U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: AUG 1 9 2015

FILE:
PETITION RECEIPT:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

NO REPRESENTATIVE OF RECORD

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Jordan, as the fiancé of a U. S. citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the Form I-129F, Petition for Alien Fiancé(e), because the petitioner did not establish that she and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or that she is exempt from this requirement. On appeal, the petitioner provides a personal statement, documentation of her medical condition and her parents' medical conditions, and medical billing statements.

Applicable Law

Section 101(a)(15)(K) of the Act provides nonimmigrant classification to, in pertinent part:

> subject to subsections (d) and (p) of section 214, an alien who -
>
> (i) is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

> shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. . . .

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Form I-129F, including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states, in pertinent part:

> The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of

> the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner . . . .

The regulation does not define what may constitute extreme hardship to the petitioner. Each claim of extreme hardship must be determined on a case-by-case basis, taking into account the totality of the petitioner's circumstances.

Factual and Procedural History

The petitioner filed the Form I-129F on November 4, 2013. Therefore, the petitioner and beneficiary were required to have met between November 4, 2011, and November 4, 2013. On the Form I-129F, the petitioner responded "no" to the question about whether she and the beneficiary had met in person within the two-year period preceding the filing of the petition. The petitioner stated that that she could not travel, as she suffers from various medical conditions. In support, the petitioner provided a letter from her treating physician recommending that she not travel due her multiple medical conditions, and she also submitted other medical records, including billing statements for her treatment.

In a November 23, 2013, notice of intent to deny the petition (NOID), the director informed the petitioner that she must submit evidence of having met the beneficiary in person during the required time period or evidence to support a request to waive the meeting requirement. The director also requested that the petitioner complete the Form I-129F question concerning whether the beneficiary has been in the United States; submit evidence of her U.S. citizenship; submit evidence of the beneficiary's intent to marry her within 90 days of his admission into the United States with a K-1 visa; submit proof of legal termination of her prior marriage; submit two Forms G-325A, Biographic Information, for herself and the beneficiary; and submit two passport-style photos for herself and the beneficiary. The petitioner subsequently provided most of the requested evidence, but she did not submit proof of having met the beneficiary during the two-year period immediately preceding the filing of the Form I-129F and evidence of the beneficiary's intention to marry her within 90 days of his admission to the United States in K-1 status.

In denying the petition, the director stated that the petitioner demonstrated that she could not travel due to her medical condition. However, the petitioner did not establish that the beneficiary could not travel to meet the petitioner.

On appeal, the petitioner asserts that for the beneficiary to travel to the United States, he would have to pay thousands of dollars, an amount the beneficiary cannot afford. She asserts he earns $400 per month, from which he pays $200 monthly rent and $50 for electricity and Internet. The petitioner submits no documentary evidence to corroborate her assertions.

Analysis

The regulatory provisions for an exemption of the meeting requirement as a result of hardship do not require that a petitioner establish a beneficiary's inability to travel to the United States. Such a mandate would be contrary to the statutory provisions for a nonimmigrant visitor visa, which requires an alien to show that they are not an intending immigrant. *See* Section 101(a)(15)(B) of the Act, 8 U.S.C. § 1101(a)(15)(B). The issue here is whether the petitioner has submitted sufficient evidence to establish that compliance with the meeting requirement would cause her extreme hardship. The petitioner asserts that traveling outside of the United States would cause her extreme hardship due to her medical conditions, which include seizure disorder, chronic fatigue syndrome, immune disorder, allergies to medications and foods, deep vein thrombosis, and fibromyalgia. The record includes evidence of the petitioner's numerous medical conditions and her resultant inability to travel outside the United States. On appeal, the petitioner has established that compliance with the meeting requirement would have caused her extreme hardship, because of her chronic medical conditions. The relevant evidence also demonstrates that the petitioner merits a favorable exercise of discretion to waive the meeting requirement due to the extreme hardship compliance would cause the petitioner.

The record, however, still lacks evidence of the beneficiary's intent to marry the petitioner within 90 days of his admission into the United States in K-1 status. Although the record includes letters from the petitioner and the beneficiary stating they intend to marry each other, and a letter from the petitioner's father stating that the petitioner and the beneficiary plan to marry within 90 days of the beneficiary's arrival, the letters from the petitioner and the beneficiary do not state that they will marry one another within 90 days of the beneficiary's admission into the United States in K-1 status. In addition, the letter from the petitioner's father does not state the basis for his statement that the petitioner and the beneficiary intend to marry one another within 90 days of the beneficiary's arrival in K-1 status; and the record lacks supporting documentation, such as correspondence between the beneficiary and the petitioner discussing their wedding plans, evidence of wedding plans, plans to reserve a venue for the wedding, or any other evidence of intent to marry one another. The evidence submitted, therefore, does not satisfy this requirement.

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, USCIS may, in its discretion, deny the petition for lack of initial evidence. The petitioner did not submit the required documentation, and the beneficiary may not benefit from the instant petition.

A petition that does not comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd.* 345 F.3d 683 (9th Cir. 2003).

Conclusion

As the petitioner has not submitted all of the required initial evidence on appeal, the director's decision to deny the petition shall not be disturbed. In fiancé visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed. The petition remains denied.