



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

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

In Re: 25552156

Date: MAR. 21, 2023

Appeal of Vermont Service Center Decision

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

The Petitioner seeks U nonimmigrant classification for the Derivative as a qualifying family member of a person granted U-1 status through the filing of a Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient (Supplement A). *See* section 101(a)(15)(U)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(ii) (discussing eligibility requirements for derivative status for spouse, child, parent, and sibling); 8 C.F.R. § 214.14(f)(1). The Supplement A was initially approved in 2017. The Director revoked the Supplement A, however, after concluding it was approved in error due to a discrepancy in the Derivative’s date of birth that rendered her ineligible to qualify as a family member of the Petitioner. *See* 8 C.F.R. § 214.14(h)(2)(i) (allowing for revocation on notice when approval of a petition is made in error). In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 101(a)(15)(U) of the Act provides U nonimmigrant classification to victims of certain criminal activity and their qualifying family members. Section 101(a)(15)(U)(ii)(II) of the Act (providing that, in the case of victims over the age of 21, qualifying family members include the victim’s spouse and children); 8 C.F.R. § 214.14(a)(10) (same). The term “child” is defined as “an unmarried person under [21] years of age.” Section 101(b)(1) of the Act. The age of a qualifying family member is determined as of the date the petitioner files the Supplement A. Section 214(p)(7)(A) of the Act, 8 U.S.C. § 1184(p)(7)(A). In acting on a Supplement A, any credible evidence relevant to the petition shall be considered. Section 214(p)(4) of the Act.

The Petitioner filed a Supplement A on behalf of the Derivative in March 2014 that listed her date of birth as [] 1995, making her 18 years old at the time of filing. Subsequent to the approval of the Supplement A, however, the Director discovered that the Derivative had in a separate matter claimed her date of birth was [] 1992, which would have made her 21 years of age, and therefore outside of the definition of child under section 101(b)(1) of the Act, at the time the Supplement A was filed. Noting this discrepancy, the Director sent the Petitioner a notice of intent to revoke the Supplement A and requested the Petitioner provide evidence establishing the Derivative’s true date of birth. In response the Petitioner and Derivative provided statements explaining the discrepancy, as well as copies of two passport biometrics pages and birth certificates showing both the 1992 and 1995

dates of birth. The Derivative noted in her statement, however, that she had not yet sorted out the discrepancy in her birthdate and was further pursuing the issue with the consulate. The Director determined the evidence submitted in response to the notice of intent to revoke was insufficient to resolve the discrepancy and on April 5, 2022, revoked the Supplement A.

On appeal, the Petitioner asserts that the Director's decision was erroneous and that she submitted sufficient evidence to overcome the grounds for revocation. The Petitioner admits, however, that she was unable to obtain additional evidence by the deadline provided in the notice of intent to revoke and states that she continued trying to correct her identification documents. In support of her appeal, she has submitted updated evidence to establish her claimed 1995 date of birth, including a corrected birth certificate issued on April 22, 2022, and a Guatemalan consular identification card issued May 3, 2022, both of which were acquired after the Director's decision.

The Petitioner has provided new evidence that the Director has not had the opportunity to review. As such, we will remand the matter to the Director to consider this evidence in the first instance, and further determine whether the Petitioner has established the Derivative is a qualifying family member.

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