

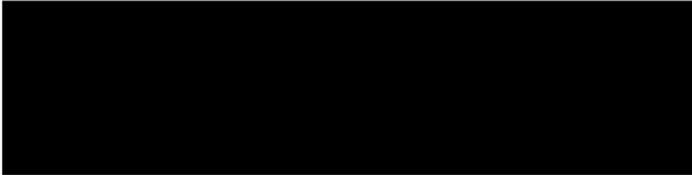
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U.S. Department of Homeland Security
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U.S. Citizenship
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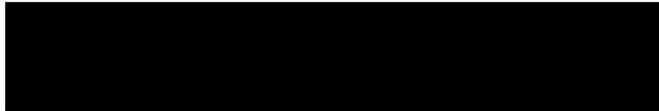
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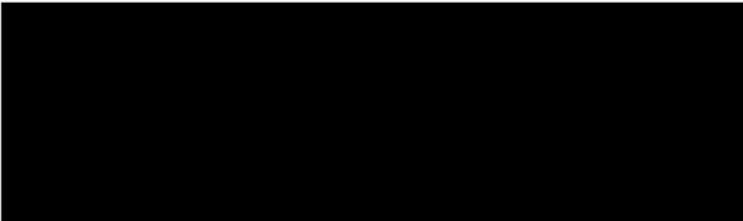
FILE: WAC 04 178 51054 Office: CALIFORNIA SERVICE CENTER Date: NOV 02 2006

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 denied the request for change of status. The petitioner filed a subsequent motion to reopen/reconsider. The director determined that the motion was not filed in a timely manner, and dismissed the motion. The matter is now before the AAO on appeal. The appeal will be rejected.

The petitioner is a travel agency that seeks to employ the beneficiary as an accountant. 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).

The director approved the H-1B petition and denied the requested change of status on August 23, 2004. On December 23, 2004, counsel for the petitioner filed a motion seeking review of the director's decision. After reviewing the record, the director dismissed the motion as the motion had not been filed in a timely manner. A motion to reopen or reconsider must be filed within the time allowed. 8 C.F.R. § 103.5(a).

The petitioner has now filed a motion seeking to reopen or reconsider the motion that was dismissed as untimely filed. The director declined to accept the motion and forwarded it to the AAO as an appeal. The regulation at 8 C.F.R. § 284.3(g) states that there is no appeal from the denial of a change of status. Thus, the AAO has no jurisdiction over this appeal and the appeal must be rejected.

ORDER: The appeal is rejected.