

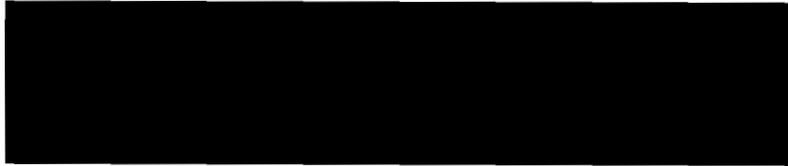
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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82

FILE: WAC 08 147 53840 Office: CALIFORNIA SERVICE CENTER Date:

FEB 04 2010

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the service center director and the matter is now before the *Administrative Appeals Office (AAO)* on appeal. The appeal will be dismissed as the matter is now moot.

On the Form I-129, Petition for a Nonimmigrant Worker, the petitioner states that it provides health care services, that it was established in 1999, that it employs 25 persons, and that it has a gross annual income of \$2,200,000 and a net annual income of \$250,000. It seeks to employ the beneficiary as a counseling aide. Accordingly, 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).

On October 1, 2008, the director denied the petition, determining that the petitioner failed to establish that the beneficiary had the proper license to perform the proffered position or was exempt from any licensing requirement.

A review of United States Citizenship and Immigration Services (USCIS) records indicates that the petitioner subsequently filed a new Form I-129 petition seeking nonimmigrant H-1B classification on the beneficiary's behalf. USCIS records further indicate that the petitioner's subsequent petition was approved and the beneficiary was granted H-1B status from October 1, 2009 to September 30, 2010. Because the beneficiary in the instant petition has been approved for H-1B employment with the petitioner, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed. The petition is denied.