U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40501899

Date: NOV. 21, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Professional)

The Petitioner, a healthcare recruitment and staffing agency, seeks to employ the Beneficiary as a medical technologist. The company requests her classification under the employment-based, third-preference (EB-3) immigrant visa category as a "professional." *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(b)(3)(A)(ii). Businesses may sponsor aliens for U.S. permanent residence in this category to work in jobs requiring at least bachelor's degrees. *Id.*

Service Center Operations (SCOPS) denied the petition. SCOPS concluded that the Petitioner did not file the petition, as required, within the 180-day validity period of the accompanying certification from the U.S. Department of Labor (DOL). On appeal, the company contends that the labor certification remained valid. The company states that the labor certification's last day of validity fell on a federal holiday thereby extending the certification's validity through the petition's filing date on the following business day.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that, under USCIS policy, the labor certification was valid on the petition's filing date. We will therefore withdraw SCOPS' contrary decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Immigration as a professional generally follows a three-step process. *See Nguyen v. Jaddou*, 119 F.4th 368, 369 (5th Cir. 2024) (describing the same employment-based immigration process in the context of an EB-3 petition for a "skilled worker" under section 203(b)(3)(A)(i) of the Act). First, a prospective employer must obtain certification from DOL that: there are insufficient U.S. workers able, willing, qualified, and available for the offered job; and an alien's employment in the job would not harm wages or working conditions of U.S. workers with similar jobs. *See* section 212(a)(5)(D) of the Act, 8 U.S.C. § 1182(a)(5)(D).

Second, a prospective employer must submit a DOL-approved labor certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). *See* section 204(a)(1)(F) of the Act, 8 U.S.C. § 1154(a)(1)(F). Among other things, USCIS determines whether an alien beneficiary meets the requirements of a DOL-certified position and a requested immigrant visa category. *See* 8 C.F.R. § 204.5(l)(3)(ii)(C).

Finally, if USCIS approves a petition, a beneficiary may apply for an immigrant visa abroad or, if eligible, "adjustment of status" in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

II. ANALYSIS

Unless accompanied by requests for Schedule A designations or applications for shortage occupations under DOL's Labor Market Information Pilot Program, petitions for professionals must include valid individual labor certifications from DOL. 8 C.F.R. § 204.5(l)(3)(i). A labor certification expires "if not filed in support of a Form I-140 petition with the Department of Homeland Security within 180 calendar days of the date [DOL] granted the certification." 20 C.F.R. § 656.30(b)(1); *see also Gene's Mach., Inc. v. U.S. Dep't of Homeland Sec.*, 501 F. App'x 326, 327 (5th Cir. 2012) (affirming a U.S. district court decision that DOL had authority to issue the 180-day validity rule and that it is neither arbitrary, capricious, nor unreasonable).

USCIS rejects petitions requiring labor certifications if the petitions' certifications have expired. 6 *USCIS Policy Manual* E.6(B)(1), www.uscis.gov/policy-manual. If USCIS mistakenly accepts petitions with expired labor certifications, then the Agency later denies the filings. *Id.*

Under USCIS policy:

> Where the last day of a [labor certification's] validity period falls on a Saturday, Sunday, or federal holiday, USCIS considers the petition to be timely if USCIS receives it by the end of the next business day. As such, when the last day of the filing period falls on a Saturday, Sunday, or federal holiday, the deadline is extended until the end of the next business day that is not a Saturday, Sunday, or federal holiday.

6 *USCIS Policy Manual* E.6(B)(3).

DOL certified the Petitioner's labor application on July 24, 2024. Thus, the company had to file the labor certification with a Form I-140 petition within 180 days of that date, or by January 20, 2025.

USCIS received the Petitioner's petition on January, 21, 2025. USCIS accepted the petition. But SCOPS later denied it, concluding that it was filed one day after the expiration of the labor certification's validity period.

As the Petitioner argues, however, the 180th day of the labor certification's validity period – Monday, January 20, 2025 – was a federal holiday commemorating the birthday of U.S. civil rights leader Dr. Martin Luther King, Jr. *See, e.g.*, U.S. Office of Personnel Management, www.opm.gov/policy-data-oversight/pay-leave/federal-holidays. Thus, under USCIS policy, the labor certification's validity

period extended through the next business day – Tuesday, January 21, 2025 – the day on which the Petitioner filed the petition. *See* 6 *USCIS Policy Manual* E.6(B)(3).

The Petitioner filed the petition within the accompanying labor certification's validity period. We will therefore withdraw SCOPS' contrary finding.

SCOPS did not make any other findings in this matter or otherwise discuss the petition's merits. Thus, rather than adjudicate the petition in the first instance, we will remand the matter. On remand, SCOPS should review the record, adjudicate the petition under the applicable regulations at 8 C.F.R. § 204.5(l), and enter a new decision.

III. CONCLUSION

The Petitioner timely filed its petition within the accompanying labor certification's validity period. We will therefore withdraw SCOPS' contrary finding.

ORDER: The decision is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis.

NOTICE: Aliens who are unlawfully present, or who are otherwise inadmissible or deportable, may receive Forms I-862, Notices to Appear, placing them in removal proceedings. *See* section 240 of the Act, 8 U.S.C. § 1229a. Removal proceedings may result in an alien's removal from the United States and ineligibility for future U.S. visas or other immigration benefits.