

**Towards Healthier Workers:
A focus on access to health care and prevention of work related health issues for migrant
agricultural workers in Ontario**

March 29, 2012

Background Information

Approximately 18,000 of the 30,000 migrant workers who come to Canada each year to work in the agriculture sector come to Ontario.

The workers are employed through Canada's (HRDSC) Temporary Foreign Worker Program mainly via two streams: The Seasonal Agricultural Workers Program (SAWP) and the "Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D)" or "Low Skill Pilot Project" (LSPP) and a companion program, the "Agriculture-Stream NOC C&D Pilot". All programs require a contract between the foreign worker and the employer. Workers come from 6 weeks up to eight months in the SAWP and up to four years in the LSPP. Many SAWP workers return to the same communities year after year, some for as many as 25 or 30 years.

The country of origin and length of contract vary according to the specific program. (see Table 1 for some comparisons across programs). The workers are commonly referred to as Migrant Farm Workers (MFWs) or Temporary Foreign Workers (TFWs).

Workers are all covered by provincial worker compensation programs (WSIB in Ontario) and under the Ontario Occupational Health and Safety Act, as any other agricultural worker would be. Employers must provide MFWs or TFWs with instruction on workplace hazards and provide them with protective equipment as needed.

Wage rates are set annually by HRDSC based on Labour Market Information for persons doing the same job (SAWP) whereas under the NOC C and D program, employers must satisfy HRSDC that wages are at the prevailing rate for persons doing the same job (i.e. what a Canadian or permanent resident would be paid). Typically this is minimum wage. The Ontario Employment Standards Act has specific designations for agricultural workers (they do not differentiate between migrant foreign workers and permanent residents). Specifically, the following minimum standards do not apply to agriculture workers: hours of work and eating periods (i.e. rules about the maximum hours of work per day and per week, daily and weekly rest periods and eating periods don't apply), overtime pay, vacation with pay. Those designated as "harvesters" are eligible for public holiday pay after 13 weeks of employment.

Health care coverage and the provision of housing also varies by program (see Table 2 for this information)

Table 1. Comparison of Canada's Temporary Migration Programs for Agriculture.

| | SAWP | NOC C&D Pilot | Agriculture-Stream NOC C&D Pilot |
|--|--|--|--|
| Year implemented | 1966 | 2002 | 2011 |
| Confirmed positions in 2010 | 27 359 | 9,748 in agrifood industries | 709 |
| Work permit type | Employer specific | Employer specific | Employer specific |
| Work permit length | ≤ 8 months | ≤ 24 months | ≤ 24 months |
| Forced rotation | Migrants must return home by 15 December, can return by 1 January | After accumulating 4 years of employment, migrants must return home for 4 years | After accumulating 4 years of employment, migrants must return home for 4 years |
| Employment contract | Standard contracts; Canada, sending country, employer and worker are parties | Employers write contracts according to guidelines; employer and worker are parties | Standard contract, employer and worker are parties |
| Program structure | Federal program resting on bilateral agreements signed between Canada and sending countries formalized in memoranda of understanding | Federal program that approves employers to hire workers from abroad | Federal program that approves employers to hire workers from abroad |
| Countries eligible | Mexico, Jamaica, Trinidad and Tobago, Barbados, and the Organization of Eastern Caribbean States (nine members) | Any country | Any country |
| Employers eligible | Fruits, vegetables (incl. canning and processing), green-houses, nurseries, apiary products, Christmas trees, flowers, pedigreed canola seed, sod, tobacco, bovine, dairy, duck, horse, mink, poultry, and sheep | Any approved employer requiring workers in occupations designated as low skilled | Fruits, vegetables (incl. canning and processing), green-houses, nurseries, apiary products, Christmas trees, flowers, pedigreed canola seed, sod, tobacco, bovine, dairy, duck, horse, mink, poultry, and sheep |
| Worker recruitment | Government responsibility: sending countries fill grower requests communicated by authorized private-sector organizations | Employer responsibility: employers contact workers independently (often through brokers) | Employer responsibility: employers contact workers independently (often through brokers) |
| Program costs employers can recover from wages | Portion of return airfare (except BC); rent for housing (BC only) | | Rent for housing (\$30 per month) |

Sources: Human Resources and Skills Development Canada, 2010, 2011a, 2011b, 2011c; Foreign Agricultural Resource Management Services, 2011.

