



USCIS Update

July 17, 2009

USCIS Issues Additional Information to Employers Whose H-1B Petitions for Health Care Specialty Occupations Have Been Denied

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) today issued guidance to certain employers who received a denial of Form I-129, *Petition for Nonimmigrant Worker*, requesting H-1B classification for a beneficiary to practice in a health care specialty occupation prior to May 20, 2009.

If the Form I-129 was denied solely on the basis that the beneficiary did not possess a Master's or higher degree in the field, the petition may be reopened on service motion and will be adjudicated in accordance with the May 20, 2009 memorandum on "[Requirements for H-1B Beneficiaries Seeking to Practice in a Health Care Occupation](#)," which provides clarification on the standards for H-1B health care specialty occupations. USCIS will only review denials of petitions for which it has received a written request for review from the petitioning employer or its representative.

USCIS is requesting that employers whose petitions were denied on the above basis send an email to the Service Center that issued the denial of Form I-129 to request review of the denial. An affirmative request for review from the petitioner or its representative is required to expedite this process. In light of recently-issued guidance, USCIS is providing a special accommodation to the public by initiating Service Motions to Reopen (upon receiving an email request) in lieu of requiring petitioners to file an appeal. Therefore, USCIS is **not** requiring petitioners to submit an appeal fee or any other fee in this instance.

Requests should include "PT/OT Service Motion Request" in the subject line of the email, and will be accepted through August 14, 2009. Requests for review of H-1B health care specialty occupation petitions that were adjudicated at the California Service Center should be sent to: csc-ncsc-followup@dhs.gov.

Requests for review of H-1B health care specialty occupation petitions that were adjudicated at the Vermont Service Center should be sent to: vsc.ncscfollowup@dhs.gov.

Affected petitioners requesting USCIS review of their H-1B petition(s) are not required to submit a copy of the May 20, 2009 memorandum, but should explain how the beneficiary meets the standards set forth in that memorandum. Also, as with the reopening on a Service Motion, USCIS must be satisfied prior to approval that the beneficiary is currently eligible to practice in their respective health care occupation in the state of intended employment. Petitioners are advised to document this evidence. In any case where USCIS cannot make a final decision on the record before it, USCIS may request additional information. If the petition was denied upon additional grounds, or if the petitioner fails to submit requested evidence of the beneficiary's continuing eligibility, the original denial of the case will be affirmed.

For additional information, call the National Customer Service Center at (800) 375-5283.