



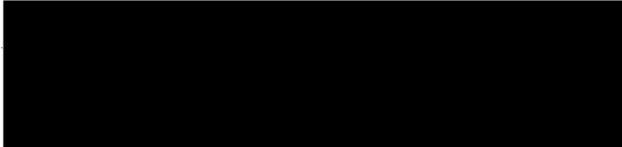
U.S. Department of Justice

Immigration and Naturalization Service

DR

Identifying case deleted to
prevent clearly unwarranted
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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: WAC-00-099-53772 Office: California Service Center

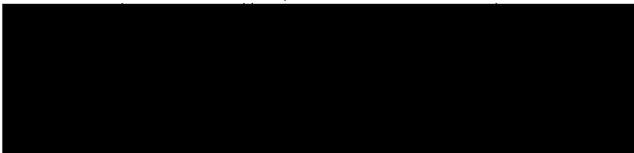
Date: DEC 08 2002

IN RE: Petitioner:
Beneficiary:



Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(i)(b)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the director and is now before the Associate Commissioner for Examinations on appeal. The petition will be remanded to the director for entry of a new decision.

The petitioner is a rehabilitation services business with 15 employees and a gross annual income of \$300,000. It seeks to employ the beneficiary as a rehabilitation services coordinator. The director denied the petition due to abandonment. The director advised the petitioner that her decision was not appealable as a denial due to abandonment may not be appealed. 8 C.F.R. 103.2(b)(15). However, the director did advise that a motion to reopen in accordance with 8 C.F.R. 103.5(a)(2) could be filed by the petitioning entity.

The Associate Commissioner lacks jurisdiction over a motion to reopen. Any jurisdiction here rests with the director, California Service Center. 8 C.F.R. 103.5(a)(1)(ii). Therefore, this case will be remanded to the director for consideration of the material submitted by the petitioner, to determine whether it meets the requirements of a motion.

ORDER: The petition is remanded to the director in accordance with the foregoing.