



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

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

In Re: 23152112

Date: DEC. 13, 2022

Appeal of Vermont Service Center Decision

Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status

The Applicant seeks to become a lawful permanent resident (LPR) under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m), based on his “U” nonimmigrant status. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of a U Nonimmigrant (U adjustment application), concluding that the Applicant had not submitted the required documentation. On appeal, the Applicant submits additional evidence. 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 remand this matter for further proceedings consistent with this decision.

I. LAW

Section 245(m) of the Act sets forth the eligibility requirements for individuals seeking to adjust status to that of an LPR based on having been granted U status. Applicants for adjustment of status under 245(m) must comply with the general Form I-485 filing instructions and documentary requirements, which include submission of “a photocopy of their birth certificate issued by the appropriate civil authority from the country of birth.” 8 C.F.R. 103.2(a)(1); *see also* Instructions for Form I-485, <https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf> (referring applicants to the U.S. Department of State’s Reciprocity Schedule for information on availability of birth certificates and appropriate issuing civil authority for their specific countries). Further, Applicants must “have a medical examination by a designated civil surgeon, whose report setting forth the findings of the mental and physical condition of the applicant, including compliance with section 212(a)(1)(A)(ii) of the Act, shall be incorporated into the record.” The validity period for a Form I-693, Report of Medical Examination and Vaccination Record (medical examination), submitted after November 1, 2018, is no more than two years after the date of the civil surgeon's signature. *See* 8 *USCIS Policy Manual* B.4(C)(4) (providing, as guidance, the two-year validity period), <https://www.uscis.gov/policymanual>; *see also* Form I-693, Instructions for Report of Medical Examination and Vaccination Record (Jul. 15, 2019 ed.), at 1 (stating a properly and timely completed medical examination remains valid for two years from the date of the civil surgeon's signature).

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Applicant, a native and citizen of Honduras, was accorded U-3 non-immigrant status from October 1, 2014, until September 30, 2018, based on an approved Form I-918, Supplement A, Petition for Qualifying Family Member of a U-1 Recipient. On September 26, 2017, he filed a Form I-485 that was denied because he did not have the required three years of continuous physical presence. In April 2019 he filed a I-539, Application to Extend/Change Nonimmigrant Status that was granted and extended his non-immigrant status until December 29, 2020. He filed the instance Form I-485 in April 2020.

The Director denied the application, finding that the submitted birth certificate did not comply with Registro Nacional de las Personas (RNP) requirements and the Form I-693, Report of Medical Examination and Vaccination Record was not sealed and was no longer valid because it was signed more than 60 days prior to submission.

With the appeal the Applicant submits a copy of a birth registration document issued by the RNP and a newly executed medical examination form. As the Applicant has provided new evidence that the Director has not had the opportunity to review, we will remand the matter to the Director to consider this evidence in the first instance, and to determine whether the Applicant has satisfied the eligibility requirements to adjust status to that of an LPR under section 245(m) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded to the Director for the entry of a new decision consistent with the foregoing analysis.