



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

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

In Re: 21122208

Date: MAR. 28, 2022

Appeal of Vermont Service Center Decision

Form I-485, Application for Adjustment of Status of U Nonimmigrant

The Applicant seeks to become a lawful permanent resident (LPR) 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 Form I-485, Application for Adjustment of Status of U Nonimmigrant (U adjustment application), stating that the Applicant had not provided all required evidence to establish eligibility for adjustment of status. The matter is now before us on appeal. We review the questions in this matter de novo. See *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will remand to the Director for the issuance of a new decision.

## **I. LAW**

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. 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.” The validity period for a Form I-693, Report of Medical Examination and Vaccination Record (medical examination), submitted after November 1, 2018, is no more than 2 years after the date of the civil surgeon’s signature. See 8 USCIS Policy Manual B.4(C)(4) (providing, as guidance, the two-year validity period), <https://www.uscis.gov/policymanual>; see also Form I-693, Instructions for Report of Medical Examination and Vaccination Record (Jul. 15, 2019 ed.), at 1 (stating a properly and timely completed medical examination remains valid for two years from the date of the civil surgeon’s signature). The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## **II. ANALYSIS**

The record reflects that the Applicant, a native and citizen of Mexico, was granted U-3 status from May 2017 until May 2021, and timely filed the instant U adjustment application in June 2020. The

Director issued a request for evidence (RFE) explaining that the Applicant had not provided the required medical examination with her initial filing. In the decision denying the U adjustment application, dated October 2021, the Director acknowledged receipt of a medical examination submitted in response to the RFE. However, the Director explained that the medical examination was no longer valid because it was completed and signed by a civil surgeon on June 9, 2020 and submitted to the agency on August 30, 2021, more than one year after it was signed. On appeal, the Applicant asserts that the U adjustment application was denied in error because medical examinations are valid for two years. We agree with the Applicant.

As described above, medical examinations submitted after November 1, 2018 remain valid for two years from the date of the civil surgeon's signature. The Applicant provided a medical examination signed on June 9, 2020. Based on the aforementioned guidance, the medical examination was valid at the time of adjudication, in October 2021. We will therefore remand the matter to the Director to redetermine whether the Applicant has satisfied the eligibility requirements to adjust her status to that of an LPR under section 245(m) of the Act.

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