



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

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

In Re: 6481938

Date: JUNE 2, 2020

Appeal of Vermont Service Center Decision

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

The Applicant seeks to become a lawful permanent resident 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 to Register Permanent Residence or Adjust Status (U adjustment application), and the matter is now before us on appeal. Upon *de novo* review, we will remand the matter to the Director.

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. In addition, every benefit request submitted to U.S. Citizenship and Immigration Services (USCIS) must be executed and filed in accordance with the form’s instructions, which are incorporated into the regulations requiring its submission. 8 C.F.R. § 103.2(a)(1). As relevant here, the instructions for Form I-485 require all applicants for adjustment of status to submit a copy of their birth certificate issued by the appropriate civil authority, or proof of its unavailability or nonexistence and acceptable alternative evidence of birth. *Instructions for Application to Register Permanent Residence or Adjust Status* (Dec. 13, 2017 ed.), at 9.

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 Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

II. ANALYSIS

The Applicant, a native and citizen of Mexico, was granted U-1 status from October 2014 until September 2018, and timely filed the instant U adjustment application in March 2018. The Director denied the application, determining that the Applicant had not complied with 8 C.F.R. § 103.2(a)(1) and applicable form instructions, because the date of birth contained in the birth certificate she submitted was not legible.

On appeal, the Applicant provides a copy of her Mexican birth certificate that was issued in March 2019. She further submits a written statement explaining that the copy of her birth certificate that she previously submitted was the only copy she had ever had, but that her sister in Mexico has since been able to assist her in obtaining a new copy.

The record reflects that the Applicant 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 Applicant has satisfied the remaining 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.