



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

MATTER OF A-C- LLC

DATE: NOV. 27, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, an electronic commerce company, seeks to temporarily employ the Beneficiary under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director of the Vermont Service Center denied the petition concluding the Petitioner violated the general prohibition on filing multiple H-1B petitions for the same Beneficiary under 8 C.F.R. § 214.2(h)(2)(i)(G). On appeal, the Petitioner submits a brief and asserts that the Director erred in denying the petition.

Upon *de novo* review, we conclude that the Petitioner generally followed the U.S. Citizenship and Immigration Services' delivery service error guidance in filing the second petition. Specifically, the Petitioner explained the reasons for filing a second petition, provided supporting evidence from the delivery service, and indicated that the second petition is the "sole petition" filed for the Beneficiary. Therefore, we conclude that the Petitioner reasonably complied with the guidance. We will withdraw the Director's decision and remand the petition for further review of the record on its merits and issuance of a new decision.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision.

Cite as *Matter of A-C- LLC*, ID# 1304875 (AAO Nov. 27, 2018)