

July 31, 2013

### **When a Petitioner dies**

*Question: "If the relative who is filing an immigrant petition for me has died, does my case automatically close? What are my options to immigrate?"*

As immigration petitions can sometimes take years to become current, it is unfortunately not uncommon that the petitioner may pass away before it is time for you to immigrate. Technically, under U.S. immigration law, the petition does become invalid if the petitioner dies before the beneficiaries can immigrate to the U.S. The petition is then returned to U.S. Citizen and Immigration Services (USCIS), a division of the Department of Homeland Security (DHS), where it was originally filed.

Although the petition has become invalid with the deceased petitioner, the U.S. Immigration and Nationality Act now allows certain family members to become "substitute sponsors" if a petitioner dies following approval of the visa petition, but before the beneficiary obtains his or her permanent residence. If this has happened in your case, you have the option to contact the Department of Homeland Security to request that the "substitute sponsor" be approved. DHS has the ability to reinstate the petition for humanitarian reasons, and determine that the original sponsor's petition should not be revoked. The substitute or alternative sponsor must be the spouse, parent, legal guardian, sibling, child (at least 18 years of age), grandparent, grandchild, or related in these ways through marriage (i.e. sister-in-law) of the sponsored beneficiary. This substitute sponsor must be residing in the U.S. as either a citizen or legal permanent resident, and must be able to prove his or her ability to provide financial support.

If you have a pending immigrant petition, and your petitioner passes away, you should contact the U.S. Embassy to discuss your options and receive the proper instructions for the next steps in this process. If your visa interview is scheduled and you receive news of your petitioner's passing, please be sure to inform the Consular Officer of this during the interview and bring the death certificate, if possible. The officer will then be able to provide you with the necessary documents to continue your immigration process. For contact information to reach the Immigrant Visa section at the U.S. Embassy, please visit our website at [http://kingston.usembassy.gov/immigrant\\_visas.html](http://kingston.usembassy.gov/immigrant_visas.html).