U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36832244

Date: MAY 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a health promoter, 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).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner established eligibility for a waiver of the job offer and labor certification requirements of EB-2 classification. 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.

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;

[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).

- 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 of filing, the Petitioner was working as a health promoter at a non-profit organization in New York. The Petitioner states that her proposed endeavor is to continue working as a health promoter to "enhance the well-being of U.S. citizens by designing, implementing, and managing Health promotion and chronic disease programs" in Florida and New York. The Petitioner also states that her efforts will target "rural and underserved" communities with the objective of reducing chronic diseases such as "diabetes, cancer, mental health problems, and obesity" among other diseases. To support the national importance of her proposed endeavor, the Petitioner provided reports from various government and non-governmental agencies including the World Health Organization, National Institutes of Health and the Office of Disease Prevention and Health Promotion.

The Petitioner claims that her 12 years of experience working in the public affairs section of the Mexican consulate where she managed several national and international health programs makes her well positioned to advance her proposed endeavor. She submitted multiple letters of support from current and prior employers to provide additional insight into her prior experience and future goals.

The Director determined that the Petitioner established the substantial merit of her proposed endeavor but that she had not provided sufficient evidence that her specific proposed endeavor would have an impact on her proposed field of endeavor that would rise to the level of national importance. The Director further determined that the Petitioner had not established she was well positioned to advance her proposed endeavor or that obtaining a labor certification was impractical for her specific position with a non-profit organization.

On appeal, the Petitioner reasserts eligibility for a national interest waiver, citing to multiple government initiatives and program designed to promote health awareness in the U.S. population, particularly in rural and underserved communities.[2] The Petitioner has not identified any particular underserved or rural community where she intends to work. She generally indicates that states of New York and Florida are her target market but does not identify and specific population of underserved or rural individuals for whom her work would be beneficial.

The Petitioner also argues that health promotion reduces absenteeism, reduces health care costs, and enhances the overall well-being of the American public. The Petitioner's arguments center on the effects of a healthier population, generally, rather than focusing on the outcomes experienced by individuals who will be impacted by her specific endeavor.

[2] The Petitioner specifically cites to an executive order, Advancing Racial Equality and Support for Underserved Communities Through the Federal Government, that was rescinded on January 20, 2025. Therefore, we consider her claims regarding the national importance of providing health promotion services to underserved communities without considering it the subject of a national initiative.

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. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.*

Here, the Petitioner must establish the national importance of her proposed endeavor rather than the importance of health promotion and healthy living generally. The relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. Further, "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* Also, "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

The Petitioner does not claim any direct economic impacts of her proposed endeavor, either through the creation of additional jobs or the generation of significant income for her organization. Rather, the Petitioner focuses on the positive outcomes experienced by her potential future clients by engaging in healthy lifestyles as a result of her promotional efforts and the trickle-down effects of a healthier population. While we do not diminish the potential positive impacts to these specific individuals, the Petitioner has not demonstrated that her specific work has the potential to decrease absenteeism, lower health care costs, or significantly benefit the public welfare or economy sufficiently to rise to the level of national importance.

The Petitioner has not established her proposed endeavor sufficiently extends beyond her organization and its clientele to impact the industry or the field more broadly, at a level commensurate with national importance. The Petitioner does not suggest that her approach to health program promotion is any different from that normally found within the industry. In *Dhanasar*, we determined the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Similarly, the Petitioner is not endeavoring to treat, cure, or otherwise perform research directly related to the eradication of chronic disease in the United States. Rather, her endeavor is to increase awareness of existing programs and resources available to individuals who seek to establish healthy habits and lifestyles. Essentially, teaching individuals about the resources available to assist with their health. The Petitioner does not claim, and has not established, that the implementation of her health promotion endeavor would have any wide-ranging effects on the health promotion industry at large.

III. CONCLUSION

Because the Petitioner did not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, she has not demonstrated eligibility for a national interest waiver, as a matter of discretion. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.