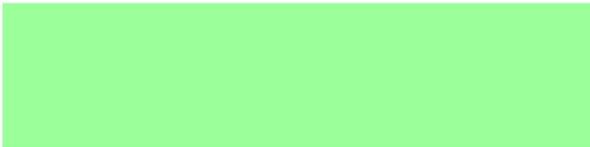


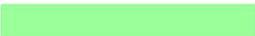


U.S. Citizenship
and Immigration
Services

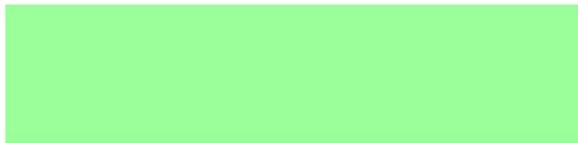
(b)(6)



DATE: JAN 28 2013

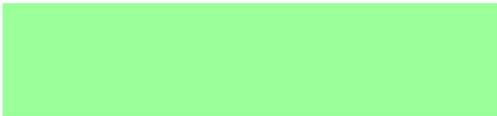
OFFICE: VERMONT SERVICE CENTER FILE: 

IN RE: Petitioner:
Beneficiary:



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

ON BEHALF OF PETITIONER:

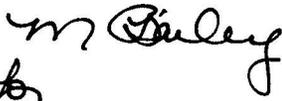


INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30-days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg
Acting 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 summarily dismissed.

The petitioner submitted a Petition for Nonimmigrant Worker (Form I-129) to the Vermont Service Center on July 11, 2011. On the Form I-129 visa petition, the petitioner describes itself as a provider of healthcare personnel established in 2009. In order to employ the beneficiary in what it designates as a clinical care coordinator position, the petitioner seeks 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).

On September 15, 2011, the director denied the petition, finding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. On October 18, 2011, counsel submitted a motion to reconsider the decision. On January 19, 2012, the director granted the motion but affirmed the decision to deny the petition.

On February 18, 2012, counsel submitted a Notice of Appeal or Motion (Form I-290B) and checked Box B in Part 2 of the form to indicate that he was filing an appeal and would send a brief and/or additional evidence within 30 days.

The only comment that counsel submits about the appeal is the following statement at Part 3 of the Form I-290B:

Dear Sir or Madam:

I am the attorney for the above referenced matter and upon request by the petitioner, we are filing herein 'Appeal' to the Administrative Appeals Office (AAO). I am likewise requesting permission to submit my 'Brief' within 30 days from filing of this 'Appeal.' Our completed G-28 and [sic] filing fee of \$630.00 are submitted with this Form I-290B. Thank you so much for your understanding and consideration on this matter.
Most respectfully and fraternally yours,

The AAO fully and in-detail reviewed the Form I-290B and the petitioner's written statement. However, the petitioner failed to identify any specific assignment of error. Moreover, although counsel stated that he would send a brief and/or evidence, the AAO has not received the submission. Accordingly, the record of proceeding is deemed complete as currently constituted.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "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."

In the instant case, the petitioner and counsel have failed to identify an erroneous conclusion of law or a statement of fact as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

(b)(6)

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Furthermore, a review of U.S. Citizenship and Immigration Services (USCIS) records indicates that the petitioner submitted a new Form I-129 petition on behalf of the beneficiary. USCIS records further indicate that this second petition was approved on March 21, 2012, which granted the beneficiary H-1B status from March 21, 2012 to October 3, 2014. Because the beneficiary in the instant petition has been approved for H-1B employment with the petitioner based upon the filing of another petition, further pursuit of the matter at hand would be moot even if the appeal were not being summarily dismissed.

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