Table 2: Health care and other benefits for Agricultural Migrant Workers

| Program | Seasonal Agricultural Worker Program (SAWP) | Temporary Foreign Worker Program (TFWP/ LSSP) |
|--------------------------------|---|--|
| OHIP | OHIP coverage right away <ul style="list-style-type: none"> • Some may not have their cards or number • Farmers responsibility to register them • Cards only valid until the end of each yr | 3 month waiting period <ul style="list-style-type: none"> • Should have private insurance arranged through employer for this waiting period • Employer cannot charge worker for this |
| Supplementary Health Benefits* | Mexican Workers <ul style="list-style-type: none"> • Great West Life Coverage • Worker pays and submits receipts • Some local pharmacies will submit Rx expenses for workers • Will cover some aids e.g. brace | None that we know of |
| | Caribbean Workers <ul style="list-style-type: none"> • Government Health Insurance • Worker submits expenses to Liaison office | |
| Living Arrangements** | Employers provide suitable accommodations that have been approved by inspection; housing provided free - charge for utilities. | Employers provide suitable accommodations that have been approved by inspection; cost of \$30 / week; worker can independently seek other accommodation at any time. |
| WSIB | Covered immediately Specific policy (12-04-08) – coverage includes : <ul style="list-style-type: none"> • during periods of leisure, meals, sleeping while at their place of employment/ living (e.g. cut while making dinner, fall in bunkhouse, communicable disease) • transportation to & from employer’s premises (from airport, using transportation provided by employer, or following a direct and uninterrupted route to and from employer’s premises). | |
| Pension | Eligible for pension benefits at the age of 65. Canada has international social security agreements with many countries, including Mexico and a number of Caribbean countries. | Should be eligible for pension benefits but not sure about whether agreements exist. |

*Best to check specific insurance info – some workers have them or check with consulate.

Information sources

Seasonal Agricultural Worker Program (SAWP)

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/ei_tfw/sawp_tfw.shtml

Temporary Foreign Worker Program

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/Agricultural/directives.shtml

[SAWP vs NOC C & D \(Low Skill Agriculture\) Comparison](#)

<http://www.farmsontario.ca/lowskill.php>

Statistics regarding Temporary Foreign Workers – labour market opinion statistics

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/stats/annual/table10a.shtml

<http://www.cic.gc.ca/english/resources/statistics/facts2010/temporary/06.asp>

Stats – TFW Program (NOC and D)

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/stats/annual/table4a.shtml#ON

Employment Standards Act and Agricultural Workers – Ministry of Labour

http://www.labour.gov.on.ca/english/es/pubs/factsheets/fs_agri.php

Foreign Agricultural Resource Management Services

<http://www.farmsontario.ca/>

Seasonal Farm Worker Housing Guidelines **

http://www.farmsontario.ca/pdf/MOH_Rec.pdf

Ministry of Labour – www.labour@ontario.ca

Workplace Safety and Insurance Board - <http://www.wsib.on.ca/en/community/WSIB>

Pysklywec, M., McLaughlin, J., Tew, M., Haines, T. (2011). Doctors within borders: meeting the health care needs of migrant farm workers in Canada. *CMAJ* DOI:10:1503/cmaj.091404

Preibisch, K. (2012). Migrant Workers and Changing Work-place Regimes in Contemporary Agricultural Production in Canada. *Int Jnl Of Soc of Agr & Food*. 19 (1) 62-82.