



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

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

In Re: 27611617

Date: SEP. 21, 2023

Appeal of California Service Center Decision

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

The Petitioner, a company engaged in the retail sale of general merchandise, seeks to extend the Beneficiary's temporary employment as a store 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 Petitioner did not establish that the Beneficiary qualifies as a long-term worker under 8 C.F.R. § 214.2(w)(1)(viii). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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 consistent with the following analysis.

We conclude that a remand is warranted in this case because it is unclear the Petitioner intended to request that the petition and the Beneficiary's CW-1 status be extended under the long-term worker provisions at 8 C.F.R. § 214.2(w)(13) and (18). 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 Petitioner does not dispute that the Beneficiary was not admitted or granted status as a CW-1 nonimmigrant during fiscal year 2018, and therefore does not qualify as a long-term worker.

However, the record reflects that on the accompanying Form 9142C, CW-1 Application for Temporary Employment Certification, the Petitioner marked "No" at section A.3, where asked if it was seeking to employ a long-term worker. Further, it appears that the Petitioner only partially completed part 2, item number 6.a.-c. on the Form I-129CW, which asks the employer to identify whether the petition is for CW-1 long-term worker(s). Specifically, the Petitioner marked item 6.b., indicating it was seeking an extension of up to one year. Finally, the Petitioner's supporting letter made no reference

to its intent to request an extension for a long-term CW-1 worker, nor did it submit the required initial evidence for long-term workers set forth in the Form I-129CW instructions. Based on these facts, we conclude that it is more likely than not that the Petitioner did not intend to request the Beneficiary's consideration as a long-term CW-1 worker, and that its partial response to part 2, item 6 on the Form I-129CW was likely the result of a scrivener's error.

Accordingly, the matter will be remanded to the Director to determine whether the record establishes that the Beneficiary qualifies for an extension of CW-1 status of up to one year. The Director may request any additional evidence considered relevant to this new determination and any other issues. We express no opinion regarding the ultimate resolution of this case on remand.

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