U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31841022

Date: JUL. 8, 2024

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 that the Petitioner had not established eligibility for a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us on a 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 do not require the evidence of a "new fact" to have been previously unavailable or undiscoverable. Instead, we interpret "new facts" to mean those that are relevant to the issues raised on motion and that have not been previously submitted in the proceeding, which includes within the original petition. According to the Instructions for Notice of Appeal or Motion (Form I-290B, Notice of Appeal or Motion), any new facts and documentary evidence must demonstrate eligibility for the required immigration benefit at the time the application or petition was filed.

Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). 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).

On motion to reopen, the Petitioner submits letters of support from licensed long-term care facilities, a presentation plan for the proposed endeavor, a strategy for distribution, and a grant proposal. In our

prior decision, incorporated here by reference, we determined the Petitioner did not meet the first prong of the analytical framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). We found the Petitioner did not establish the national importance of her proposed endeavor. *See id.* at 889 (providing in relevant part that, to establish eligibility for a national interest waiver, the petitioner must establish that their specific proposed endeavor has national importance). We addressed the Petitioner's contentions regarding the importance of palliative care, hospice staffing shortages and the ability to disseminate the Beneficiary's research findings and proposed program and determined they did not demonstrate any broader implications of the Petitioner's proposed endeavor at a level of national importance. *See id.* (stating that national importance is evaluated through consideration of "potential prospective impact" and "broader implications").

We further determined that the Petitioner did not provide evidence that the proposed endeavor would positively impact the national economy. *See id.* ("An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, . . . may well be understood to have national importance."). We concluded that the record did not show through supporting documentation how the particular services sufficiently extend beyond the patients of selected doctors who were introduced to the Beneficiary's research to impact the field or the U.S. economy more broadly at a level commensurate with national importance. On motion, the Petitioner asserts that *Dhanasar* does not require a significant economic impact and that the newly submitted evidence explains how the program will be disseminated to create a positive impact to healthcare.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, she did not state new facts as they relate to our prior decision. The letters from hospices largely repeat what was already included in the record. Further, the Petitioner asserts, without corroborating documentation, that "if the endeavor succeeds in the most competitive region, it will succeed nationally." The Beneficiary's unsubstantiated distribution strategy indicating potential to influence palliative care practices nationwide, does not illustrate the "potential prospective impact" of her actual proposed work, or how it will impact the hospice care field more broadly. *See Dhanasar*, 26 I&N Dec. at 889, and 883 respectively. This is similar to the shortcoming of the individual in the *Dhanasar* decision in which we determined his teaching activities did not rise to the level of having national importance because they would not "impact the field of [science, technology, engineering, and math] education more broadly." *Id.* at 893. The documents submitted with the motion to reopen do not demonstrate that the Petitioner's proposed endeavor will substantially benefit the field of hospice care, as contemplated by *Dhanasar*: "[a]n 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." *Id.* The evidence does not suggest that the Petitioner's end of life procedures and treatments would impact the palliative care field more broadly.

For the reasons discussed above, the documentation submitted on motion does not overcome our original decision, finding that the Petitioner did not demonstrate her endeavor has national importance.

ORDER: The motion to reopen is dismissed.