



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

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

In Re: 25232768

Date: JAN. 9, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (CNMI)

The Petitioner, a provider of hospice care services, seeks to temporarily employ the Beneficiaries as registered nurses 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 file Form I-129CWR, Semiannual Report for CW-1 Employer (semiannual report) for three previously approved CW-1 petitions filed by the Petitioner and therefore denied the current petition pursuant to 8 C.F.R. § 214.2(w)(26)(ii). On appeal, the Petitioner submits a brief with additional evidence.

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.

According to 8 C.F.R. § 214.2(w)(26)(i), an employer of a CW-1 nonimmigrant worker whose petition has been approved for an employment start date on or after October 1, 2019 and for a validity period of six months or more is required to file a semiannual report verifying the continuing employment and payment of the beneficiary under the terms and conditions of the approved petition within a 60-day window surrounding the six month anniversary of the petition validity start date. Furthermore, per 8 C.F.R. § 214.2(w)(26)(ii), failure to comply with this requirement may be a basis for revocation of an approved petition or for denial of subsequent petitions filed by the employer. As noted by the Director, the Petitioner did not provide sufficient evidence that it filed the required semiannual reports for the previously approved petitions: [redacted], [redacted] and [redacted]
[redacted]

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 Petitioner filed semiannual reports for three previously filed CW-1 cases. As noted in the Director's decision, the Petitioner submitted one semiannual report

that was not signed or dated by the Petitioner. On appeal, the Petitioner submits a signed and dated copy of the semiannual report for [REDACTED]. In addition, the Petitioner submits copies of semiannual reports for [REDACTED] and [REDACTED]. Furthermore, the Petitioner submits Federal Express shipping labels as evidence it submitted them as required.

Accordingly, the matter will be remanded to the Director to consider the new evidence and determine whether the record establishes that the Petitioner properly filed the semiannual reports as required under 8 C.F.R. § 214.2(w)(26)(i). 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.