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20 Mass Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE: EAC 04 180 53627 Office: VERMONT SERVICE CENTER Date: **AUG 29 2006**

IN RE: Petitioner: 
Beneficiary: 

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

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 service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a placement agency that seeks to employ the beneficiary as a physical therapist. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101 (a)(15)(H)(i)(b). The director denied the petition on the basis that the petitioner did not establish that the beneficiary is qualified to perform the services of the specialty occupation. The director requested evidence showing that the alien holds a license to practice the profession of physical therapy from the state of intended employment, or other evidence to establish that the beneficiary is immediately eligible to engage in her profession pursuant to 8 C.F.R. § 214.2(h)(4)(v). The director also found the beneficiary inadmissible as the petitioner failed to submit a certification from an approved credentialing organization under section 212(a)(5)(C) of the Act, 8 U.S.C. § 1182. The petitioner did not submit such evidence. The director found that the evidence of record did not establish that the beneficiary is qualified to perform services in a specialty occupation or that she is admissible to the U.S. as a foreign healthcare worker.

Counsel submitted a timely Form I-290B on January 4, 2005 and indicated that a brief and/or additional evidence would be submitted within 30 days. As of this date, the AAO has not received any additional evidence into the record. Therefore, the record is complete.

In general, the director's decision to revoke the approval of a petition will be affirmed, notwithstanding the submission of evidence on appeal, where a petitioner fails to offer a timely explanation or rebuttal to a properly issued notice of intent to revoke. *See Matter of Arias*, 19 I&N Dec. 568, 569 (BIA 1988). No explanation has been offered for the petitioner's failure to address these issues in a timely response to the director's notice.

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. 8 C.F.R. § 103.3(a)(1)(v).

In the appeal letter attached to the Form I-290B, counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As counsel fails to present additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.