



Practice Alert:
***CARECEN* Agreement Sunsets on January 19, 2025¹**

July 31, 2024

Since 2022, the [CARECEN settlement agreement](#) has provided important benefits to certain Temporary Protected Status (TPS) recipients with prior removal orders who are eligible for adjustment of status. The *CARECEN* agreement sunsets on January 19, 2025. This practice alert first describes who can benefit from the agreement, then explains the importance of acting soon to ensure eligible clients access the agreement before it expires, and finally asks practitioners to share their experiences with the *CARECEN* agreement via a short [survey](#).

The *CARECEN* agreement

The *CARECEN* settlement agreement creates a prosecutorial discretion policy under which Immigration and Customs Enforcement Office of the Principal Legal Advisor (OPLA) will generally agree to join motions to reopen and dismiss the removal proceedings of certain TPS recipients with prior removal orders who have traveled with government authorization. The agreement resulted from litigation brought in 2020 to challenge a still-existing Trump administration [policy](#) that made it virtually impossible for adjustment-eligible TPS recipients with prior removal orders to access a forum where they could apply for adjustment of status. Under the *CARECEN* agreement, OPLA will generally join motions to reopen and dismiss (JMTR&D) the removal proceedings of individuals who meet the following criteria:

- Currently have TPS
- Have a removal order issued by the Executive Office for Immigration Review (EOIR) or its predecessor INS
- Have traveled with government authorization (advance parole or I-512T) since the removal order was issued
- Are otherwise *prima facie* eligible for adjustment of status, such as those who with a pending or approved I-130 “immediate relative” visa petition

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A TPS recipient with an EOIR-issued removal order who has a basis to adjust status but has not yet traveled can still become eligible for benefits under the *CARECEN* agreement if they apply for travel authorization (Form I-512T) with USCIS and travel and return using the approved I-512T travel document.

The agreement directs OPLA to aim to process *CARECEN* prosecutorial discretion requests “within 90 days but no longer than 120 days from the time the request is submitted.” [OPLA’s prosecutorial discretion webpage](#) has a section at the bottom about the *CARECEN* agreement and includes a link to a template JMTR&D that can be used in making *CARECEN* prosecutorial discretion requests.

When requesting a JMTR&D pursuant to the *CARECEN* agreement, NIPNLG suggests following the following format in the email or cover letter to distinguish this *CARECEN*-specific prosecutorial discretion request from a general prosecutorial discretion request:

Subject: Request for JMTR&D under the *CARECEN* Settlement Agreement

Good morning/afternoon, Counsel,

My client, NAME, from COUNTRY, qualifies for a joint motion to reopen [*and rescind, if applicable*] and dismiss under the *CARECEN* Settlement Agreement for the following reasons:

1. NAME currently possesses TPS;
2. NAME has a removal/deportation/exclusion order issued by EOIR/INS;
3. NAME traveled on advance parole since the order was issued;
4. NAME is *prima facie* eligible to file an adjustment application with USCIS, and has a pending/approved I-130 “immediate relative” petition filed by NAME’s U.S. citizen RELATIONSHIP; and
5. NAME is not an enforcement priority under the Doyle Memo.

I am attaching proof of criteria 1 through 4 to this email/request. I look forward to your response within 90 days but no more than 120 days as outlined in paragraph 5 of the *CARECEN* Settlement Agreement. Please do not hesitate to reach out if any questions arise.

OPLA may decline a JMTR&D request if the individual is an enforcement priority under DHS’s operative civil immigration enforcement guidelines, but the agreement provides that if USCIS granted or renewed TPS despite some criminal history, OPLA generally will not rely solely on that same criminal history to find someone a public safety priority for enforcement.

USCIS also has a [webpage](#) about the *CARECEN* agreement and allows certain individuals whose adjustment application USCIS previously denied for lack of jurisdiction to file an untimely motion to reopen the denied adjustment application with USCIS.

What Practitioners Need to Know About *CARECEN*'s January 19, 2025 Sunset Date

The *CARECEN* agreement sunsets on January 19, 2025. This means that OPLA must only adjudicate prosecutorial discretion requests under the *CARECEN* agreement's terms if those requests are submitted to OPLA on or before January 19, 2025.

Given these time-bound provisions, we recommend the following:

- Practitioners should **submit *CARECEN* prosecutorial requests to the OPLA office with jurisdiction as soon as possible** and without delay.
- Practitioners should **conduct an audit of current clients** to determine who is currently eligible for *CARECEN* benefits and who could become eligible within the next few months, such as by filing an I-130 petition or traveling using an approved I-512T. For those clients who could become eligible, practitioners should act swiftly to assist clients in taking the necessary steps to render them eligible for the agreement's benefits and then submit the prosecutorial discretion request promptly once the client is eligible.
- While practitioners can file *CARECEN* prosecutorial discretion requests until January 19, 2025, **the earlier the request is filed the better**. Given that OPLA is generally required to decide *CARECEN* prosecutorial discretion requests within 120 days of their submission, a good practice would be to, where possible, submit any *CARECEN* prosecutorial discretion request by around September 16, 2024. If the request is submitted by September 16, 2024, then under the agreement OPLA should decide it by Tuesday, January 14, 2025. If OPLA has made no decision by that date, the practitioner could contact *CARECEN* counsel to escalate the issue in the days before the agreement sunsets.
- If it is not possible to file a *CARECEN* prosecutorial discretion request until close to the sunset date, for example because the client cannot become eligible until that time, practitioners should still take advantage of the agreement by filing *CARECEN* prosecutorial discretion requests through the agreement's lifespan. **Our view is that the agreement requires OPLA to adjudicate requests pursuant to the agreement's terms even after January 19, 2025, as long as the request is submitted by January 19, 2025.** Of course, given that January 20, 2025 is inauguration day, any *CARECEN* prosecutorial discretion request that is decided after January 20, 2025 faces an uncertain outcome, particularly given that the agreement cites DHS's "operative civil immigration enforcement guidelines."

Please Complete Our Survey to Share Your Experiences with the *CARECEN* Agreement

The National Immigration Project asks practitioners who have assisted clients seeking benefits under the *CARECEN* agreement to complete our short [survey](#) to share information about your experiences. As we approach the agreement's sunset date, the National Immigration Project is particularly interested in hearing about obstacles to accessing the agreement's benefits, including but not limited to:

- OPLA denials of *CARECEN* prosecutorial discretion requests;

- OPLA failure to respond to *CARECEN* prosecutorial discretion requests within 120 days; and
- USCIS denials of, or delays in adjudicating, travel authorization requests (Form I-512T) for TPS recipients with removal orders.

The National Immigration Project will share the responses received with Democracy Forward Foundation (DFF), which represents *CARECEN* in the litigation. Other than sharing the responses with DFF, the National Immigration Project will not share identifying information obtained through these responses. DFF may share information from the responses with counsel for the Defendants in *CARECEN* to promote more robust compliance with the agreement but will not share identifying information without obtaining consent.