



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

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

In Re: 27061971

Date: JUNE 26, 2023

Appeal of National Benefits Center Decision

Form I-690, Application for Waiver of Grounds of Inadmissibility Under Section 245A or 210 of the Act

The Applicant has requested to adjust his status to that of a lawful permanent resident child of a U.S. citizen under section 245(a) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(a). He filed the instant Form I-690 seeking a waiver of the vaccination requirement mandated by section 212(a)(1)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(1)(A)(ii). Only applicants for adjustment of status under section 245A of the Act, 8 U.S.C. § 1255a, or section 210 of the Act, 8 U.S.C. § 1160, (legalization applicants)¹ may use Form I-690 to seek a waiver of inadmissibility.

The Director of the National Benefits Center denied the Form I-690, concluding that the Applicant did not establish he had a pending legalization application under section 245A or 210 of the Act; rather, as the record indicated that the Applicant was seeking family-based adjustment of status under section 245(a) of the Act, his request for the vaccinations waiver fell within the purview of Form I-601, Application for Waiver of Grounds of Inadmissibility. The matter is now before us on appeal.

On appeal, the Applicant resubmits a copy of the filing receipt for his Form I-485, Application to Register Permanent Residence or Adjust Status, and asks us to accept it as evidence of his eligibility for a waiver of the vaccination requirement based on religious beliefs.

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.

Every form, benefit request, or other document must be submitted to U.S. Citizenship and Immigration Services (USCIS) and executed in accordance with the form instructions. 8 C.F.R. § 103.2(a). The Form I-690 instructions² provide in relevant part that legalization applicants file Form I-690 to request a waiver of inadmissibility. USCIS may grant such a waiver as a matter of discretion for humanitarian purposes, family unity, or in the public interest. See sections 245A(d)(2)(B)(i) and 210(c)(2)(B)(i) of

¹ Sections 245A and 210 of the Act were added by the Immigration Reform and Control Act (IRCA), 100 Stat. 3359, Pub. L. 99-603 (Nov. 16, 1986), to allow certain individuals who were in the United States unlawfully to legalize their status.

² See Instructions for Form I-690, <https://www.uscis.gov/i-690>.

the Act. Conversely, noncitizens who like the Applicant are seeking family-based adjustment of status under section 245(a) of the Act and are requesting an exemption to the vaccination requirement, must file Form I-601 to seek a waiver pursuant to section 212(g)(2)(C) of the Act.³ *See generally* 8 *USCIS Policy Manual* B.9(F), <https://www.uscis.gov/policy-manual> (providing that adjustment applicants who object to vaccines based on religious or moral convictions must file Form I-601).

Here, the Applicant has not established that he has a pending request for legalization under section 245A or 210 of the Act. As such, he is not eligible for a waiver of the vaccination requirement based on the instant Form I-690, and we must dismiss his appeal.

Our decision does not preclude the Applicant from filing a Form I-601 with appropriate fee and supporting documentation.⁴

ORDER: The appeal is dismissed.

³ *See* Instructions for Form I-601, <https://www.uscis.gov/i-601>.

⁴ USCIS records indicate that the Applicant's Form I-485 remains pending at this time.