U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-P-H- INC.

DATE: FEB. 15, 2019

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a hotel operator, seeks to temporarily employ the Beneficiary as its vice president of operations under the L-1A nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish, as required, that it would employ the Beneficiary in a managerial or executive capacity in the United States, or that the Beneficiary has been employed abroad by its foreign affiliate in a managerial or executive capacity.

Upon *de novo* review of the record, we will sustain the appeal.

The denial decision was based on a finding that there were evidentiary deficiencies in the record with respect to the Beneficiary's placement in each entity's respective organizational structure, and with respect to the duties performed by the Beneficiary's subordinate employees. The Petitioner has sufficiently addressed these deficiencies by supplementing the record on appeal.

The record now establishes by a preponderance of the evidence that the Beneficiary's role with the foreign entity requires her to manage a department of the company, oversee the work of subordinate supervisors and professionals, and exercise discretion over the day-to-day operations of her department. Further, the Petitioner has established that her role in the United States will require her to oversee a staff of subordinate department managers or supervisors and exercise similar discretionary authority over the company as a whole, reporting only to the company president. The Petitioner has also demonstrated that both the foreign entity and the U.S. entity have sufficient staff to relieve the Beneficiary from significant involvement in day-to-day operational tasks, such that her primary duties have been and would be primarily managerial in nature. Accordingly, we find that the Petitioner has established that the Beneficiary has been employed abroad, and would be employed in the United States, in a managerial capacity as defined at section 101(a)(44)(A) of the Act.

ORDER: The appeal is sustained.

Cite as *Matter of M-P-H-, Inc.*, ID# 1920817 (AAO Feb. 15, 2019)