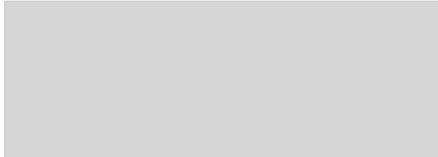


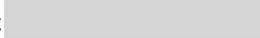


U.S. Citizenship  
and Immigration  
Services

(b)(6)



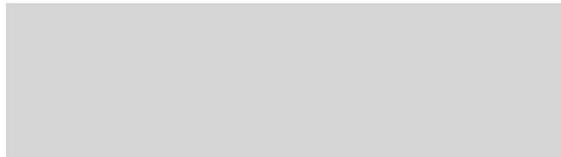
DATE: **JUL 06 2015**

PETITION RECEIPT #: 

IN RE: Petitioner:   
Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(i)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for 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](http://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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, 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, a business engaged in the equestrian sport of dressage, filed a Form I-129, Petition for a Nonimmigrant Worker, seeking P-1S classification of the beneficiary as an essential support personnel pursuant to section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i).<sup>1</sup> The petitioner seeks an extension of the beneficiary's P-1S status for a period of two years<sup>2</sup> so that he may work as a groom for horse trainer [REDACTED] (the principal alien). The beneficiary was previously granted P-1S status to provide essential support services to a P-1 athlete.

The director denied the petition on July 16, 2014, finding that the petitioner did not submit any evidence indicating that a new P-1 petition has been approved for the principal alien for the requested validity period of October 13, 2013 to October 13, 2015. The director emphasized that the status of an essential support personnel is contingent upon the approval of the principal's P-1 status.<sup>3</sup> The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to us for review. The petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that it would submit a brief and/or evidence to us within 30 days. However, as of this date, no supplemental brief or additional evidence has been received.

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<sup>1</sup> The record contains reference to the O-2 classification; however the petitioner indicated on Part 2 of the Form I-129, Petition for a Nonimmigrant Worker, and on the initial cover letter that it sought to classify the beneficiary under the P-1S classification. The cover letter indicates that the petitioner filed the instant petition in response to the director's Request for Evidence on a separate Form I-129 filed on behalf of the principal P-1, the beneficiary, and another individual that was filed under the P classification.

<sup>2</sup> The regulation at 8 C.F.R. § 214.2(p)(8)(iii)(E) provides that petitions for essential support personnel to P-1, P-2 and P-3 aliens shall be valid for a period of time determined by the Director to be necessary to complete the event, activity or performance for which the P-1, P-2 or P-3 alien is admitted, not to exceed one year.

<sup>3</sup> The director further found that the petitioner did not establish that the beneficiary was maintaining his previously granted P-1S status as of the date the instant petition was filed. The issue of the beneficiary's maintenance of P-1S status is significant only insofar as it relates to the application to extend that status. An application for extension is concurrent with, but separate from, the nonimmigrant petition. The record shows that the beneficiary's previous P-1S petition ([REDACTED]) expired on October 14, 2013. The instant petition was filed on March 3, 2014. A petition extension may be filed only if the validity of the original petition has not expired. 8 C.F.R. § 214.2(p)(13). As the extension petition was not timely filed, the director correctly concluded that the beneficiary is ineligible for an extension of stay in the United States. There is no appeal from the denial of an application for extension of stay filed on Form I-129, Petition for a Nonimmigrant Worker. 8 C.F.R. § 214.1(c)(5). Therefore, the director's decision denying the petitioner's request to extend the beneficiary's P-1S status is not appealable and may not be considered by us.

In the instant appeal, the petitioner states as follows:

The I-129 was denied based on the primary workers petition having been denied.

The petitioner in this case . . . did an online check and was informed that the primary beneficiary's petition was approved.

We believe this petition was denied in error.

The regulation at 8 C.F.R. § 214.2(p)(3), provides, in pertinent part:

*Essential support alien* means a highly skilled, essential person determined by the Director to be an integral part of the performance of a P-1, P-2, or P-3 alien because he or she performs support services which cannot be readily performed by a United States worker and which are essential to the successful performance of services by the P-1, P-2, [or P-3] alien. Such alien must have appropriate qualifications to perform the services, critical knowledge of the specific services to be performed, and experience in providing such support to the P-1, P-2, or P-3 alien.

Accordingly, the petitioner must establish that the support alien will provide support to a P alien and is essential to the success of the P alien. The petitioner must also establish that beneficiary is qualified to perform the services and the services cannot be readily performed by United States workers.

The regulation at 8 C.F.R. § 214.2(p)(4)(iv) states:

- (A) *General.* An essential support alien as defined [above] may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or a P-1 entertainment group.
- (B) Evidentiary criteria for a P-1 essential support petition. A petition for P-1 essential support personnel must be accompanied by:
  - (1) A consultation for a labor organization with expertise in the area of the alien's skill;
  - (2) A statement describing the alien(s) prior essentiality, critical skills, and experience with the principal alien(s); and
  - (3) A copy of the written contract or a summary of the terms of the oral agreement between the alien(s) and the employer.

The issue to be addressed in this proceeding is whether U.S. Citizenship and Immigration Services (USCIS) may approve a P-1S petition without evidence of the approval of the principal alien to whom the beneficiary will provide essential support services.

Upon review, the evidence of record supports the director's determination. As noted by the director, the regulations governing the P-1S classification provide that the status of the essential support personnel is contingent upon approval of the principal alien's P-1 status. USCIS records indicate that the petitioner previously filed a P-1 petition for the principal alien, which was approved for the validity period of October 22, 2008 to October 14, 2013 ( ). On October 2, 2013, the petitioner filed a Form I-539, Application to Extend/Change Nonimmigrant Status ( ) on behalf of the principal alien which was rejected on October 7, 2013. On October 30, 2013, the petitioner filed a Form I-129 ( ) on behalf of the principal alien, the beneficiary and another individual. The director denied that petition on April 29, 2014. The petitioner has not submitted any evidence in support of the instant appeal indicating that USCIS has approved a new P-1 petition for the principal alien for the requested validity period of October 13, 2013 to October 13, 2015. Therefore, as the principal alien for whom the beneficiary seeks to provide essential support services has not been granted P-1 classification for the requested validity period, the director appropriately denied the petition.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.