



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

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

In Re: 31068017

Date: APR. 08, 2024

Appeal of Vermont Service Center Decision

Form I-485, Application to Register Permanent Residence or Adjust Status

The Applicant seeks to become a lawful permanent resident (LPR) based on her “U-3” nonimmigrant status as the child of 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-495, Application to Register Permanent Residence or Adjust Status (adjustment application), concluding that the record did not establish that the Applicant had not submitted proof of receipt of all required vaccinations. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Applicants seeking to become LPRs must file an adjustment application. If an adjustment applicant is subject to a ground of inadmissibility, they must also file form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application). Section 212(a)(1)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(1)(A)(ii), makes a noncitizen inadmissible to the United States if, among other bases, they fail to present documentation of having received certain vaccinations. U.S. Citizenship and Immigration Services (USCIS) began requiring the COVID-19 vaccine series for all applicants subject to the immigration medical examination who submit a Form I-693, Report of Medical Examination and Vaccination Record (vaccination form), signed by a civil surgeon on or after October 1, 2021. The Centers for Disease Control and Prevention (CDC) released a May 2023 update to the Vaccination Technical Instructions for Civil Surgeons, requiring applicants subject to the immigration medical examination to have received at least one dose of the COVID-19 vaccine if a dose is due at the time of the exam according to current CDC guidance.

Section 212(g)(2) of the Act provides for a waiver of this ground of inadmissibility in certain circumstances, including when the requirement of a vaccination would be contrary to the noncitizen's religious beliefs or moral convictions. USCIS guidance provides that a noncitizen who is inadmissible under section 212(a)(1)(A)(ii) of the Act and seeks a waiver of inadmissibility under section 212(g)(2)(C) of the Act must demonstrate the following criteria for the waiver to be approved: (1) they are opposed to vaccinations in any form; (2) the objection is based on religious belief or moral convictions; and (3) the religious belief or moral conviction is sincere. *See 9 USCIS Policy Manual D.3(E)(2)*, <https://www.uscis.gov/policymanual> (providing guidance on the three criteria listed above). The fact that an applicant has received certain vaccinations but not others is not automatic grounds for denial of a waiver given that religious beliefs or moral convictions may have changed substantially since the date a particular vaccination was administered. *Id.* However, applicants must still demonstrate that they oppose vaccinations in all forms and cannot pick and choose among different vaccinations. *Id.*

II. ANALYSIS

The Applicant submitted a vaccination form concurrently with her adjustment application. The civil surgeon completing the vaccination form noted that all required vaccinations had been completed in either 2019 or 2020, with the exception of the COVID-19 vaccine. The civil surgeon noted that the Applicant presented a “letter from a religious institution” and would apply for a religious waiver of this vaccination.

During review of the waiver application, the Director issued a request for evidence (RFE) to the Applicant, indicating that additional evidence was required because she was requesting an exemption from the vaccination requirement. The Director instructed the Applicant to provide a “self-affidavit explaining whether you are opposed to vaccinations in any form,” to explain whether the objection was based on religious beliefs or moral convictions, and to indicate whether the belief or conviction was sincere. The Director noted that additional evidence could be submitted, such as a “letter confirming you are a member of a certain religious institution or affidavits from those with first-hand knowledge of your beliefs and convictions regarding vaccinations.”

In response to the RFE, the Applicant submitted an affidavit indicating that she had received all other required vaccinations but had not received the COVID-19 vaccination due to her trust in God; she indicated she had been an Evangelical Christian since 2008. She noted she feared having a negative reaction to the COVID-19 vaccine and believed God would deliver her from the disease. She submitted affidavits from pastors and other congregants confirming her church attendance.

The Director denied the adjustment application, noting that the Applicant’s statement did not indicate that she opposed vaccination in all its forms. It also noted that, while she feared an adverse reaction to the vaccine, she had not stated that her objection was based on religious or moral convictions. The Director also noted that the supporting affidavits provided did not indicate whether vaccination for COVID-19 ran contrary to church beliefs. As a result, the evidence was not sufficient to show that the vaccination requirement could be waived due to religious beliefs or moral convictions. The Director concluded that a properly completed vaccination form had not been provided and denied the adjustment application.

On appeal, the Applicant contends that the COVID-19 vaccination “poses a direct threat to my religious and moral obligations and adherence as an Evangelical Christian.” The Applicant argues that the vaccine constitutes indirect engagement and participation in abortion due to the use of “fetal cell lines” in the production and development process for the vaccine. She cites lines from scripture to support this contention.

The Applicant did not provide these details of her religious objections to the Director, and the Director did not have the opportunity to consider this evidence. In addition, as outlined above, failure to present documentation of receipt of certain vaccinations results in a ground of inadmissibility. Individuals with moral objections to vaccinations may seek a waiver of the inadmissibility by filing a waiver application. Although the Director’s RFE outlined the instructions for a waiver of the vaccination requirement, the Director did not instruct the Applicant to file a waiver application. *See 9 USCIS Policy Manual D.3(E)(1)*, <https://www.uscis.gov/policymanual> (instructing USCIS to issue an RFE where an applicant has indicated opposition to a vaccination, including a request for necessary information and the filing of a waiver application).¹ Our review of the file does not show that a waiver application has been filed.

III. CONCLUSION

The Applicant has provided additional information on appeal to explain her religious objection to the COVID-19 vaccine. Initial review of these arguments is properly before the Director. As this objection constitutes a request for waiver of inadmissibility, the Applicant should file the waiver application for the Director’s consideration.

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

¹ Although not all vaccination waivers require the filing of a waiver application, there is no indication that the Applicant qualifies for a blanket waiver of this vaccination. The policy manual clarifies that the “waiver on account of religious or moral objection must be filed on the appropriate form and accompanied by the correct fee.”