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U.S. Citizenship  
and Immigration  
Services

H2

FILE:

Office: NEWARK, NJ

Date: MAY 15 2007

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Newark, New Jersey and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a citizen of Jamaica. She entered the United States on August 13, 1999 with a B-2 visa valid until February 12, 2000. *Form I-94*. There is nothing in the record to show that the applicant has departed the United States. On December 15, 2003 the [REDACTED] filed an Immigrant Petition for Alien Worker (Form I-140) on behalf of the applicant. On that same date, the applicant submitted an Application to Register Permanent Resident or Adjust Status (Form I-485). On September 28, 2004 the Director of the Vermont Service Center approved the Form I-140. On February 4, 2005 the Director denied the Form I-485 for failure to overcome the grounds of inadmissibility in accordance with 8 C.F.R. § 212.15 as the applicant did not provide the required health care certificate and under Section 245(k) of the Immigration and Nationality Act (Act) for being out of lawful status and being unlawfully employed for more than 180 days. *Decision of the Director*, dated February 4, 2005. The Director properly advised the applicant that there is no appeal of a denial based on an applicant's failure to submit the health certification identified in Section 212(a)(5)(C) of the Act. *Id.* On March 7, 2005 the applicant filed a Motion to Reopen and a Form I-601 waiver of inadmissibility. On June 9, 2005 the Director dismissed the Motion to Reopen and transferred the Form I-601 waiver to the New York District Office which forwarded the case to the Newark District office. *Decision of the Director*, dated June 9, 2005. On July 5, 2005 the District Director of the Newark District office denied the Form I-601 for failure to provide the health care certificate as required by Section 212(a)(5)(C) of the Act. *Decision of the District Director*, dated July 5, 2005. The District Director stated that the applicant had a right to appeal this decision to the AAO. *Id.*

Section 8 C.F.R. § 212.7 provides the grounds of inadmissibility eligible for a waiver

Section 8 C.F.R. § 212.7 in pertinent part states:

(a)(1)(ii) *Adjustment of status applicant.* An applicant for adjustment of status who is excludable and seeks a waiver under section 212(h) or (i) of the Act shall file an application on Form I-601 with the director or immigration judge considering the application for adjustment of status.

(b) *Section 212(g) (tuberculosis and certain mental conditions)—(1) General.* Any alien who is ineligible for a visa and is excluded from admission into the United States under section 212(a)(1), (3), or (6) of the Act may file an Application for Waiver of Grounds of Excludability (Form I-601) under section 212(g) of the Act at an office designated in paragraph (2). The family member specified in section 212(g) of the Act may file the waiver for the applicant if the applicant is incompetent to file the waiver personally.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO has the authority to adjudicate Form I-601 appeals, therefore it has jurisdiction over the Form I-601 appeal filed in this case. As Section 212(a)(5)(C) of the Act is not a ground of inadmissibility for which a

Form I-601 waiver is provided, the applicant incorrectly filed a Form I-601. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.