



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

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

In Re: 20755005

Date: FEB. 22, 2022

Appeal of Vermont Service Center Decision

Form I-918 – Supplement A, Petition for Qualifying Family Member of a U-1 Nonimmigrant

The Petitioner seeks nonimmigrant classification of the Derivative, her spouse, as a qualifying family member of a U-1 nonimmigrant under section 101(a)(15)(U)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(ii). The Director of the Vermont Service Center denied the Form I-918 Supplement A, Petition for Qualifying Family Member of U-1 Recipient (derivative U petition). The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence. The Administrative Appeals Office reviews 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 remand the matter to the Director for the issuance of a new decision.

I. LAW

At the time of filing the principal U petition, while the principal U petition is pending, or during the period of U nonimmigrant status, a principal petitioner may file a petition for derivative U nonimmigrant status for qualifying family members. Section 101(a)(15)(U)(ii) of the Act; 8 C.F.R. § 214.14(f)(1). For U-1 principals who are over 21 years of age, a qualifying family member includes a spouse who is admissible to the United States. *Id.* at section 101(a)(15)(U)(ii)(II); 8 C.F.R. § 214.14(a)(10), (f)(1). The qualifying family relationship must exist when the principal petitioner's Form I-918, Petition for U Nonimmigrant Status, is favorably adjudicated; when the U derivative petition is filed, when the U derivative petition is adjudicated; and at the time of the family member's admission as a U nonimmigrant. 8 C.F.R. § 214.14(f)(4).

Under section 214(p)(6) of the Act, a petitioner's U nonimmigrant status shall be extended during the pendency of an application for adjustment of status under section 245(m) of the Act.

II. ANALYSIS

The Director denied the derivative U petition in October 2021, determining that the Petitioner no longer held U nonimmigrant status, and therefore, no qualifying family relationship existed between the Petitioner and the Derivative when the derivative U petition was adjudicated. The Director noted that the Petitioner was granted U nonimmigrant status from December 8, 2016, to December 7, 2020.

On appeal, the Petitioner argues that since her Form I-485, Application for Adjustment of Status of a U Nonimmigrant (U adjustment application), was filed with U.S. Citizenship and Immigration Services (USCIS) on December 7, 2020, her U nonimmigrant status is extended and remains valid until a decision is made on her U adjustment application. USCIS records confirm that the Petitioner's U adjustment application is pending.

Upon *de novo* review, the record establishes that the Petitioner has maintained valid U nonimmigrant status, and therefore, a qualifying family relationship exists between the Petitioner and the Derivative. As the Director's sole ground for denial has been overcome, we will remand the matter for the Director to determine whether the Derivative otherwise meets the eligibility requirements for U nonimmigrant classification.

ORDER: The decision of the Director is withdrawn. The matter is remanded to the Director for issuance of a new decision consistent with the foregoing analysis.