawful status when it produces a positive and acceptable SAVE response.

DHS guidance states that “applicants are free to use any other documentation available...in order to demonstrate lawful status and assist the State in making a SAVE check” (73 F.R. 5314). In other words, lawful status can be proved by any DHS-issued documentation the customer has available that can be verified through SAVE, including an I-797, or an expired lawful status document.

Basically, any DHS-issued document that can be electronically verified through SAVE should be acceptable, since the purpose of providing that document is to prove lawful status, not identity. Therefore, if we already have an acceptable proof of identity for a customer being issued a new or renewed credential, an I-797 is acceptable proof of lawful status if it allows us to run a SAVE case and return an “application pending” response.

**HOW CAN WE ISSUE A FULL-TERM CREDENTIAL TO A PERSON WHOSE STATUS IS “CONDITIONAL” AND WHOSE DOCUMENTATION HAS A SHORTER TERM EXPIRATION DATE?**

We understand that issuing a full-term credential to a person who has “conditional resident” status is a new policy, since we previously only issued a credential for the length of time listed on their documentation. For example, a

person who presented an I-551 Conditional Permanent Resident Card with a two-year validity period would only be issued through the expiration date on the card.

However, in review of the federal REAL ID regulations, Iowa Code, and Iowa administrative rules, we confirmed that there is no specified limit for the length of credential we can issue to a conditional permanent resident, and therefore, we have decided to allow issuance of a full-term (up to 8-year) credential to conditional permanent residents.

#### **IS IT REALLY THAT IMPORTANT TO SCAN DOCUMENTS INTO ERMS EVEN IF NOT ISSUING?**

Yes. Always scan documents as it increases the chance of receiving a valid response for the customer.

#### **IS THERE EVER A SITUATION WITH A FOREIGN NATIONAL (TEMPORARY OR PERMANENT STATUS) WITH EXPIRED DOCUMENTATION WHERE WE SHOULDN'T INITIATE THE SAVE CASE?**

No. Always initiate the SAVE case (if a current one hasn't already been initiated), even if the customer says they haven't started the document renewal process, as USCIS has the most up-to-date information regarding a customer's status. Sometimes USCIS grants extensions and the customer may not be aware of the extension available to them. In those instances when we create the SAVE case, USCIS will return notice allowing us to renew or issue the license (for example, an "application pending" response with no duration of stay listed).

In instances where the customer hasn't started their renewal process, SAVE may return a response of "Documents appear to be expired," which helps us have the appropriate conversations and provide useful information on what steps they need to take to reach their goal of renewing their credential.

#### **WHAT CRITERIA MUST BE MET TO ISSUE A TEMPORARY LICENSE FOR UP TO ONE YEAR?**

In most instances, the SAVE case must return at least an 'application pending' response. Where the customer expresses special and extenuating circumstances, or we are aware of and have addressed specific hardships, like the recent delays in TPS extensions for Honduras and El Salvador, AAlls, county liaisons, and supervisors will exercise their best judgment in following the requirements of this memo to issue a temporary one-year renewal in collaboration with information and guidance provided by DIS and E&I management (e.g. TPS announcement for providing service to delayed TPS customers).

#### **HOW LONG DOES IT TAKE TO GET A RESPONSE FROM SAVE?**

Normally we get responses in one to three days. If the SAVE case goes to "continuance" it may take two to three weeks or longer (typically older documents such as certificate of citizenship's or older I-551 cards). After thirty working days, not calendar days, the county liaison, AAll, or supervisor may contact USCIS about the status of the case. The phone number is listed on the SAVE homepage.

#### **WILL THE ARTS VLS TRAINING GUIDE BE UPDATED WITH THIS INFORMATION?**

Yes. The VLS training guide has been updated to reflect these policies. Specifically, the VLS guide has been revised to clarify that we can issue a REAL ID credential for up to one year when SAVE returns an "application pending" response with no duration of stay listed, and that we can issue a full-term license when SAVE returns a "conditional resident" status.

#### **CAN WE ISSUE EXISTING CUSTOMERS A 60-DAY EXTENSION WHILE WE WAIT FOR THEIR SAVE RESPONSE?**

No; if we do not have a SAVE response yet, we are not authorized to issue any credential to the customer. However, the customer is entitled to the 60-day grace period for driving on an expired license. The 60-day grace period applies to driving privileges only and does not confer or imply lawful status and may not be valid for identification purposes.