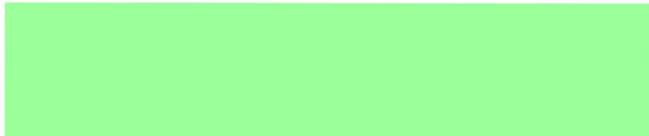


(b)(6)

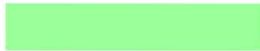
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



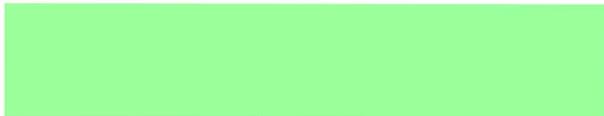
U.S. Citizenship
and Immigration
Services



DATE: **NOV 05 2013**

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 (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner filed a Petition for a Nonimmigrant Worker (Form I-129) with the California Service Center on February 22, 2013. In the Form I-129 visa petition, the petitioner described itself as a home health company established in 2005. In order to employ the beneficiary in what it designates as a director of nursing 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).

The director denied the petition on May 24, 2013, concluding that the petitioner failed to establish that the proffered position is a specialty occupation in accordance with the applicable statutory and regulatory provisions. Thereafter, [REDACTED] filed an appeal. The Form I-290B was not accompanied by a properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. The Form G-28 submitted with the Form I-290B is a copy that was submitted with the Form I-129. It is signed by another individual, dated February 19, 2013 (prior to the director's decision), and indicates that it is in regard to the "I-129."

In accordance with the regulation at 8 C.F.R. § 292.4(a), as well as the instructions to the Form I-290B, a "new [Form G-28] must be filed with an appeal filed with the Administrative Appeals Office." Title 8 C.F.R. § 292.4(a) further requires that the Form G-28 "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS." This regulation applies to all appeals filed on or after March 4, 2010. *See* 75 Fed. Reg. 5225 (Feb. 2, 2010).

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.

The record, however, does not contain a new, properly executed Form G-28 personally signed by both Ms. [REDACTED] and by an authorized official of the petitioning entity.

In accordance with 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), the AAO sent Ms. [REDACTED] a facsimile on September 25, 2013, notifying her that a properly executed Form G-28, signed by her and the consenting affected party, must be submitted to the AAO within fifteen (15) calendar days. However, Ms. [REDACTED] failed to respond to this request within the allotted time period (or thereafter). 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)(I), 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.