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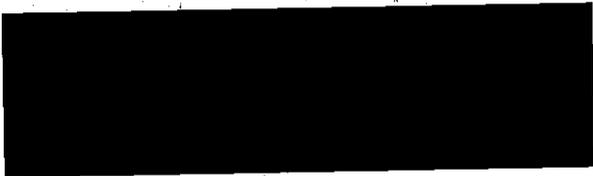
U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

Date: DEC 08 2002



File: LIN 00 068 50045

Office: NEBRASKA SERVICE CENTER

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: SELF-REPRESENTED

**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, Nebraska Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner is a nursing/assisted living provider that employs 172 individuals with a gross income of \$6,000,000. It seeks to employ the beneficiary as a treatment review coordinator for a period of three years. The director determined that the petitioner had failed to establish the position qualified as a specialty occupation.

On appeal, the counsel for beneficiary asks that the petition be approved.

8 C.F.R. 103.3(a)(1)(iii) provides in pertinent part:

*(B) Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

8 C.F.R. 103.3(a)(2)(v) states:

*Improperly filed appeal--(A) Appeal filed by person or entity not entitled to file it--(1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

An appeal from the denial or revocation of a visa petition may be filed only by the petitioner. Matter of Sano, 19 I&N Dec. 299 (BIA 1985). The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary's attorney. Therefore, the appeal has not been properly filed and must be rejected.

**ORDER:** The appeal is rejected.