

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

D2



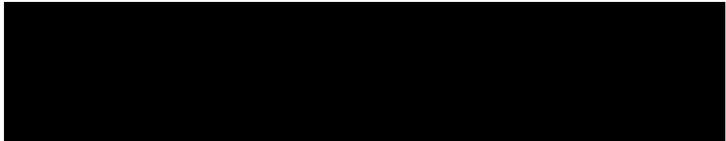
FILE: [Redacted]

Office: VERMONT SERVICE CENTER

Date:

JUL 01 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 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.

Thank you,

Perry Rhew  
for  
Chief, Administrative Appeals Office

**DISCUSSION:** The director, Vermont Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a non-profit public health organization that seeks to employ the beneficiary as a Clinician I – Special Needs. The petitioner, therefore, 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 approved the petition, but denied the beneficiary's extension of stay, finding that the petitioner failed to establish that the beneficiary had maintained valid nonimmigrant status at the time of filing.

On appeal, counsel for the petitioner contends that the director erred in denying the beneficiary's extension of stay and that the beneficiary maintained lawful status as a nonimmigrant.

It is noted that 8 C.F.R. § 214.1(c)(5) does not provide for an appeal from the denial of a petition or application for extension of stay filed on Forms I-129 or I-539. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in her through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv). Therefore, as the AAO does not have jurisdiction over the appeal of a denied extension of stay filed on Form I-129, this appeal must be rejected.

**ORDER:** The appeal is rejected.