U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43258265

Date: AUG. 11, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a researcher in the field of public health, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

USCIS denied the petition, concluding that the record did not establish that the Petitioner merited a national interest waiver of the EB-2 job offer requirement (and thus of a labor certification) as a matter of discretion. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). A U.S. bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id*.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S.

Citizenship and Immigration Services (USCIS) may, as matter of discretion,[1] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

II. ANALYSIS

At the time she filed her petition, the Petitioner was working as a Research Scientist II for the [redacted].[2] She earned a Doctor of Public Health (DrPH) degree from the [redacted] in May 2025. The Petitioner states the following regarding her plans in the United States:

> My proposed endeavor is to utilize innovative analytic and systems science approaches in order to improve emergency care system operations and patient outcomes in the U.S., specifically in areas such as emergency department work flow and quality of care, emergency room opioid distribution, and mental health care access.

USCIS concluded that the Petitioner is eligible as a member of the professions holding an advanced degree, and we agree with that conclusion. Thus the sole issue on appeal is whether she merits, as a matter of discretion, a national interest waiver. Per the analysis below, we conclude that she has not established that she merits a national interest waiver under the *Dhanasar* analytical framework.

A. Substantial Merit and National Importance

The first prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *Matter of Dhanasar*, 26 I&N Dec. at 889. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

USCIS determined that the Petitioner's proposed endeavor is of substantial merit, and we agree that the evidence of record supports this conclusion.

Turning to her endeavor's national importance, we stated the following in *Dhanasar*:

> An undertaking may have national importance, for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances. But we do not evaluate

[1] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).
[2] The Petitioner states that her employer is [redacted] but that her workplace is at [redacted].

> prospective impact solely in geographic terms. Instead, we look for broader implications.

Id. When responding to USCIS' request for evidence (RFE), the Petitioner added further details regarding her proposed endeavor. She indicated that she will "use data and technology to make emergency rooms in the United States run better," and that she would build a "meta-framework using large language models (LLMs) and artificial intelligence (AI)" to create an agent-based model (ABM) to simulate hospital emergency department operations to improve their efficiency and patient outcomes. She asserts that her proposed creation of an ABM for this particular application would be innovative and would allow for hospital administrators to reduce emergency department crowding and improve patient outcomes. The Petitioner also asserts that her ABM will use AI to incorporate peer-reviewed literature and raw data to "automatically generate the structured parameters and variable relationships that drive the simulation," providing hospital administrators and public health officials who lack technical expertise in computer programming access to a new tool. She further avers that her ABM project, "when scaled up, can potentially help significantly reduce unnecessary health spendings in the U.S. by reducing patient crowding." Finally, she claims that her ABM system will be versatile and allow for the input of data and literature about other aspects of emergency department operations, including opioid prescription and mental health care access.

The Petitioner supported the potential prospective impact of her proposed endeavor in the record with partial copies of previous scientific studies, primarily about the health and economic impacts and prevalence of emergency department crowding in the United States. In addition, while she does not provide details regarding the scaling up of her ABM system beyond a proposed local hospital which would serve to test and develop the system, she indicates that the results of this development and testing would be made available to the broader field through presentations at professional conferences and papers published in peer-reviewed journals. The Petitioner has thus shown that her proposal to create an AI ABM system tailored to emergency department operations could potentially have broader implications in terms of public health and healthcare spending, and is thus of national importance.

Per the foregoing analysis, we withdraw USCIS' determination regarding the national importance of the Petitioner's proposed endeavor and conclude that she meets the first prong of the *Dhanasar* analytical framework.

B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the individual. *Id.* at 890. To determine whether a petitioner is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: their education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.*

In its decision, USCIS determined that although the Petitioner's Doctor of Public Health degree is in a field relating to her proposed endeavor and she has experience conducting studies in the field of public health, the record did not show that she has the necessary technical experience and expertise to develop and scale up her proposed AI ABM system. In addition, USCIS concluded that the Petitioner

had not sufficiently established how her proposed endeavor would be funded.[3] On appeal, the Petitioner asserts that USCIS overlooked evidence regarding her technical expertise, and appears to suggest that [redacted] would assist her in obtaining funding to advance her proposed endeavor.

In particular, the Petitioner focuses on several letters of recommendation[4] which were submitted with her RFE response and describe her previous work in developing ABM systems. Assistant professor A-C- of [redacted] writes that she collaborated with the Petitioner on a research proposal which did not result in the funding of their proposed project, but would have focused on the use of AI inference to generate ABMs for the study of first responder mental health. She notes that the Petitioner contributed to the design and methodology of the proposal, and also states her willingness to collaborate with the Petitioner on her proposed endeavor, in which she would provide "advice and technical support regarding system architecture, implementation strategy, and rigorous evaluation design for the AI-ABM system in her research." This letter verifies relevant experience gained by the Petitioner in attempting to advance her endeavor, but indicates that she will rely on potential collaborators for development of the most technical aspects of her proposed system.

Another letter written by a professor at [redacted] came from W-W-, who states that she is familiar with the Petitioner's work. She describes the Petitioner's work in designing ABMs "to simulate comprehensive actions for refugee mental health and first responder mental health," and states that the Petitioner's research regarding the former group, done for her dissertation, was accepted for presentation at two conferences, one of which was held at [redacted] W-W- further states that the Petitioner's "combination of public health knowledge, analytic capabilities, and computational modelling expertise" are possessed by few. However, the record does not include documentary evidence of the presentations mentioned by W-W- or of the response to or interest in the presentations from public health researchers or other relevant parties, particularly those not affiliated with [redacted].

