U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

Date: APR 2 4 2014 Office: CALIFORNIA SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 Director, California Service Center (the director), denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, as the fiancée of a United States citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the petitioner failed to establish that he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or demonstrate that he is eligible for a waiver of the meeting requirement. On appeal, the petitioner asserts that he could not meet the beneficiary during the required time because of health problems, and he submits a statement from his doctor to support his assertion.

Applicable Law

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

> subject to subsections (d) and (p) of section 214, an alien who -
>
> (i) is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

> shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival except that the Secretary of Homeland Security in [her] discretion may waive the requirement that the parties have previously met in person. . . .

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Petition for Alien Fiancé(e) (Form I-129F), including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

> The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the

> petitioner or that compliance would violate strict and long-established customs of the K-1 beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice. Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

The regulation does not define what may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of the petitioner to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

Factual and Procedural History

The petitioner filed the fiancé(e) petition with USCIS on March 5, 2013. Therefore, the petitioner and the beneficiary were required to have met in person between March 5, 2011 and March 5, 2013. When he filed the petition, the petitioner stated that he had not met the beneficiary within the requisite period. In the Request for Evidence (RFE), the director informed the petitioner that he must either submit evidence of having met the beneficiary in person during the required time period or request a waiver of the meeting requirement. In response, the petitioner submitted, among other things, a personal statement, a letter from his parents' physician, and a medical record. The petitioner asserted in the letters dated July 15, 2013 and September 10, 2013 that he could not travel to the Philippines to meet the beneficiary because of his health problems and because he was the caregiver for his parents. A letter, dated November 26, 2012, from Dr. [redacted] indicated that the petitioner could not comply with the meeting requirement because the petitioner provided full-time care for the petitioner's mother and father. The director found the petitioner's response insufficient and denied the petition. On the notice of appeal the petitioner asserts that his doctor advised him not to travel long distances, and the petitioner submits a letter from his doctor, [redacted], in support of his assertion.

Analysis

As stated at section 214(d)(1) of the Act, the relevant time the personal meeting between the petitioner and the beneficiary must occur is within the two-year period before the petition is filed. On the appeal notice the petitioner declares that he would not have been able to meet the beneficiary during the required period because he was not able to travel for long periods. Dr. [redacted] letter, dated October 28, 2013, stated that the petitioner has lower leg neuropathy, lumbar degenerative disc disease, and a degenerative joint disease that causes severe back, leg, and shoulder pain. He stated that

due to severe pain, the petitioner "may have difficulties traveling long distance[s]" and that he has difficulty lifting heavy objects, sitting and standing for long periods of time.

Dr. indicated in his letter that the petitioner has been under his care since March 2013, which is the same month that the petitioner filed the Form I-129F on the beneficiary's behalf. Dr. states equivocally that the petitioner "may have difficulties" traveling long distances, and does not provide the probative details of the duration of the petitioner's medical conditions or his prognosis. Similarly, the letter from Dr. indicated only that the petitioner could not travel to the Philippines because he was a full-time caregiver to his elderly parents, and mentioned no medical conditions of the petitioner. Overall, the evidence in the record does not support a conclusion that travel to the Philippines would have been an extreme hardship for the petitioner from March 2001 until March 2013. A petitioner must provide evidence that compliance with the in-person meeting requirement would have resulted in *extreme hardship* to the petitioner. 8 C.F.R. § 214.2(k)(2). In this case, the petitioner has provided no evidence that he would have suffered extreme hardship in meeting the beneficiary, and he does not claim that compliance with the meeting requirement would have violated the beneficiary's cultural practices.

Conclusion

The statutorily required personal meeting between the petitioner and the beneficiary did not occur during the required time and the petitioner is not exempt from the requirement. Consequently, the beneficiary may not benefit from the instant petition and it must remain denied. The appeal is dismissed. The denial of this petition is without prejudice to the filing of a new petition should the petitioner and the beneficiary meet in person in the future. 8 C.F.R. § 214.2(k)(2).

In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.