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U.S. Department of Justice

Immigration and Naturalization Service

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



Public Copy

File: WAC 99 210 52289

Office: California Service Center

Date: JUL - 6 2001

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:



Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner is a professional placement firm. It seeks to employ the beneficiary as a medical record director for a period of three years. The director determined the petitioner had not established that the offered position is a specialty occupation.

On appeal, the petitioner states that the director's decision is inconsistent with the previous petitions the company has filed for medical record directors where its beneficiaries were granted the H-1B classification based on their degrees in the medical field. The petitioner states that the beneficiary holds a degree in medical technology which is the petitioner's major requirement. The petitioner further states that the company meets one of the four criteria of the regulations where an employer normally requires a degree for the position.

In this case, the petitioner asserts but offers no evidence to establish that the firm normally requires a degree for the offered position.

With respect to the petitioner's objection to denial of this petition in view of the prior approval of a similar petitions in past, this Service is not required to approve applications or petitions where eligibility has not been demonstrated. The record of proceeding, as presently constituted, does not contain a copy of the approved visa petitions and supporting documents. It is, therefore, not possible to determine definitively whether it was approved in error or whether the facts and conditions have changed since they were approved.

Pursuant to 8 C.F.R. 103(a)(1)(v), an officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The petitioner has not identified specifically any erroneous conclusions of law or statements of fact. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.