The Petitioner asserts that USCIS employed circular reasoning in questioning her expertise and seemed to require that she already have accomplished what she intends to do in order to show that she is well positioned to achieve her goals. The second prong of the Dhanasar analysis does not require that petitioners show by a preponderance of the evidence that their endeavors will likely succeed. *Id.* But progress toward achieving one's proposed endeavor is one of the non-exclusive factors stated in *Matter of Dhanasar* as a means of determining a petitioner's positioning to advance their endeavor. *Id.* We acknowledge the letters from the Petitioner's colleagues and mentors regarding her work towards developing an AI ABM system, as well as her dissertation in which she applied it to the issue of mental health care for refugees. But this single paper, considered together with her unsuccessful research proposal and apparent planned reliance on the technical skills of others (as seen in the letters

[3] To the extent that USCIS opined on the likelihood of the Petitioner receiving a federal grant due to the lack of evidence in the record showing how she meets certain technical grant requirements, we agree with the Petitioner's assertion on appeal that USCIS imposed novel evidentiary requirements which are not supported in the statute and regulations pertaining to national interest waivers or in the analytical framework of *Matter of Dhanasar*. But we note that funding status and availability are relevant considerations in determining the Petitioner's positioning to advance her proposed endeavor, particularly in regards to the level of interest in her proposed endeavor and her progress towards achieving it, and will consider these factors in our analysis.

[4] We have reviewed and considered all of the letters in the record, including those not specifically mentioned in our analysis.

from A-C- and M-T-), does not sufficiently establish that she has the requisite skills to advance her endeavor or has made significant progress towards advancing her endeavor.

Also pertaining to the Petitioner's progress towards advancing her proposed endeavor are several issues relating to her plan and how she will execute her plan. First of all, while she submitted three letters from two members of her dissertation committee and a current colleague regarding collaboration with her on future research projects, none of these individuals offer a firm commitment to work with the Petitioner in advancing her proposed endeavor. For example, M-T- of [redacted] writes that the Petitioner "has expressed interest in collaborating with me on a research project," and that "the collaboration details are still being finalized, [but] I hope to work closely with [the Petitioner]." Similarly, S-S- from [redacted], who states that she shared the same dissertation chair (M-T-) with the Petitioner, indicates that the Petitioner "has invited me to collaborate on her upcoming project" and that she is "looking forward to beginning research alongside [the Petitioner]" in January 2027. Neither of these letters documents advancement in the Petitioner's proposed endeavor beyond the preliminary stage of identifying potential collaborators.

In addition, in the detailed plan and proposed timeline submitted with the Petitioner's response to USCIS' RFE, she describes a proposed pilot project to work with [redacted] in the development of her AI ABM system. While one of the first steps would be to "seek stakeholder engagement" with [redacted] so that data on emergency department operations and patient characteristics can be obtained, the record does not indicate that any discussion with [redacted] has been initiated, only that potential contacts have been identified. Since this engagement with [redacted] appears to be essential to the five-year plan the Petitioner lays out, the lack of an agreement or other indication from [redacted] shows a lack of progress in even the beginnings of the proposed research project.

Further, irrespective of the specific grant requirements discussed in USCIS' decision, the issue of how the Petitioner will fund her proposed research is germane to the issues of how far she has progressed in advancing her proposed endeavor and the interest of relevant parties in its advancement. As with her collaboration partners and the location of the pilot project, the record does not indicate that the Petitioner has moved beyond identifying potential funding sources for her project. On appeal, she refers to evidence submitted in her RFE response regarding [redacted] and asserts that her employer "has a long-standing role in enabling statewide public health research by providing fiduciary oversight, research administration, and funding management." However, that evidence does not indicate that [redacted] is responsible for securing funding for research programs, only administering grants for [redacted] and other health-related entities. And there is no indication in the record that [redacted] intends to support the Petitioner's proposed endeavor by making it a research priority and/or seeking state, federal, or private grant funds.

Also, the record does not demonstrate that hospital administrators, public health officials, or other researchers beyond the Petitioner's colleagues and acquaintances have shown interest in her proposed endeavor. On appeal, the Petitioner first points to the partial copies of published research papers citing to her work. While one study in the journal *PLoS One* cited the Petitioner's work about the mental health impact of the [redacted] in Hong Kong several times, the papers generally cite her work as part of a group of papers or for introductory or background information, and thus do not reflect notable interest beyond the citation itself. And importantly, none of these partial copies show interest

in the Petitioner's dissertation, which as several reference letters describe involved the construction of ABMs for the study of refugee mental health and forms the foundation of her proposed endeavor.

We acknowledge the Petitioner's education, experience, and record of research in the field of public health, and more specifically public mental health, as shown by her publication of several papers in scientific journals and the approximately 200 papers written by other researchers which cite to her work. But the record does not show that any of those citations concerned her previous work on developing an AI ABM system, and the record is silent regarding reactions to the two presentations arising from her dissertation that are mentioned in the reference letter from W-W-. The evidence therefore does not support her assertions of interest in her specific proposed endeavor from relevant parties.

For all of the reasons discussed above, the evidence does not establish that the Petitioner is well positioned to advance her proposed endeavor of developing an AI ABM system for application to hospital emergency department operational issues including overcrowding, opioid distribution, and mental health access.

III. CONCLUSION

The Petitioner has established that she is eligible as a member of the professions holding an advanced degree, and that her proposed endeavor is of substantial merit and potentially has national importance, thus meeting the first prong of the *Dhanasar* analytical framework. However, she has not established that is well positioned to advance her proposed endeavor under *Dhanasar*'s second prong, and is therefore ineligible for a national interest waiver. Further analysis of the Beneficiary's eligibility under the third *Dhanasar* prong would thus serve no meaningful purpose. Accordingly, we reserve that issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam)(holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.