



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

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

In Re: 29750852

Date: DEC. 28, 2023

Appeal of Vermont Service Center Decision

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

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 derivative “U” nonimmigrant status. The Director of the Vermont Service Center (Director) denied the Form I-485, Application for Adjustment of Status of U Nonimmigrant (U adjustment application), and the matter is now before us on appeal. On appeal, the Applicant submits additional evidence.

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). 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 245(m) of the Act contains the eligibility requirements for individuals seeking to adjust status to that of a lawful permanent resident (LPR) based on having been granted U nonimmigrant 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.”

II. ANALYSIS

The record reflects that the Applicant, a native and citizen of Guatemala, was granted U-2 nonimmigrant status from May 2017 until, May 2021 and timely filed the instant U adjustment application in March 2021. The Director denied the application, determining that the Applicant had not complied with 8 C.F.R. § 245.5 because she did not submit a completed Form I-693, Report of Immigration Medical Examination and Vaccination Record (medical examination), as required.

On appeal, the Applicant submits a newly executed medical examination.¹ As the Applicant has provided new evidence material to the Director's ground for denial, we will remand the matter to the Director to consider this evidence in the first instance and further determine whether she has satisfied the 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.

¹ The Applicant also submits a copy of an envelope, which she claims contained a previous medical examination she submitted in response to the Director's request for evidence.