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



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



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DATE: APR 07 2011 OFFICE: [REDACTED] FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Petition for 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 PETITIONER:

SELF-REPRESENTED

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
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 dismissed. The petition will be denied.

The petitioner provides psychological services and it seeks to employ the beneficiary as a behavior therapist for a period of sixteen months. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker trainee pursuant to section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(iii).

The director denied the petition because the petitioner did not fill out all of the information on the Form I-129 and did not submit the required initial evidence and supporting documentation with the Form I-129. On appeal, the petitioner submits supporting documentation for the petition.

The petitioner filed Form I-129 on August 3, 2010. The United States Citizenship and Immigration Services' (USCIS) instructions on filing Form I-129 state that the petitioner must completely fill out the form and submit initial evidence to establish eligibility for the requested nonimmigrant benefit. The petitioner did not establish a basis for eligibility, and the petition was properly denied.

In this instance, aside from the statement made on the Form I-129, the petitioner did not submit any evidence to support its petition. On appeal, the petitioner submits documentation in support of the H-3 petition but it is not sufficient evidence to establish that its proposed training program meets the regulatory requirements to establish eligibility for the nonimmigrant visa. In part, the petitioner failed to establish that the beneficiary does not already possess substantial knowledge and skills in the proposed field of training. The beneficiary was granted a Master of Science in [REDACTED]. In addition, the petitioner was employed as a therapist in [REDACTED] from 2002 until 2007. The petitioner did not explain how the training program will differ from the knowledge and skills that the beneficiary obtained from her educational and professional experience. In addition, the petitioner stated that the beneficiary wishes to participate in the training program because she wants to be a Board Certified [REDACTED] and she cannot obtain this certification in [REDACTED]. It appears that in [REDACTED] therapists are not required to become certified as a behavioral analyst since the beneficiary was employed as a therapist in [REDACTED] for five years, thus it is not clear how the training program will benefit the beneficiary in pursuing a career in [REDACTED]. In addition, the petitioner did not provide evidence to establish that this type of training is not available anywhere in [REDACTED]. Furthermore, the information submitted by the petitioner regarding the schedule of the training program is vague in nature and leaves the AAO with very little idea of what the beneficiary would actually be doing on a day-to-day basis. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

In visa petition proceedings, the burden is on the petitioner to establish eligibility for the benefit sought. See *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a

preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Martinez*, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989); *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965).

The petition will be denied and the appeal dismissed for the above stated reason. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

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