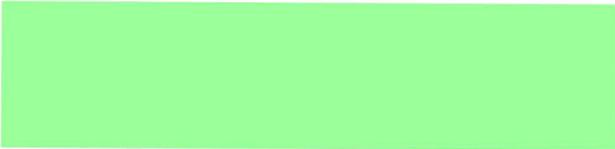




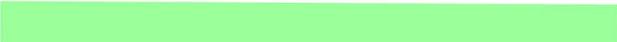
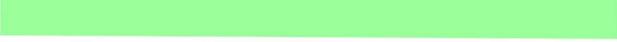
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **NOV 27 2013**

OFFICE: NEBRASKA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as an Unskilled Worker Pursuant to Section 203(b)(3)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)(A)(iii)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg

Chief, Administrative Appeals Office

DISCUSSION: The employment based immigrant visa petition was denied by the Director, Nebraska Service Center. The petitioner filed an appeal. Subsequently, the Department of Labor (DOL), Employment and Training Administration, advised the AAO that it had issued a Notice of Intent to Revoke the approval of ETA Form 9089, Application for Permanent Employment Certification (case number [REDACTED] filed by the petitioner on behalf of the beneficiary. The AAO subsequently notified the petitioner through a Notice of Intent to Dismiss that the DOL had advised that it has revoked the certification of case number [REDACTED]. Therefore, this appeal will be dismissed.

The petitioner, a home health firm, sought the beneficiary's classification as an employment-based immigrant pursuant to section 203(b)(3)(A)(iii) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(3)(A)(iii) as an unskilled worker.¹ The petitioner sought to employ the beneficiary as a medical records technician. The petition was accompanied by an approved Application for Permanent Employment Certification, ETA Form 9089 from the Department of Labor (DOL).

On February 23, 2009, the director denied the petition, determining that the petitioner had failed to establish that it had the continuing ability to pay the proffered wage. During the adjudication of the appeal, the DOL advised the AAO that it had revoked the certification of the labor certification filed by the petitioner on behalf of the beneficiary because of an undisclosed familial relationship between the petitioner and the beneficiary. On October 10, 2013, the AAO issued a Notice of Intent to Dismiss, advising the petitioner and the petitioner's counsel that issues raised on appeal were moot, because the certification of the ETA Form 9089 had been revoked. Therefore, the visa petition may not be approved as it was no longer supported by a valid labor certification.

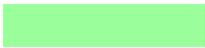
The petitioner was permitted thirty days to respond. As of this date, this office has received no response.

The petition must be accompanied by an individual labor certification approved by the Department of Labor. *See* 8 C.F.R. § 204.5(a)(2). Because this labor certification has been revoked, the petition is not supported by a valid labor certification, and further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed, based on DOL's revocation of certification of the ETA Form 9089,

¹Section 203(b)(3)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(iii), provides for the granting of preference classification to other qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

(b)(6)



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NON-PRECEDENT DECISION

as the petition is no longer supported by a valid labor certification.