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**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF M-P-H-C-

DATE: OCT. 28, 2015

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a community health business, seeks to employ the Beneficiary and to classify her as a nonimmigrant worker in a specialty occupation. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The Director, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed as the matter is now moot.

The Director reviewed the record of proceeding and determined that the Petitioner did not establish eligibility for the benefit sought. Specifically, the Director stated that the Petitioner had not established that the Beneficiary was exempt from the numerical limitation (the CAP) set for the H-1B visa classification. The Director denied the petition.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on a date subsequent to the denial of the instant petition, the Petitioner submitted a new Form I-129 on behalf of the Beneficiary. USCIS records further indicate that this new Form I-129 was approved. 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 is moot.¹

ORDER: The appeal is dismissed.

Cite as *Matter of M-P-H-C-*, ID# 12547 (AAO Oct. 28, 2015)

¹ We will briefly note that even if the matter was not moot, the petition could not be approved as the record does not support the Petitioner's assertion that the Beneficiary would be authorized to concurrently work at [REDACTED] in Connecticut and at the Petitioner's business location in [REDACTED] Arizona. For example, the Beneficiary's employment agreement with [REDACTED] does not permit "moonlighting" without written approval from its program director and the record does not contain such written authorization. Moreover, we contacted [REDACTED] however, the hospital did not indicate that "moonlighting" or concurrent employment was permissible. Further, the Petitioner did not demonstrate that the Beneficiary could reasonably and concurrently perform the work described in each employer's respective positions.