

PUBLIC COPY

Identifying data deleted to  
prevent disclosure of information  
warranting  
invasion of personal privacy

U.S. Department of Homeland Security  
Bureau of Citizenship and Immigration Services

DOA

ADMINISTRATIVE APPEALS OFFICE  
425 Eye Street N.W.  
BCIS, AAO, 20 MASS. 3/F  
Washington, D.C. 20536

[REDACTED]

JUL 31 2003

File: WAC 00 101 50131 Office: California Service Center Date:

IN RE: Petitioner:  
Beneficiary:

[REDACTED]

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)

ON BEHALF OF PETITIONER:

[REDACTED]

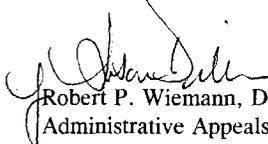
INSTRUCTIONS:

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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) as improperly filed.

The petitioner is a California corporation that operates a convalescent hospital. It has 40 employees and a gross annual income of approximately \$1,200,000. The petitioner seeks to employ the beneficiary as a registered nurse for a period of three years. The director determined that the petitioner failed to establish that the proffered position was a specialty occupation. The petitioner appealed asserting that the proffered position is a specialty occupation.

The appeal in this instance was filed by [REDACTED] indicating that she represented the beneficiary, [REDACTED] Ms. [REDACTED] failed to submit with the appeal a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling her to file the appeal. The appeal is, therefore, improperly filed and will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

It should further be noted that only an affected party can file an appeal with the AAO. As set forth in 8 C.F.R. § 103.3(a)(1)(iii)(B), an affected party is the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. Ms. [REDACTED] asserts that she represents the beneficiary. As such, she lacks legal standing to file the appeal and the appeal must also be rejected in this regard.

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 rejected.