

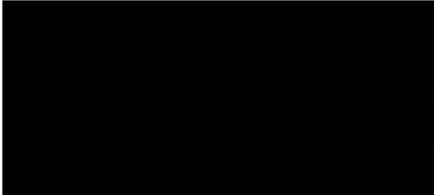


DA

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



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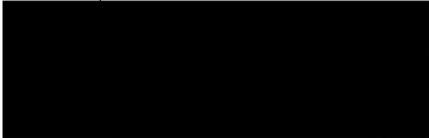
File: LIN 99 100 50394 Office: Nebraska Service Center Date:

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:



Identification 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, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is engaged in software development and provides computer consulting services. It seeks to employ the beneficiary as a consultant for a period of two years and eight months. The director determined that the petitioner had not submitted an itinerary of definite employment and information on any services the beneficiary would perform for the period of time requested.

On appeal, counsel states that there was no notation made in Part 5 "Address where person will work if different from the address in Part 1" of the I-129 petition submitted to the Nebraska Service Center. Counsel further states that within the petitioner's response to a request for evidence, it was reiterated that the beneficiary was to work at the petitioner's facility. Counsel argues that the beneficiary will be an employee of the petitioner and that he will work on-site at the petitioner's offices. Counsel asserts that the petitioner is an established firm capable of affording employment to the beneficiary.

The petitioner provided a certified labor condition application upon initial submission. That document states that the beneficiary would work in "Metro Detroit and surrounding counties, MI." The petitioner's argument on appeal that the beneficiary would be working on-site at the petitioner's office is inconsistent with the information contained in this labor condition application.

It is determined that a lack of itinerary for the beneficiary has a direct bearing on the issue of the validity of the petition. As the petitioner has not provided the information requested and required for the adjudication of this petition, it may not be approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act. 8 U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.