



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

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

In Re: 27062546

Date: JUNE 1, 2023

Appeal of Vermont Service Center Decision

Form I-485, Application to Adjust 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-3” 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. This office reviews 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 the matter to the Director for the issuance of a new decision.

U.S. Citizenship and Immigration Services (USCIS) may adjust the status of a U nonimmigrant to that of an LPR if they meet all other eligibility requirements and, “in the opinion” of USCIS, their “continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.” Section 245(m) of the Act. 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.” An applicant must establish that he or she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

The Applicant is a citizen of Peru who was granted U-3 status from June 12, 2017 to June 11, 2021, based on her family member’s victimization and assistance to law enforcement. The Applicant filed her adjustment application in July 2020. In November 2022, the Director denied the Applicant’s U adjustment application, determining that the Applicant had not complied with the medical examination requirement as detailed in 8 C.F.R. § 245.5 because the record did not establish that “all age specific immunizations are current or that you have received a waiver.”

On appeal, the Applicant submits a January 25, 2023 affidavit contesting the Director’s determination that she did not comply with the medical examination requirement. The Applicant also submits a January 2023 medical examination. We also acknowledge receipt of supplement documentation pertaining to discretion, including but not limited to a March 20, 2023 affidavit from the Applicant;

documentation pertaining to her minor son's entry to the United States in March 2023; evidence of the Applicant's U.S. citizen son, born in [ ] 2020; letters in support of the Applicant from her life partner, her life partner's parents, her employer, and her pastor; and documentation establishing that her U.S. citizen son is being evaluated for early intervention services.

Because the evidence on appeal is directly relevant to the Director's ground for denial of the Applicant's waiver application, we will remand the matter to the Director to consider this evidence in the first instance, and further determine whether the Applicant has established that she merits approval of her U adjustment application.

**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.