



U.S. Citizenship
and Immigration
Services

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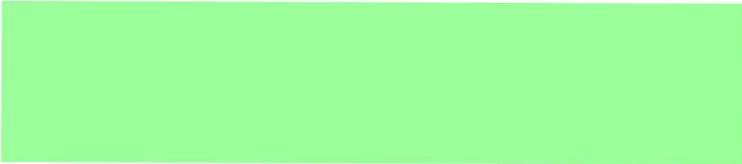


DATE: **MAR 28 2014** OFFICE: CALIFORNIA SERVICE CENTER 

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 IN THE FORM I-129 PROCEEDING:



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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
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 dismissed as the matter is now moot.

The petitioner submitted a Petition for a Nonimmigrant Worker (Form I-129) to the California Service Center on October 1, 2012. On the Form I-129 visa petition, the petitioner describes itself as a skilled nursing facility established in 1962. In order to employ the beneficiary in what it designates as a health educator 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 May 10, 2013, the director denied the petition, finding that the petitioner failed to establish eligibility for the benefit sought. Counsel for the petitioner subsequently submitted a combined motion to reopen and reconsider the director's decision, which the director dismissed. On appeal, counsel asserts that the director's denial of the petition was erroneous and contends that the petitioner satisfied all evidentiary requirements.

A review of U.S. Citizenship and Immigration Services records indicates that this beneficiary is also the beneficiary of an approved immigrant petition and has adjusted status to that of a permanent resident. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issues in this proceeding are moot.¹ Therefore, this appeal is dismissed.

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

¹ As the beneficiary has adjusted status to that of a permanent resident, the instant appeal is moot. Nevertheless, the AAO reserves its determination on any issues and deficiencies that it observes in the record of proceeding with regard to the approval of the H-1B petition.