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**U.S. Department of Homeland Security**  
20 Mass. Ave., N.W., Room 3000  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

D9

**FILE:** WAC 07 004 51026 Office: CALIFORNIA SERVICE CENTER Date: 1/1/07

**IN RE:** Petitioner:  
Beneficiaries:

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

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

The petitioner is a limited partnership, which owns the Philadelphia Wings, a member franchise of the National Lacrosse League (“NLL”), a professional sports league. The beneficiaries of the petition are the manager/head coach and two assistant coaches. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking P-1S classification of the three aliens as essential support personnel pursuant to section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P). The petitioner seeks to employ the beneficiaries for the 2006-2007 NLL season.

The director denied the petition, finding that the beneficiaries did not qualify as essential support aliens under the pertinent regulations because they would not support a P-1 athlete or athletic team. The director found that the Philadelphia Wings are not a P-1 athletic team. Finally, the director determined that P-1 essential support classification is not available to support a United States team.

Counsel for the petitioner submits a timely appeal.

The regulation at 8 C.F.R. § 214.2(p)(3), provides, in pertinent part:

*Essential support alien* means a highly skilled, essential person determined by the Director to be an integral part of the performance of a P-1, P-2, or P-3 alien because he or she performs support services which cannot be readily performed by a United States worker and which are essential to the successful performance of services by the P-1, P-2, [or P-3] alien. Such alien must have appropriate qualifications to perform the services critical knowledge of the specific services to be performed, and experience in providing such support to the P-1, P-2, or P-3 alien.

Accordingly, the petitioner must establish that the support aliens will provide support to a P alien and are essential to the success of the P alien(s). The petitioner must also establish that beneficiaries are qualified to perform the services and the services cannot be readily performed by United States workers.

The regulation at 8 C.F.R. § 214.2(p)(4)(iv) states: “(A) *General.* An essential support alien as defined [above] may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or a P-1 entertainment group.”

The issue to be addressed in this proceeding is whether the beneficiaries qualify as essential support personnel under pertinent regulations. The director determined that the beneficiaries did not qualify as essential support aliens under the pertinent regulations because they would not support a P-1 athlete or athletic team.

The petitioner seeks to employ the beneficiaries as a manager/head coach and assistant coaches. The beneficiaries would support the Philadelphia Flyers. The petitioner filed a separate Form I-129 petition seeking P-1 classification for eight lacrosse players to perform as members of the Philadelphia Flyers. The petition was approved on October 27, 2006. (WAC 07 004 51001). According to the National Lacrosse League official website, each team dresses eighteen players per game.<sup>1</sup> Approximately one-third of the petitioner’s team

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<sup>1</sup> See the Official Website of the National Lacrosse League at <http://www.nll.com/laxoverview.php> [as accessed on 11/17/2006].

members are P-1 aliens; therefore, the beneficiaries would support at least eight P-1 aliens. The petitioner has established that the beneficiaries qualify as essential support aliens under the regulations.

The director determined that the petitioner's athletic team was not a "P-1 athletic team." The director stated that even though some of the athletes in the petitioner's team might be in P-1 classification, the petitioner failed to establish that the Philadelphia Wings are a foreign team admitted in P-1 classification. The director's reasoning is faulty in that he failed to consider that the beneficiaries would be providing essential support to P-1 aliens on the team; therefore, were eligible for P-1S classification.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has met that burden. The petition will be approved.

**ORDER:** The appeal is sustained.