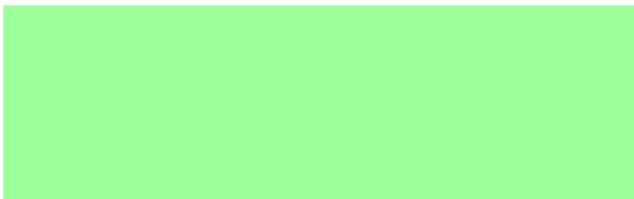




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **AUG 18 2014** Office: VERMONT SERVICE CENTER FILE:

IN RE: APPLICANT:

APPLICATION: Application to Adjust Status (Form I-485) for an Alien in U Nonimmigrant Status Pursuant to Section 245(m)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1255(m)(1)

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the Application to Register Permanent Residence or Adjust Status (Form I-485) and the Administrative Appeals Office (AAO) dismissed a subsequent appeal, a decision it affirmed on motion to reconsider. The matter is again before the AAO on a second motion to reopen. The motion will be granted. The prior decisions dismissing the appeal shall be withdrawn and the underlying application remanded for entry of a new decision.

The applicant, who was granted U-1 nonimmigrant status, seeks to adjust her status under section 245(m)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m)(1). The director denied the Form I-485, because the applicant failed to submit a Report of Medical Examination and Vaccination Record (Form I-693), as required by the regulation at 8 C.F.R. § 245.5. The applicant, through counsel, timely filed an appeal which we summarily dismissed because the applicant did not identify specifically any erroneous conclusion of law or statement of fact for the appeal. The applicant, through counsel, timely filed a motion to reconsider. We granted the motion but ultimately affirmed the director's decision because the applicant failed to submit a medical examination report.

The applicant has met the requirements for a motion to reopen at 8 C.F.R. § 103.5(a). In this motion, counsel states that before we adjudicated the prior motion to reconsider, the applicant submitted a medical examination report with a second Form I-485. As the applicant, through counsel, has submitted new facts supported by documentary evidence, the motion to reopen will be granted.

As the applicable law, facts and procedural history were adequately documented in our dismissals of the appeal and the applicant's motion to reconsider, they shall not be repeated here. We conduct appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review, we shall remand the matter to the director, as the record now contains the required Form I-693.¹

ORDER: The motion is granted. The AAO's prior decisions, dated February 14, 2013 and October 15, 2013, are withdrawn and the matter remanded to the director for entry of a decision on the Form I-485.

¹ The applicant filed a second Form I-485 on September 23, 2013, receipt number [REDACTED] which remains pending.