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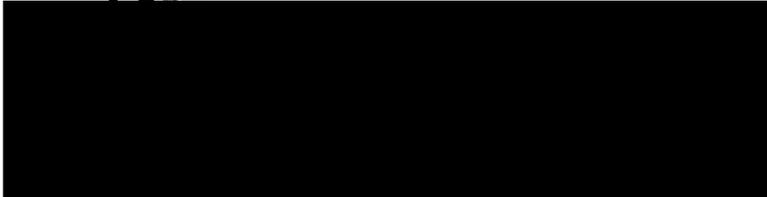
U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
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U.S. Citizenship
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FILE: EAC 07 010 52377 Office: VERMONT SERVICE CENTER Date: **JUL 31 2007**

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

for
Michael T. Kelly
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks to employ the beneficiary as a home attendant pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(H)(ii)(b) from October 15, 2006 until October 14, 2007. The Department of Labor (DOL) determined that the petitioner had submitted insufficient evidence for the issuance of a temporary labor certification by the Secretary of Labor. The director determined that the petitioner had not established a temporary need for the beneficiary's services and denied the petition.

On appeal, the petitioner asserts that the temporary need is evidenced by the fact that her husband has a life expectancy of one year. In addition, the petitioner submits a letter from [REDACTED] dated November 30, 2006, where he estimates the life expectancy of the patient to be approximately one year.

Upon review, the petitioner has overcome the concerns addressed in the director's and the DOL's decisions. Moreover, sufficient countervailing evidence has been submitted to show that qualified persons in the United States are not available, that the employment policies of the Department of Labor have been observed and that the petitioner's need for the beneficiary's services is a one-time occurrence and temporary.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has met that burden.

ORDER: The appeal is sustained. The petition is approved.