



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

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

In Re: 26610249

Date: MAY 25, 2023

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. The Director of the Vermont Service Center 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. 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 dismiss the appeal.

I. LAW

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to a lawful permanent resident (LPR) if that individual demonstrates, among other requirements, that he or she has been physically present in the United States for a continuous period of at least three years since admission as a U nonimmigrant and continuing through the date of the conclusion of adjudication of the U adjustment application. Section 245(m)(1)(A) of the Act; 8 C.F.R. § 245.24(a)(1). To establish eligibility for adjustment of status to that of an LPR under section 245(m) of the Act, an applicant must have been physically present in the United States for a continuous period of three years since the date of admission as a U nonimmigrant. Section 245(m)(1)(A) of the Act. To demonstrate continuous physical presence, a U adjustment applicant must provide, in pertinent part, a photocopy of all pages of all passports that were valid during the required period, or an equivalent travel document or explanation of why he or she does not have a passport, as well as documentation and information regarding departures and arrivals from the United States while in U status. 8 C.F.R. § 245.24(d)(5). Relevant regulations require that the applicant submit, inter alia, “a signed statement . . . attesting to continuous physical presence” and “additional documentation.” 8 C.F.R. § 245.24(d)(9).

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 Applicant, a citizen of Mexico, last entered the United States without inspection in 2000. She was granted U nonimmigrant status from May 2010 until May 2014 and extended her U nonimmigrant status until August 2020. The Applicant filed her U adjustment application in July 2020. The Director issued a request for evidence (RFE) for additional documentation, to include an updated Form I-693, Report of Medical Examination and Vaccination Record (medical examination); evidence to establish her continuous physical presence; and a complete copy of her current passport. The Director denied the application, finding that the Applicant only provided a partial response to the RFE, specifically a copy of the RFE, and therefore she did not submit sufficient evidence to comply with 8 C.F.R. §§ 245.5 and 245.24(d)(9).

On appeal, the Applicant asserts that she did submit the requested documentation with her RFE response and provides copies of the additional evidence relating to her continuous physical presence. The Applicant states she will submit a new copy of the updated medical examination within 30 days of the appeal because USCIS appears to have lost or misplaced the medical examination she provided with her RFE response. Upon review, the Applicant has not submitted the required updated medical examination. Accordingly, she has not complied with 8 C.F.R. § 245.5 and is not eligible for adjustment of status under section 245(m) of the Act.

ORDER: The appeal is dismissed.