



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

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

In Re: 29585471

Date: DEC. 28, 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) based on their “U” nonimmigrant status. *See* Immigration and Nationality Act (the Act) section 245(m), 8 U.S.C. § 1255(m). The U classification affords nonimmigrant status to crime victims, who assist authorities investigating or prosecuting the criminal activity, and their qualifying family members. The U nonimmigrant may later apply for lawful permanent residency.

The Director of the Vermont Service Center denied the Form I-485, Application to Register Permanent Residence or Adjust Status (U adjustment application), concluding that the record did not contain a copy of the Applicant’s current passport and relevant prior passports, a continuous physical presence affidavit, evidence of continuous physical presence, and a valid Form I-693, Report of Medical Examination and Vaccination Record (medical examination). We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

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 to reopen and remand the matter for further proceedings.¹

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.

The Applicant filed her U adjustment application in July 2020, and the Director subsequently issued a request for evidence (RFE). The Director requested an updated medical examination, evidence to establish continuous physical presence, and a copy of the Applicant’s current passport and relevant prior passports. The Director denied the U adjustment application, finding that the Applicant did not submit any of the requested evidence. In our decision on the Applicant’s appeal, which we hereby incorporate by reference, we acknowledged the Applicant’s claim that she submitted the requested

¹ Because the Applicant has met the requirements of a motion to reopen, we need not address her motion to reconsider. The motion to reconsider is moot.

documentation with her RFE response. The Applicant provided a copy of the RFE response with her appeal. However, it did not include a copy of the medical examination. The Applicant stated on appeal that she would submit a new medical examination within 30 days of the appeal, but we did not receive it.² We dismissed the appeal, concluding that the Applicant did not submit the required medical examination and therefore she was ineligible for adjustment of status under section 245(m) of the Act.

On motion, the Applicant submits a new medical examination. The record also includes a copy of her RFE response. The Applicant has met the requirements of a motion to reopen. As the Applicant has provided new evidence that the Director has not had the opportunity to review, we will remand the matter for the Director to consider this evidence in the first instance, and further determine whether she has satisfied the remaining eligibility requirements to adjust her 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.

² The record reflects that the Applicant sent the new medical examination to the Vermont Service Center, instead of directly to us as required.