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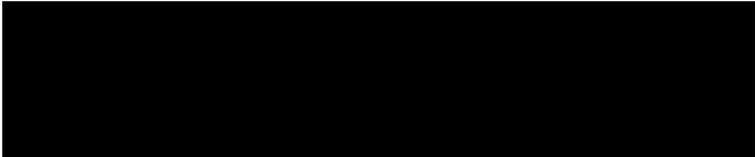
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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Date: **MAY 04 2012** Office: CALIFORNIA 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:

SELF-REPRESENTED

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.

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 rejected as improperly filed.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner described itself as a “home health care services” firm. To employ the beneficiary in what it designates as a “medical/clinical records manager” 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 denied the petition concluding that the petitioner failed to establish that the beneficiary is qualified for the proffered position.

Alleged counsel for the petitioner subsequently filed a timely appeal

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) states, in part, the following:

If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed.

In the present matter, counsel claimed to file an appeal on behalf of the petitioner and submitted a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, with the Form I-290B, Notice of Appeal or Motion. However, the Form G-28 was improperly executed. Specifically, the Form G-28 was not properly executed in that (1) it is not new as the petitioner's signature is a copy of the signature on the Form G-28 submitted with the Form I-129; and (2) it is not an original. Thus, the submitted G-28 did not meet the requirements of the regulations at 8 C.F.R. §§ 103.2(b)(4) and 292.4(a) and, as such, it failed to establish that the petitioner is represented by an attorney or accredited representative.

In accordance with 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), the AAO sent counsel a facsimile notifying her that a new, properly executed Form G-28, signed by counsel and the consenting affected party, must be submitted to the AAO within five business days. However, counsel failed to respond to this request. Therefore, the AAO concludes that the appeal was improperly filed and must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1), which calls for rejection of an improperly filed appeal, where the person filing it is not entitled to do so.

ORDER: The appeal is rejected.