



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

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

In Re: 25214784

Date: FEB. 21, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application to Adjust Status

The Applicant seeks to become a lawful permanent resident based on her “U” nonimmigrant status as a victim of qualifying criminal activity under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m). The Director of the Vermont Service Center denied the application and the Applicant’s subsequent motion to reopen. The matter is now before us on appeal. 8 C.F.R. § 103.3. 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.

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 status. In addition, an applicant for adjustment of status under section 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.” Section 212(a)(1)(A)(ii) of the Act provides that an applicant for adjustment of status must submit documentation of having received required vaccinations. The instructions to Form I-693, Report of Medical Examination and Vaccination Record (medical examination), state that the applicants who are required to receive the COVID-19 vaccine “must complete the COVID-19 vaccine series . . . and provide documentation of vaccination to the civil surgeon.” *Instructions for Report of Medical Examination and Vaccination Record* (Jul. 19, 2022 ed.), at 1, <https://www.uscis.gov/sites/default/files/document/forms/i-693instr.pdf>.

The Applicant, a native and citizen of Mexico, filed her application to adjust status in August 2020 based on her U nonimmigrant status. The Director denied the application because the Applicant submitted a medical examination showing that she had received only one dose of the required COVID-19 vaccine series. The Applicant filed a motion to reopen with the Director, providing a copy of her COVID-19 vaccination card from the Centers for Disease Control and Prevention (CDC) to show that she received a second dose of the COVID-19 vaccine after the date of the Director’s denial. The

Director denied the motion to reopen because the Applicant did not submit an updated medical examination reflecting that she had received all required vaccinations.

On appeal, the Applicant provides a newly executed medical examination showing that she has now received three doses of the COVID-19 vaccination. She also provides a letter from counsel explaining that the Applicant contracted COVID-19, which delayed her ability to receive the second dose of the vaccine until after the deadline for her response to a request for evidence from the Director. Counsel also states that they did not realize a new medical examination was required and believed submitting proof of the full course of vaccinations in the form of a CDC COVID-19 vaccination card would be sufficient.

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 further 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 Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.