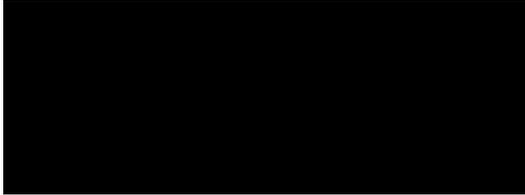


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Services**

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FILE: WAC 04 800 58842 Office: CALIFORNIA SERVICE CENTER Date: **DEC 02 2005**

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)

ON BEHALF OF PETITIONER: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected.

The petitioner is a veterinary medicine and surgery practice, doing business as Alpine Animal Hospital. It seeks to employ the beneficiary as a veterinary technologist and to extend her classification as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(i)(b).

The director denied the petition on the ground that the petitioner did not file a timely response to the request for evidence and was therefore considered to have abandoned the petition. The request for evidence had been issued on October 12, 2004, the director stated, giving the petitioner until January 4, 2005 to respond. The petitioner telefaxed a letter to the service center on December 29, 2004, requesting an extension of time until June 5, 2005 to submit the requested evidence. The director ruled that the requested extension was barred by regulation – specifically 8 C.F.R. § 103.2(b)(8), which provides, in pertinent part, as follows: “[T]he applicant or petitioner shall be given 12 weeks to respond to a request for evidence. Additional time may not be granted.” Since the 12-week response period ended on January 4, 2005 without the requested evidence, the director denied the petition on January 14, 2005 in accordance with 8 C.F.R. § 103.2(b)(13), which provides that “[i]f all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.”

The petitioner filed an appeal on February 4, 2005, asserting that the additional evidence requested by the director could not be provided within the 12-week response period due to uncontrollable circumstances. As provided at 8 C.F.R. § 103.2(b)(15), however, “[a] denial due to abandonment may not be appealed.” Thus, the AAO is precluded by regulation from considering the petitioner’s appeal. The appeal must be rejected.

**ORDER:** The appeal is rejected.