



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

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

In Re: 27988090

Date: AUG. 29, 2023

Appeal of California Service Center Decision

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

The Petitioner, a school and childcare services organization, seeks to temporarily employ the Beneficiary as a childcare attendant 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 revoked the petition's approval, concluding that the Petitioner did not file Form I-129CWR, Semiannual Report for CW-1 Employer (semiannual report) as required by 8 C.F.R. § 214.2(w)(26)(i). On appeal, the Petitioner submits additional evidence.

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.

According to 8 C.F.R. § 214.2(w)(26)(i), certain CW-1 employers are required to file a semiannual report verifying the beneficiary's continuing employment and payment 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. And 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 denial of subsequent petitions filed by the employer.

The Director issued a notice of intent to revoke (NOIR) the petition's approval but received no response. On appeal, the Petitioner contends that it did not receive the NOIR, submits the requested semiannual report, and requests that it be considered. We conclude a remand is warranted because the Petitioner's explanation and evidence are directly material to the benefit sought.

Accordingly, the matter will be remanded to the Director to conduct a first-line adjudication of this new evidence. The Director may request any additional evidence considered pertinent to the new determination and any other issues. We express no opinion regarding the ultimate disposition 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.