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FILE: EAC 03 108 52979 Office: VERMONT SERVICE CENTER

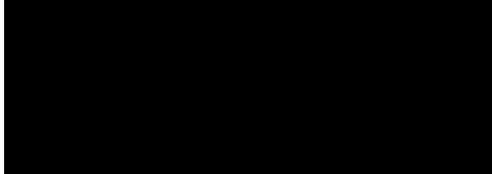
Date: OCT 05 2005

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents 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 and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a wholesaler and retailer of telephone calling cards. It seeks to employ the beneficiary as a budget analyst, and endeavors to classify her as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The director determined that the proffered position was not a specialty occupation. Accordingly, the petition was denied.

On appeal, counsel states that a request for evidence (RFE) issued by the director was addressed to the beneficiary's husband, an I-539 applicant. Counsel recognized, however, that the substance of the RFE addressed issues relevant to the petitioner's Form I-129 petition. Counsel states that he called the Vermont Service Center and spoke with an unnamed officer about the mistake and expected to receive a new RFE. As such, the petitioner did not respond to the RFE and the director denied the petition holding that the proffered position did not qualify as a specialty occupation.

On appeal, counsel addresses only the RFE issue and does not address the substance of the director's decision, that the proffered position does not qualify as a specialty occupation. Thus, the petitioner has not specifically identified any erroneous conclusion of law or statement of fact relative thereto upon which the appeal is based. The appellant must do more than simply ask for an appeal. It must clearly demonstrate the basis for the appeal. This, the appellant has failed to do. As such, the appeal must be dismissed.

The burden of proof in this proceeding 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.