



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

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

In Re: 25483298

Date: MAY 19, 2023

Appeal of National Benefits Center Decision

Form I-600, Petition to Classify Orphan as an Immediate Relative

The Petitioner, a U.S. citizen, seeks to classify an orphan as an immediate relative under Immigration and Nationality Act (the Act) section 101(b)(1)(F)(i), 8 U.S.C. § 1101(b)(1)(F)(i). The Director of the National Benefits Center (Director) denied the application, and 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 dismiss the appeal.

## I. LAW

An orphan is defined as a child, under the age of sixteen at the time a petition is filed on their behalf, who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; provided, that the Secretary of Homeland Security is satisfied that proper care will be furnished if the child is admitted to the United States. Section 101(b)(1)(F)(i) of the Act.

A prospective adoptive parent may file an orphan petition concurrently with an application for advance processing on a Form I-600 for U.S. Citizenship and Immigration Services (USCIS) to determine the individual's suitability as an adoptive parent and the child's status as an orphan. 8 C.F.R. § 204.3(d)(3). The Form I-600 must be completed and signed in accordance with the form instructions, and be accompanied by the supporting documentation identified in the regulations. *Id.*

## II. ANALYSIS

The Petitioner filed the instant orphan petition on behalf of the Beneficiary, a citizen of Nigeria, when he was 15 years old. With the orphan petition, the Petitioner submitted a copy of late registered birth and death certificates for the Beneficiary and the Beneficiary's birth father. The Director determined that the evidence was insufficient and issued a request for evidence (RFE) seeking additional evidence of the Beneficiary's birth, his birth father's death, and a full and final adoption order issued in accordance with the laws of Nigeria. In response, the Petitioner submitted a partial response— without

a copy of the Beneficiary's full and final adoption order. The Director subsequently denied the orphan petition, highlighting the Petitioner's partial response to the RFE. The Director also noted the denial of the Petitioner's Form I-600A, Application for Advance Processing of an Orphan Petition (Form I-600A) based on his failure to submit "proof of having a currently accredited primary adoption service provider (or evidence of being grandfathered under the Universal Accreditation Act), and a Hague-compliant home study."

We acknowledge the Petitioner's submission of a copy of the Beneficiary's full and final adoption order on appeal. However, for the reasons identified below, the Petitioner has still not established the Beneficiary's eligibility for the benefit sought.

In a separate decision, the Director determined that the Petitioner had not demonstrated under the requirements of the UAA<sup>1</sup> that he is currently working with a Hague-accredited primary provider or established that he is exempt from this requirement ("UAA grandfathered").<sup>2</sup> The UAA extends the safeguards provided by accreditation to orphans who are being adopted from countries that are not party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention), to their adoptive parents, and to their birth parents.<sup>3</sup> See 42 U.S.C. § 14925(a) ("The provisions . . . shall apply to any person offering or providing adoption services in connection with a child described in section [101(b)(1)(f) of the Act] to the same extent as they apply to the offering or provision of adoption services in connection with a Convention adoption."); 22 C.F.R. § 96.1 ("This part provides for the accreditation and approval of agencies and person pursuant to the . . . [UAA]"). Thus, although Nigeria is not a party to the Hague Convention, certain Convention requirements still apply.

The UAA became effective on July 14, 2014, and requires in pertinent part that, in every orphan intercountry adoption case, an accredited or approved ASP act as a primary provider, that the prospective adoptive parent submit a home study that complies with the requirements at 8 C.F.R. § 204.311, and that the home study is prepared by a person authorized under 22 C.F.R. § 96 to conduct home studies. See 42 U.S.C. § 14925(b) ("The provisions of this section shall take effect 18 months after January 14, 2013"); see also 8 C.F.R. § 204.301 (defining "Home study preparer" as "a person . . . authorized under 22 C.F.R. [§] 96 to conduct home studies for Convention adoption cases, either as a public domestic authority, an accredited agency, a temporarily accredited agency, approved person, supervised provider, or exempted provider and who (if not a public domestic authority) holds any license or other authorization that may be required to conduct adoption home studies under the law of the jurisdiction in which the home study is conducted"). Here, the Petitioner has not demonstrated that he has engaged an accredited agency or approved person to act as the primary ASP in his case. The U.S. Department of State regulations on accreditation provide that in each intercountry adoption case, an accredited agency or an approved person will be identified and act as the primary

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<sup>1</sup> Pub. L. 112-276 (2012).

<sup>2</sup> The UAA does not apply if the prospective adoptive parent filed an orphan petition or a Form I-600A, Application for Advance Processing of an Orphan Petition, or submitted an application or accepted a match from a competent authority prior to July 13, 2013. U.S. Department of State, UAA Grandfathering Guidance, <https://travel.state.gov/content/dam/aa/pdfs/UAA%20Grandfathering%20Guidance%20%208-14.pdf>.

<sup>3</sup> An adoption service provider identifies a child for adoption and arranges an adoption; secures consent to termination of parental rights and to adoption; performs a background study on a child or a home study on a prospective adoptive parent; makes non-judicial determinations of the best-interests of a child; monitors a case after a child has been placed; and assumes custody and provides a social service pending alternative placement for the child. 22 C.F.R. § 96.2.

provider. 22 C.F.R. § 96.14(a). Primary provider means the accredited agency or approved person responsible for ensuring that all six adoption services are provided and for supervising and being responsible for supervised providers where used. 22 C.F.R. § 96.2; *see also* 22 C.F.R. § 96.2 (providing that “Adoption service” means any one of six services, including identifying a child for adoption and arranging an adoption, securing the necessary consent to termination of parental rights and adoption, and performing a background study on a child or a home study on a prospective adoptive parent).

The Petitioner does not claim that he is exempt from the UAA requirement’s as a petitioner who is UAA grandfathered. He also did not list a primary adoption service provider on the orphan petition, nor has he submitted evidence to demonstrate that he has since engaged an accredited or approved ASP to act as a primary provider in his adoption case. Relatedly, the Director also determined that the Petitioner did not provide a Hague-compliant home study. The home study is a process for screening and preparing a prospective adoptive parent. 8 C.F.R. § 204.311(a). The information contained in a home study includes details on the physical, mental, and emotional health of the prospective adoptive parents, their criminal history and finances, the living accommodations for the child, and the placement preparation and training for the prospective adoptive parents. *Id.* at § 204.311(c). As provided for above, a home study must be prepared by a person (whether an individual or an agency) authorized to conduct home studies for Convention adoption cases, either as a public domestic authority, an accredited agency, a temporarily accredited agency, approved person, supervised provider, or exempted provider and who holds any license or other authorization that may be required to conduct adoption home studies under the law of the jurisdiction in which the home study is conducted. *Id.* at § 204.301 (definition of home study preparer). The Petitioner did not submit a Hague-compliant home study, or otherwise substantively address this deficiency on appeal.<sup>4</sup> Accordingly, the Petitioner has not established that he complied with the home study and primary ASP requirements of the UAA.

### III. CONCLUSION

The Petitioner has not overcome the bases for denial of his orphan petition. Specifically, he has not established that he complied with the home study and primary ASP requirements of the UAA. As the Petitioner has not shown that he complied with the evidentiary requirements for orphan petitions, his petition will remain denied.

**ORDER:** The appeal is dismissed.

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<sup>4</sup> The Petitioner states that he did not submit a home study because, “the two home study entities referred to [him] through Texas Health and Human Services advised it would take about one year to complete.”