



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 22698001

Date: NOV. 10, 2022

Appeal of California Service Center Decision

Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker

The Petitioner, a company engaged in general merchandise, retail, and wholesale distribution, seeks to extend the Beneficiary's temporary employment as an assistant supervisor under the CNMI-Only Transitional Worker (CW-1) nonimmigrant classification. *See* 48 U.S.C. § 1806(d). The CW-1 visa classification allows employers in the Commonwealth of the Northern Mariana Islands (CNMI) to apply for permission to temporarily employ foreign workers who are otherwise ineligible to work under other nonimmigrant worker categories.

The Director of the California Service Center denied the petition, concluding that the Beneficiary does not qualify as a long-term worker under 8 C.F.R. § 214.2(w)(1)(viii). On appeal, the Petitioner submits a brief with additional evidence and asserts that the Director erred in denying the petition.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will withdraw the Director's decision and remand the matter for entry of a new decision.

We conclude that a remand is warranted in this case because the Petitioner submits new evidence on appeal which is material to the claim that the Beneficiary was present in the United States during fiscal year 2015. 8 C.F.R. § 214.2(w)(1)(viii) defines a long-term worker as a noncitizen "who was admitted to the CNMI, or otherwise granted status, as a CW-1 nonimmigrant during fiscal year 2015, and during each of fiscal years 2016 through 2018." The record contains the Forms I-797A, Notice of Action, approved on behalf of the Beneficiary, that establishes her CW-1 status from 2013 through 2021. The Director noted that while USCIS records establish that several CW-1 petitions were approved for the Beneficiary beginning August 3, 2013, there is no record that the Beneficiary was admitted prior to January 20, 2016.

On appeal, the Petitioner submits certified copies of the Beneficiary's tax returns and wage and tax forms from the Division of Revenue and Taxation, Department of Finance, Commonwealth of the North Mariana Island from 2013 to 2016, as evidence that she was residing in CNMI during that time.

Accordingly, the matter will be remanded to the Director to consider the new evidence and determine whether the record establishes that the Beneficiary qualifies as a long-term worker. The Director may request any additional evidence considered pertinent to the new determination and any other issues. We express no opinion regarding the ultimate resolution of this case on remand.

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