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

U.S. Citizenship and Immigration Services

(b)(6)

DATE: AUG 1 9 2015

FILE:
PETITION RECEIPT:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)(i)

ON BEHALF OF PETITIONER:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO**.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, National Benefits Center (the Director), denied the Form I-600, Petition to Classify Orphan as an Immediate Relative, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

Applicable Law

The petitioner seeks classification of an orphan as an immediate relative pursuant to section 101(b)(1)(F)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F)(i), which defines an orphan, in pertinent part, as:

> a child, under the age of sixteen at the time a petition is filed in his behalf . . . who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption[.]

The regulation at 8 C.F.R. § 204.3(b) states, in pertinent part, the following:

> *Foreign-sending country* means the country of the orphan's citizenship, or if he or she is not permanently residing in the country of citizenship, the country of the orphan's habitual residence.
>
> . . . .
>
> *Incapable of providing proper care* means that a sole or surviving parent is unable to provide for the child's basic needs, consistent with the local standards of the *foreign-sending country*.
>
> . . . .
>
> *Surviving parent* means the child's living parent when the child's other parent is dead, and the child has not acquired another parent within the meaning of section 101(b)(2) of the Act. In all cases, a surviving parent must be *incapable of providing proper care* as that term is defined in this section.

The regulation at 8 C.F.R. § 204.3(d) states, in pertinent part, the following:

> *Supporting documentation for a petition for an identified orphan.* Any document not in the English language must be accompanied by a certified English translation. If an orphan has been identified for adoption and the advanced processing application is pending, the prospective adoptive parents may file the orphan petition at the Service office where the application is pending. The prospective adoptive parents who have an approved advanced processing application must file an orphan petition and all supporting documents within eighteen months of the date of the approval of the advanced processing application... An orphan petition must be accompanied by full documentation as follows:

> (1) *Filing an orphan petition after the advanced processing application has been approved.* The following supporting documentation must accompany an orphan petition filed after approval of the advanced processing application:
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> . . . .
>
> (iii) Evidence that the child is an orphan as appropriate to the case:
>
> (A) Evidence that the orphan has been abandoned or deserted by, separated or lost from both parents, or that both parents have disappeared as those terms are defined in paragraph (b) of this section; or
>
> (B) The death certificate(s) of the orphan's parent(s), if applicable[.]

Facts and Procedural History

The petitioner, a 54-year-old U.S. citizen, submitted Form I-600A, Application for Advance Processing of an Orphan Petition, to U.S. Citizenship and Immigration Services (USCIS) on March 10, 2014, and it was denied on December 19, 2014. The petitioner also submitted Form I-600 on June 11, 2014, and it was denied on December 19, 2014. The petitioner seeks to classify the beneficiary as the child of a surviving parent, the biological father, who is incapable of providing proper care to the beneficiary in Jamaica.

The Director sent a Request for Evidence (RFE) to the petitioner on August 1, 2014, asking, in part, for a new home study that includes an inquiry of a history of abuse and violence, the beneficiary's birth certificate, and evidence showing that the beneficiary's surviving parent is unable to provide for the beneficiary's basic needs consistent with local standards in Jamaica. In response to the RFE, the petitioner provided a copy of the previously submitted home study; the beneficiary's birth registration form; the petitioner's statement describing the beneficiary's father's inability to provide for the beneficiary; a statement from the beneficiary's father, in which he states he is releasing his parental rights and irrevocably consenting to the beneficiary's emigration and adoption; and a Form of Consent to the Making of an Application dated April 17, 2014, before a justice of the peace in the family court for the parish of in Jamaica.

After considering the evidence in the record, the Director denied the Form I-600 on December 19, 2014, concluding that the petitioner's evidence was insufficient to establish that the beneficiary's biological father is incapable of providing proper care to the beneficiary according to the standards in Jamaica. Therefore, the Director found that petitioner did not establish that the beneficiary qualified for classification as an orphan under section 101(b)(1)(F)(i) of the Act.

On appeal, the petitioner provides new evidence to support her claim that the beneficiary's father is incapable of providing proper care to the beneficiary in Jamaica.

Analysis

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review, we find that the evidence in the record does not demonstrate that the beneficiary meets the definition of an orphan as set forth in section 101(b)(1)(F)(i) of the Act.

On appeal, the petitioner must establish that the beneficiary's biological father, her surviving parent, is incapable of providing for the beneficiary's basic needs. According to the petitioner's September 4, 2014 letter, the beneficiary's father is not permanently employed; he works odd jobs occasionally; he cannot finance the beneficiary's needs under Jamaican standards; he is unable to afford her school expenses; the job market is poor in Jamaica; most people are unemployed in Jamaica; most people who are employed have problems meeting their daily needs; the beneficiary's father lives with someone else, as their house was burned down; he drinks habitually; and the beneficiary would not be in a safe environment with him.

The petitioner states in her January 2, 2015, letter submitted on appeal, that the beneficiary's father is unemployed; he resides in a one-bedroom house in a low-income community; the beneficiary's stepmother refused to accommodate her and emotionally abused her when her father was not present; and he cannot afford to pay rent to accommodate her. The petitioner states that it costs between $25,000 and $30,000 to rent a two-bedroom house in Kingston; one must be constantly employed in order to live in a comfortable neighborhood in Jamaica; and the beneficiary's father can only afford to pay $7,000 per month to rent one bedroom. The petitioner states that the beneficiary did not live with her father from birth until her mother died; she presently lives with her aunt; her uncle was recently murdered; and she was in the house when her mother was murdered.

The petitioner has not provided supporting documentary evidence to corroborate assertions regarding the beneficiary's father's employment and his income. In addition, the record lacks evidence of the expenses involved with caring for the beneficiary. The record also does not include documentary evidence of the specific conditions where the beneficiary's father resides and of local standards. 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)). Although we are sympathetic to the beneficiary's situation, upon review of the entire record, we find that the petitioner has not provided sufficient evidence that the beneficiary's father is incapable of providing for the beneficiary's basic needs, consistent with local standards in Jamaica, as set forth in 8 C.F.R. § 204.3(b).

Conclusion

The petitioner has not met her burden of establishing that the beneficiary satisfies the definition of "orphan" as set forth in section 101(b)(1)(F)(i) of the Act. The appeal will therefore be dismissed.

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