U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-R-M-C-P-D-, INC.

DATE: MAY 15, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a hospital, seeks to employ the Beneficiary as a registered nurse, a Schedule A occupation as codified at 20 C.F.R. § 656.5(a). It requests her classification as a skilled worker under the third-preference, immigrant category. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). This employment-based category allows a U.S. business to sponsor a foreign national with at least two years of training or experience for lawful permanent resident status.

The Director of the Texas Service Center denied the petition after concluding that it was not supported by a valid prevailing wage determination (PWD) from the U.S. Department of Labor, as required for Schedule A petitions. Specifically, the Director found that the PWD was not valid because it did not reflect the exact same job requirements described on the uncertified Form ETA 9089, Application for Permanent Employment Certification. The Director also found that the Petitioner did not establish that the Beneficiary had satisfied one of the three regulatory requirements for a Schedule A professional nurse.

Upon review of the record, including evidence submitted on appeal, we find that the PWD is valid for the position offered and that the Beneficiary satisfies one of the three regulatory requirements to qualify as a professional nurse. Accordingly, the Petitioner has overcome the Director's decision.

ORDER: The appeal is sustained.

Cite as *Matter of M-R-M-C-P-D-, Inc.*, ID# 1175999 (AAO May 15, 2018)