



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

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

In Re: 27549482

Date: AUG. 03, 2023

Motion on Administrative Appeals Office Decision

Form I-485, Application to Register Permanent Residence or Adjust 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 application, concluding that the record did not establish that the Applicant had submitted a Form I-693, Report of Medical Examination and Vaccination Record (Form I-693), as required. We dismissed a subsequent appeal, as well as a subsequent motion to reopen. The matter is now before us on a second motion to reopen.

The Applicant 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). Upon review, we will grant the motion and remand the matter for further proceedings.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

An applicant for adjustment of status under section 245(m) of the Act 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 instructions to the Form I-693, further state that the civil surgeon must provide the applicant with a completed medical examination record in a sealed envelope to submit to U.S. Citizenship and Immigration Services (USCIS).¹

In our previous decisions, incorporated here by reference, we dismissed the Applicant’s appeal and subsequent motion to reopen as he had not submitted a Form I-693. On second motion, the Applicant now submits a Form I-693, which directly addresses the reason for the Director’s denial and our dismissals of his appeal and initial motion to reopen. As the Director has not had the opportunity to

¹ Instructions for Report of Medical Examination and Vaccination Record, <https://www.uscis.gov/sites/default/files/document/forms/i-693instr.pdf>.

review this evidence, we remand the matter for the Director to determine whether the Form I-693 submitted by the Applicant is sufficient, and to consider whether he has otherwise established eligibility for adjustment of status to that of an LPR under section 245(m) of the Act.

ORDER: The motion to reopen is granted and the matter remanded for entry of a new decision consistent with the foregoing analysis.