



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

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

In Re: 27176653

Date: JUL. 20, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a pediatrician, seeks classification as a member of the professions holding an advanced degree or a worker of exceptional ability. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. Section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner's endeavor would have national importance, that she was well-positioned to advance this endeavor, or that on balance, it would benefit the United States to waive the job offer requirement. 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.

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest. Section 203(b)(2) of the Act.

Neither the statute nor the pertinent regulations define the term "national interest." *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016) states that after EB-2 eligibility has been established, USCIS may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates that: (1) the noncitizen's proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well-positioned to advance the proposed endeavor; and (3) that, on balance, it would benefit the United States to waive the requirements of a job offer and thus of a labor certification.

The Petitioner seeks to open a pediatric medical clinic in [] Florida.¹ The Director found that the Petitioner qualifies as an advanced degree professional but denied her petition, finding, among other things, that the proposed endeavor would not have national importance. On appeal, the Petitioner submits a brief emphasizing the importance of medical care and the healthcare industry as well as her credentials and abilities.

When determining whether a proposed endeavor will have national importance, the relevant question is not the importance of the industry or profession where a noncitizen will work, but the specific impact of that proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889-890. See generally 6 USCIS Policy Manual F.5(D)(1), <https://www.uscis.gov/policymanual> (“The term ‘endeavor’ is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation.”) In this instance, the record does not establish that the Petitioner’s endeavor will have an impact rising to the level of national importance.

The appeal largely repeats the Petitioner’s earlier general contentions about the need for more medical care providers in Florida and the economic and other benefits of the healthcare industry. An endeavor may qualify under this prong of the *Dhanasar* test if it has significant potential to have a substantial economic effect, especially in an economically depressed area. *Id.* However, while we acknowledge the Petitioner’s statement that “there is no obstacle for the future company to offer services to companies” in economically depressed areas, this does not establish how her endeavor, in and of itself, will impact any area’s economy on a level that rises to national importance. The business plan provided in response to the Director’s request for evidence (RFE) states that the clinic will initially employ the Petitioner, a medical assistant, and a receptionist. Using employment multipliers from the Economic Policy Institute, the Petitioner claims that her endeavor will contribute to the creation of 13 to 54 indirect jobs, but does not provide sufficient information about the context of this job creation to establish this would constitute a substantial economic impact for the [] area, for Florida, or for the United States.

As acknowledged by the Director, a pediatric medical clinic is an endeavor with substantial merit. However, working in a field with substantial merit does not mean that one’s endeavor will have national importance. In *Dhanasar*, the petitioner’s work as a science teacher was found to have substantial merit but did not qualify him under the first prong because the evidence did not show how that work would impact the field of science education more broadly. *Dhanasar*, 26 I&N Dec. at 893. Similarly, the Petitioner here has not established her endeavor’s national importance because she has not provided documentation of its prospective impact on her field. *Id.* The Petitioner states that she intends to “form partnerships and develop programs aimed at aiding children in vulnerable situations” by disseminating “knowledge of basic preventative health actions to promote well-being and a healthier life.” However, the record does not contain sufficient specific information about the logistics or breadth of these programs to establish how widespread their impact will be. The Petitioner’s business plan does not describe these programs beyond stating that Petitioner will hold health workshops as a way to promote the clinic’s business. The record therefore does not establish that the

¹ We note that the record does not indicate that the Petitioner is licensed to practice medicine in the United States. In response to the Director’s July 2022 RFE, the Petitioner submitted an email indicating that she registered for the United States Medical Licensing Examination (USMLE) in September 2022. The appeal, which was filed in March 2023, does not contain any documentation of what progress, if any, she has made in obtaining a U.S. medical license.

Petitioner's endeavor has significant potential to impact the field of pediatric healthcare or otherwise broadly enhance societal welfare. *See generally* 6 *USCIS Policy Manual*, *supra* at F.5(D)(1).

Finally, while we acknowledge the evidence regarding the Petitioner's work experience and skills, this documentation is relevant to the second *Dhanasar* prong regarding whether she is well-positioned to advance the proposed endeavor. It does not speak to whether that endeavor has national importance, and as such, the national importance of the Petitioner's endeavor has not been established.

Because the Petitioner has not established her eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the other two prongs and we hereby reserve them. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. As such, we conclude that she has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.