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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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Date: **JAN 24 2012** Office: VERMONT SERVICE CENTER FILE:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner described itself as a medical equipment sales firm. To employ the beneficiary in what it designates as a "management analyst" position, the petitioner endeavors to classify her as a nonimmigrant worker in a specialty occupation 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).

The director approved the petition on August 28, 2009. An Administrative Site Visit was conducted on September 29, 2009, which revealed that the petitioner's business does not appear to be located at the address shown on the Form I-129. In response to a request for evidence, the petitioner submitted a copy of its lease, copies of bank statements, copies of invoices, proof that the petitioner's phone number changed, and photographs.

On February 2, 2010, the director revoked the petition finding that (1) there is no evidence that the petitioner was doing business after July 13, 2009, (2) no evidence was submitted establishing that the beneficiary has actually been performing the duties for which she was hired, and (3) evidence demonstrating that the petitioner has three other addresses raises questions as to where the beneficiary is actually working. Thus, the director determined that the statement of facts contained in the petition or on the application for a temporary labor certification were not true and correct, inaccurate, fraudulent, or misrepresented a material fact. On appeal, the petitioner submits a brief and evidence contending that the petitioner is a bona fide business enterprise currently operating at the address provided on the Form I-129, and that the beneficiary works at the same location.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on November 19, 2010, a date subsequent to the revocation of the instant petition, another employer filed a Form I-129 seeking H-1B nonimmigrant classification on behalf of the beneficiary. USCIS records further indicate that the other employer's petition was approved on January 20, 2011.

Because the beneficiary in the instant petition has been approved for H-1B employment with another petitioner, further pursuit of the matter at hand is moot.

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