

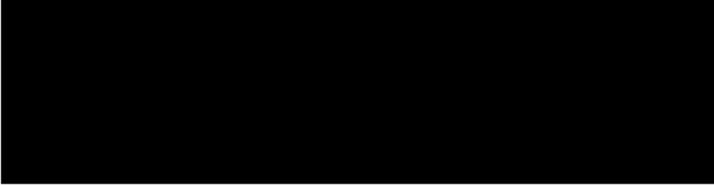
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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

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APR 30 2010

FILE: WAC 08 164 51999 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Applicants: 

PETITION: Application to Extend Status of Dependents of a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(iii)

ON BEHALF OF APPLICANTS:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the application to extend a period of stay in nonimmigrant status. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicants seek to extend their period of stay as a nonimmigrant dependents of an nonimmigrant specialty occupation worker pursuant to § 101(a)(15)(H)(iii) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(iii). The director denied the application after the nonimmigrant petition of the applicants' spouse/parent was denied.

The applicants' spouse/parent is the beneficiary of a denied nonimmigrant petition filed by [REDACTED]. [REDACTED] Form I-290B was filed on behalf of [REDACTED] for the spouse's H-1B petition by its counsel, [REDACTED]. Counsel also filed a separate Form I-290B on behalf of the applicants to appeal their Form I-539 denial.

The regulations do not provide for an appeal of a Form I-539 denial. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), with one exception - petitions for approval of schools under § 214.3 are now the responsibility of Immigration and Customs Enforcement (ICE). As H-4 status determinations are not listed as a matter over which the AAO has jurisdiction, the appeal must be rejected.

Moreover, U.S. Citizenship and Immigration Services regulations specifically prohibit the filing of an appeal by a person or entity not entitled to file. 8 C.F.R. § 103.3(a)(2)(v)(A)(1). Patni Americas, Inc. is not a party to the I-539 application that is the subject of this proceeding. Consequently, the appeal must be rejected as improperly filed for this additional reason. 8 C.F.R. § 103.3(a)(2)(v)(A)(1); 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

For the reasons stated herein, the applicants' appeal must be rejected.

ORDER: The appeal is rejected.