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**U.S. Citizenship  
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FILE: EAC 03 053 55330 Office: VERMONT SERVICE CENTER Date: **AUG 29 2006**

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The service center director revoked 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 placement agency that seeks to employ the beneficiary as a physical therapist. The petitioner endeavors to classify the beneficiary 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). On May 26, 2004, the director issued a notice of intent to revoke the petition. The director noted that the beneficiary would be receiving a temporary license to practice physical therapy in the state of New Jersey. The director requested evidence to establish that the beneficiary would be working under the direct supervision of a licensed physical therapist as required under New Jersey regulations. Additionally, the director noted that the petitioner is a placement agency and requested a copy of the petitioner's contract with the specific facility where the beneficiary will be working. The director requested a copy of the employment contract between the beneficiary and the facility where the beneficiary will be working. The director noted that in the contract with the beneficiary, the petitioner stated that it would file an immigrant petition on behalf of the beneficiary and that the beneficiary would pay the amount of \$3000 as a sponsorship fee payable through salary deductions. The petitioner did not submit any such evidence. The director revoked the petition.

Counsel submitted a timely Form I-290B on February 7, 2005 and indicated that a brief and/or additional evidence would be submitted within 30 days. As of this date, the AAO has not received any additional evidence into the record. Therefore, the record is complete.

In general, the director's decision to revoke the approval of a petition will be affirmed, notwithstanding the submission of evidence on appeal, where a petitioner fails to offer a timely explanation or rebuttal to a properly issued notice of intent to revoke. *See Matter of Arias*, 19 I&N Dec. 568, 569 (BIA 1988). No explanation has been offered for the petitioner's failure to address these issues in a timely response to the director's notice.

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. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. Counsel states that the petitioner did not receive a copy of the May 26, 2004 letter from the director indicating his intention to revoke the petition. Counsel states that the petitioner would submit its reply to the director's letter within 30 days. The record contains no additional evidence. As the petitioner fails to present additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

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.