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



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: NOV 14 2007  
WAC 06 011 51627

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the preference visa petition that is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a home health agency. It seeks to employ the beneficiary permanently in the United States as a registered nurse. The visa petition was filed pursuant to section 203(b)(3) of the Immigration and Nationality Act under Schedule A designation. The director determined that the petitioner had not demonstrated that the petition is amenable to treatment under Schedule A, in that it had not demonstrated that, on the priority date,<sup>1</sup> the beneficiary had a valid license to practice nursing in the state of intended employment, had a CGFNS certificate issued by the Commission for Graduates of Foreign Nursing Schools, or had passed the National Council Licensure for Registered Nurses (NCLEX-RN) examination administered by the National Council of State Boards of Nursing, as required by 20 C.F.R. § 656.15(c)(2). The director further found that the petitioner had failed to demonstrate that the wage proffered in the instant case is in accord with the prevailing wage rate, as required by 20 C.F.R. § 656.10(c)(1) and as that term is defined at 20 C.F.R. § 656.40. The director denied the petition accordingly.

The petitioner submitted a Form I-290B appeal in this matter. In the section reserved for the reason for filing the appeal, the petitioner inserted, "We believe that the service should consider this application. Our brief and other evidences (sic) will be submitted within 30 days."

On the form appeal the petitioner indicated that it would provide a brief or evidence within 30 days. No brief or evidence was submitted, either with the form appeal or subsequently. On October 11, 2007 this office sent the petitioner a facsimile transmission asking whether the petitioner had submitted any such information, argument, or documentation.

On that facsimile transmission this office stated,

The regulations do not allow an applicant or petitioner an open-ended or indefinite period in which to supplement an appeal once it has been filed. Therefore, this facsimile is not and should not be construed as requesting or permitting the petitioner and/or its counsel to submit a late brief and/or evidence in response to this request. If a brief and/or evidence were not filed directly with the AAO within the period indicated on the Form I-290B, please check the block below and return this form to the Administrative Appeals Office by facsimile transmission.

In its response, the petitioner checked the box that indicated that it had not filed a brief or evidence in support of the appeal as it indicated it would on the Form I-290B appeal form.

With that response, the petitioner submitted a letter dated October 17, 2007. That letter indicated that a copy of the beneficiary's California registered nurse's license was attached. The letter did not address the issue of whether the wage proffered in the instant case is equal to the prevailing wage as defined in 20 C.F.R. § 656.40.

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<sup>1</sup> In the case of a petition filed pursuant to Schedule A, the priority date is the date the visa petition is submitted with all of the required supporting evidence. See 8 CFR § 204.5(d).

As the October 11, 2007 facsimile made clear, this office would not then have accepted that tardily submitted evidence. This office further notes that, in any event, the nursing license did not accompany that letter. For both reasons, the asserted existence of a nursing license will not be considered.

The petitioner's statement on appeal contains no specific assignment of error and was accompanied by no evidence. Alleging that the director erred in some unspecified way is an insufficient basis for an appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

The petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and the appeal must be summarily dismissed.

**ORDER:** The appeal is summarily dismissed.