



Office of Communications

U.S. Citizenship
and Immigration
Services

Fact Sheet

April 21, 2008

USCIS ISSUES GUIDANCE FOR APPROVED VIOLENCE AGAINST WOMEN ACT (VAWA) SELF-PETITIONERS

U.S. Citizenship and Immigration Services (USCIS) recently provided guidance to USCIS adjudicators for adjudicating *Adjustment of Status* (Form I-485) applications filed by Violence Against Women Act (VAWA) self-petitioners who are present in the United States without having been inspected and admitted or paroled. The guidance [memo](#) was issued on April 11, 2008 and can be found on USCIS' website at www.uscis.gov.

The Violence Against Women Act (VAWA) allows battered immigrants to petition for legal status in the United States without relying on abusive U.S. citizen or legal permanent resident spouses, parents or children to sponsor their *Adjustment of Status (Form I-485)* applications. For many immigrant victims of domestic violence, battery and extreme cruelty, the U.S. citizen or lawful permanent resident family members who would sponsor their applications will threaten to withhold legal immigration sponsorship as a tool of abuse. The purpose of the VAWA program is to allow victims the opportunity to "self-petition" or independently seek legal immigration status in the U.S. Victims of domestic violence, battery and extreme cruelty whose *Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360)* self-petitions are approved may file *Adjustment of Status (Form I-485)* applications directly (self-petition). Once a *Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360)* VAWA self-petition is approved, the immigrant victim may file an *Adjustment of Status (Form I-485)* application to become a lawful permanent resident (green card holder) directly.

The guidance issued on April 11, 2008, applies to an *Adjustment of Status (Form I-485)* application for an approved VAWA self-petitioner who entered the United States without having been inspected and admitted or paroled. The April 11, 2008 USCIS guidance provides that the *Adjustment of Status (Form I-485)* application for an approved VAWA self-petitioner will not be determined to be ineligible for adjustment of status where he or she entered the United States without inspection and admission or parole. In addition, the VAWA self-petitioner will not need to show that his or her illegal entry into the United States had a substantial connection to the domestic violence, battery or extreme cruelty.

The April 11, 2008 USCIS guidance allows an approved VAWA self-petitioner whose denied *Adjustment of Status (Form I-485)* application was filed on or after January 14, 1998 to file a *Motion to Reopen or Reconsider (Form I-290B)* if the only reason for the denial was his or her illegal entry into the U.S. Individuals who believe they are eligible to file, *Motions to Reopen or Reconsider (Form I-290B)* their denied *Adjustment of Status (Form I-485)* applications will not be charged a filing fee.

Background

As a general rule, an alien seeking adjustment of status under section 245(a) of the Immigration and Nationality Act ("the Act") must have been inspected at a port-of-entry and either admitted or paroled into the United States and be admissible as an immigrant.

In October 2000, section 245(a) of the Act was amended so that the “inspection and admission or parole” requirement does not apply to an alien who is seeking adjustment of status as an approved VAWA self-petitioner.

In the field guidance issued this week, USCIS interprets the introductory text in section 245(a) of the Act as effectively waiving inadmissibility under section 212(a)(6)(A)(i) (present without inspection) of the Act for any alien who is the beneficiary of an approved VAWA self-petition.

Who May File a *Motion to Reopen or Reconsider (Form I-290B)* a denied *Adjustment of Status (Form I-485)* application?

A VAWA self-petitioner, whose *Adjustment of Status (Form I-485)* application was filed **on or after January 14, 1998 and denied solely** because the VAWA self-petitioner was inadmissible due to an illegal entry into the U.S. may file a *Motion to Reopen or Reconsider (Form I-290B)*. To be eligible to file, the *Adjustment of Status* denial must find that the applicant was found inadmissible under INA section 212(a)(6)(A)(i). Applicants who believe they are eligible to file *Motions to Reopen or Reconsider (Form I-290B)* should file with their local USCIS Field Office. If the *Adjustment of Status (Form I-485)* application was denied solely because the VAWA self-petitioner was inadmissible under section 212(a)(6)(A)(i) (present without inspection) no filing fee will be charged for the *Motion to Reopen or Reconsider (Form I-290B)*.