

# THE FILIPINO **EXPRESS**

June 8-14, 1992

---

## **Will Marriage Or Adulthood Invalidate a Visa Petition**

**By Reuben S. Seguritan**

It is not uncommon for Filipino relatives of US citizens to have to wait several years before they can finally obtain their green cards. For instance, unmarried sons and daughters, 21 years or older (first preference category), normally wait ten years; married children (3rd preference) wait even longer.

Spouses and minor unmarried children (2A preference) of permanent residents wait about three years. For their unmarried children 21 years old or over (2B preference), the wait is longer. Fourth preference beneficiaries are in the worst situation of all. Based on current available data, these beneficiaries-- brothers and sisters of adult US citizens-- must wait fifty years!

Only immediate relatives of US citizens (spouses, minor unmarried children and parents of US citizens) do not experience visa number delays. Still, between the date the petition is filed (priority date) and the date of interview, which is about three to six months, some changes in the status of either the petitioner or the beneficiary may occur. When their status does change, questions arise in regard to their priority dates or preference category.

What happens if a child beneficiary gets married in the process or turns 21, or a married son or daughter gets divorced? Or what if the immigrant petitioner becomes a citizen? Does the petition get invalidated? Or does it automatically get converted to a new preference classification, while retaining the initial priority date?

The following are some rules recently outlined by the INS relevant to this subject:

### A: CHANGE IN MARITAL STATUS

1. An approved first preference petition for an unmarried son or daughter automatically converts to third preference when the applicant marries. The applicant retains the priority date of the original Form I-130, which at the time of filing accorded first preference status.
2. If a child beneficiary of an immediate relative (IR) petition marries, the petition automatically converts to third preference. The applicant's priority date is the filing date of the Form I-130 which originally accorded IR-2 status.
3. An approved third preference petition converts to a first preference (or IR-2 if under 21) if the applicant is widowed or divorced. The applicant retains the priority date of the original Form I-130 which at the time of filing accorded third preference status.

B: WHEN THE CHILD REACHES MAJORITY AGE:

1. When the child beneficiary of an approved immediate relative petition turns 21 years of age, the petition automatically converts to first preference. The priority date is the filing date of the Form I-130, which at the time of filing accorded immediate relative status.
2. A child accorded 2A status derivatively loses entitlement to such status upon reaching the age of 21. Under INS regulations, however, the petitioner must file a new petition on behalf of the alien to accord a second (2B) preference. The new petition shall be accorded the priority date of the initial petition.

C: WHEN THE PETITIONER BECOMES NATURALIZED

1. Upon the naturalization of the petitioner, the approved second preference petition for the spouse automatically converts to status as an immediate relative.
2. Upon the naturalization of a petitioning parent, an approved second preference petition for a child beneficiary automatically converts to status as an immediate relative. A child who has second preference status derivatively does not benefit from the parent's naturalization, however, because the child is not the beneficiary of an approved petition and there is no derivative entitlement under the immediate relative provision. Such a child loses second preference status and acquires no other until such time as a petition naming the child as beneficiary is filed and approved.
3. If the son and/or daughter who is the named beneficiary of a second preference petition is age 21 or older and the petitioner becomes naturalized, the status accorded by the petition converts to first preference. The applicant retains the priority date of the Form I-130 which at the time of filing accorded second preference status.