U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36916616

Date: FEB. 25, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a hospice company, seeks employment-based second preference (EB-2) immigrant classification for the Beneficiary, a healthcare management specialist, 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).

The Director of the Nebraska Service Center denied the petition and a subsequent motion, concluding the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal and two motions to reopen. The matter is now before us on a third motion to reopen.

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). Upon review, we will dismiss the motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome). A motion to reopen that does not satisfy the applicable requirements must be dismissed. 8 C.F.R. § 103.5(a)(4).

In our prior decision, we acknowledged the Petitioner provided reports and articles discussing the demand for quality hospice care and assisted living facilities in the United States, a letter from the individual who prepared the Beneficiary's strategy of focusing her palliative care work in Southern California, documents reflecting the Beneficiary's membership in the American Academy of Hospice and Palliative Medicine, and a letter from the administrator of an assisted living facility in California. We also acknowledged the Petitioner's assertion that the Beneficiary is in the process of expanding the proposed endeavor nationwide and its contention that the significant potential of the proposed endeavor is illustrated by the fact that the methodology is also applicable to assisted living facilities. However, we concluded the evidence was insufficient to show the broader impact of the Beneficiary's

work and corroborate the assertion that the proposed endeavor would broadly influence the hospice and palliative care field and rise to the level of national importance.

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the motion to reopen.

On current motion, the Petitioner contends we did not discuss the evidence submitted with the prior motion and asserts the Beneficiary's proposed endeavor "clearly meets the threshold for national importance due to it significant potential to enhance public health outcomes, reduce healthcare costs, and align with national healthcare policy priorities." In support of its assertion, the Petitioner submits a letter in support from a doctor in California, information regarding EnhanceFitness,[1] and documentation regarding palliative care.

Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion. Like the previously submitted letters in support, the doctor's letter largely repeats what was already included in the record and determined to lack corroborating documentation to support the assertion that the proposed endeavor will succeed nationally if it succeeds in the most competitive region, Southern California. Moreover, the documentation regarding palliative care highlights the importance of hospice care and palliative care methodologies. However, as previously noted, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, the focus is on the "the specific endeavor that the foreign national proposes to undertake" and the endeavor's "potential prospective impact." *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016).

Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

ORDER: The motion to reopen is dismissed.

[1] The documentation does not show that the Petitioner nor the Beneficiary is involved in this program.