



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

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

In Re: 18667151

Date: FEB. 3, 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 her “U” nonimmigrant status as a victim of qualifying criminal activity. The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status (U adjustment application) and dismissed her subsequent motion. The matter is now before us on appeal. The Administrative Appeals Office (AAO) reviews 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 the matter to the Director for the issuance of a new decision.

**I. LAW**

Section 245(m) of the Act contains the eligibility requirements for individuals seeking to adjust status to that of an LPR based on having been granted U status. In addition, an applicant for adjustment of status under 245(m) must comply with the general eligibility and documentary requirements to adjust status at 8 C.F.R. § 245.5, which requires that the applicant “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 burden of proof is on the 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, 375 (AAO 2010).

**II. ANALYSIS**

The record reflects that the Applicant, a native and citizen of Mexico, was granted U-1 status from December 2013 until December 2017. The Applicant subsequently received an extension of her U nonimmigrant status until April 2020 and timely filed the instant U adjustment application in November 2019. The Director issued a request for evidence (RFE), notifying the Applicant that the sealed Form I-693, Report of Medical Examination and Vaccination Record (medical examination), in the record was insufficient because it was completed on an earlier version of Form I-693 that was no longer accepted by USCIS. The Director requested that she return to the civil surgeon who completed her medical examination to transfer the exam results onto the current version of Form I-693.

In response to the RFE, the Applicant provided a newly executed, sealed medical examination. The Director denied the U adjustment application because she submitted a copy of the medical examination instead of the original. On motion, the Applicant provided the original medical examination, along with her affidavit stating that the civil surgeon mistakenly provided a copy to USCIS, and this error was beyond the Applicant's control because she was not allowed to open the sealed envelope before submitting it to USCIS. The Director dismissed the motion because although the Applicant provided the original medical examination with her motion to reopen, it was not in a sealed envelope.

On appeal, the Applicant submits a newly executed medical examination and asserts that she has met her burden of establishing eligibility for the benefit sought by a preponderance of the evidence. Upon review, the record reflects that the Applicant has overcome the sole ground for the Director's denial of her U adjustment application. However, the record does not indicate whether the Director determined that the Applicant meets the remaining criteria for adjustment of status under section 245(m) of the Act. Accordingly, we will remand the case to the Director to determine whether the Applicant has satisfied the remaining eligibility requirements to adjust her 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.