



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF A.F. E-, INC.

DATE: AUG. 14, 2017

MOTION ON ADMINISTRATIVE APPEAL OFFICE DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a jewelry retail establishment, seeks to extend the Beneficiary's temporary employment as a "credit analyst" under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director of the Vermont Service Center denied the petition. The Petitioner appealed the denial, which we dismissed on the basis that the evidence of record does not establish that the proffered position qualifies as a specialty occupation.

The matter is before us on a combined motion. In its combined motion, the Petitioner asserts that the proffered position is a specialty occupation. We will deny the motions.

I. MOTION REQUIREMENTS

To merit reopening or reconsideration, a petitioner must meet the formal filing requirements (such as, for instance, submission of a properly completed Form I-290B, Notice of Appeal or Motion, with the correct fee), and show proper cause for granting the motion. 8 C.F.R. § 103.5(a)(1).

A motion to reopen is based on factual grounds and must (1) state the new facts to be provided in the reopened proceeding; and (2) be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider is based on legal grounds and must (1) state the reasons for reconsideration; (2) be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or policy; and (3) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

II. ANALYSIS

A. Motion to Reopen

In support of the motion, the Petitioner submits a brief that is identical to the brief submitted on appeal. It also re-submits the academic credentials and credential evaluations of two individuals that held the credit analyst position, which was considered on appeal. The evidence submitted on motion does not constitute new facts. Therefore, the Petitioner has not shown proper cause to reopen the proceeding.

B. Motion to Reconsider

Nor does the Petitioner's motion satisfy the requirements of a motion to reconsider. More specifically, while the Petitioner continues to assert that its petition should be approved, it does not articulate how our March 7, 2017, decision was based on an incorrect application of law or policy. Rather, the Petitioner reiterates the statements it provided on appeal. The reiteration of previous arguments or general allegations of error will not suffice. *See Matter of O-S-G-*, 24 I&N Dec. at 60. The Petitioner must state the specific factual and legal issues raised on appeal that were decided in error or overlooked in the initial decision. *Id.* The Petitioner has not done so here.

The Petitioner has not established that our prior decision was incorrect at the time of that decision. Therefore, the Petitioner has not shown proper cause for reconsideration.

III. CONCLUSION

The combined motion does not meet the requirements for a motion to reopen or a motion to reconsider. Therefore, the combined motion will be denied.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of A.F. E-, Inc.*, ID# 626983 (AAO Aug. 14, 2017)