

OCASI Submission

Immigration, Refugees and Citizenship Canada Consultation on the Caregiver Pilot Programs

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Advocacy for change
Plaidoyer pour un changement
1978 - 2018

Introduction

OCASI - Ontario Council of Agencies Serving Immigrants is a council of autonomous immigrant and refugee-serving organizations in Ontario and the collective voice of the immigrant and refugee-serving sector in the province. Formed in 1978, OCASI has 220 member organizations across the province of Ontario. OCASI's mission is to achieve equality, access and full participation for immigrants and refugees in every aspect of Canadian life. OCASI Member Agencies across Ontario have provided a wide range of services to caregivers for many years.

OCASI welcomes Immigration, Refugee and Citizenship Canada (IRCC) consultations on Caregiver Pilot Programs. It is an opportunity to address the many long-standing concerns that caregivers themselves, and OCASI and other civil society organizations have put forward over the years, centered primarily on the inherent vulnerability of the workers.

Background

Racialized migrant women overwhelmingly represent the caregivers who enter Canada through the present Caregiver Program (CP) and the previous Live-in Caregiver Program (LCP). The power imbalance between caregivers and their employers vastly favours employers, which in turn increases caregivers' risk of employer abuse including physical, emotional and sexual violence.

The 2014 changes to the LCP have not done much to address caregivers' risk of gender-based violence by their employers. While the removal of the mandatory live-in requirement seemingly mitigated some of the risks, caregivers continue to be vulnerable to employer abuse and exploitation arising primarily from their precarious immigration status.

As OCASI and other civil society partners pointed out in a joint submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW), many caregivers are unable to pursue a live-out option for financial reasons. They are paid minimum wage, and in many cases are unable to afford to live independently. Further, since the caregiver's employment and immigration status is tied to one employer, it leaves them open to pressure to live in the employer's home or risk losing their status. Tying the caregiver's status to one employer creates a situation that promotes gender-based violence, as caregivers would fear losing their status and deportation if they speak out on any abuse they suffer at the hands of their employer.¹

The 2014 changes introduced two streams for the program, and a mandatory cap of 2,750 spaces for permanent residency for each stream. Thus the present Caregiver program no longer has a certainty of permanent residency. The number of caregivers working in Canada is far in excess of the annual cap, which leaves many caregivers in uncertainty and in limbo, and at risk of becoming out-of-status. There is a strong possibility of adding to the already high number of people with precarious immigration status.

¹ http://ocasi.org/sites/default/files/CEDAW_Submission_Oct_2016_COPC_MTCSALC_OCASI_SALCO_0.pdf

The 2014 changes introduced new language requirements of Canadian Language Benchmark (CLB) 7 for most applicants in the High Medical Needs stream, and CLB 5 for applicants in the Childcare stream. Caregivers have pointed out this is inherently unfair since they are required to meet only CLB 3 to work as caregivers in Canada, and require only CLB 4 to apply for Canadian Citizenship.

There is a new requirement to show one year of Canadian post-secondary education. This is often difficult to meet for many caregivers for several reasons, including time, cost (caregivers are charged foreign student fees which are much higher than domestic fees), and access to training. Caregivers who arrived with post-secondary education too face the well-documented barriers that most immigrants face in gaining recognition of their educational and professional credentials.

The changes have introduced numerous new barriers to permanent residence, and this is borne out by approval numbers. Between November 2014 and February 2018 permanent residence was granted to only 1,955 caregivers and dependents. In comparison, approximately 10,740 caregivers and dependents were granted permanent resident every year between 2006 and 2014.²

OCASI also remains deeply concerned about caregivers who arrived under the previous Live-in Caregiver program and have been living and working here with precarious immigration status for many years – in some cases for several decades. In this number are many caregivers, disproportionately racialized women, who were denied permanent resident status or were unable to meet the requirements for reasons beyond their control, often because of employer abuse and exploitation. Unable to reunite with family members, some are alone and now face poor health related to aging, poverty and other factors.

Prior to the announcement of this consultation, Immigration, Refugees and Citizenship Minister Ahmed Hussen said, “There is and always will be a pathway to permanent residency for caregivers under our government. Our government will not be shutting down opportunities for caregivers to become permanent residents.”

OCASI welcomes the Minister’s statement. We believe that workers who sacrifice so much to come here and do the difficult work of taking care of children, elderly and other residents must not only be treated with dignity and have their rights as workers respected, but must have the assurance of permanent residence from the day of arrival.

Recommendations

1. Grant permanent residence status to live-in caregivers upon arrival in Canada.

Permanent resident status will eliminate much of the vulnerability to exploitation and abuse that caregivers face from employers and recruiters. It will allow them to start to build a new life for themselves and their families more quickly.

² http://www.migrantworkersalliance.org/wp-content/uploads/2018/04/Caregiver-Reform-Submissions_March2018-1.pdf

The following are recommendations for applicants under the current program, while transitioning to a program that grants permanent residence on arrival:

2. Allow caregivers to work for any employer and not tie their status to one employer.

Caregivers should be allowed an open work permit. This will give caregivers with an abusive employer the ability to leave and pursue other work opportunities without jeopardizing their immigration status.

3. Remove the language requirement in the current program

Remove the present language requirement as a condition of permanent residence. The language requirements that are good enough to allow caregivers to work here should be good enough to let them continue to work as permanent residents.

3. Remove the post-secondary requirement in the current program

Live-in Caregiver Program (LCP) eliminated the skills upgrading requirement that was in place under the previous Foreign Domestic Worker Program (FDWP). The FDWP required caregivers to show they have taken courses to upgrade education and skills while working in Canada. This was eliminated in the LCP in recognition of the fact that it was impossible for caregivers to meet the requirement while working full-time as caregivers.

4. Remove the permanent residence application caps for each current caregiver stream

The caps have exerted enormous pressure on caregivers to remain with an abusive employer, for fear of losing work hours and falling back in the completion of requirements for permanent residence.

5. Remove excessive demand provisions in the Immigration and Refugee Protection Act

The provision results in the denial of permanent residence for the applicant and entire family if any member of the family has a disability or chronic illness. The Standing Committee on Citizenship and Immigration in 2017 recommended repeal of this provision.

6. Regularize immigration status for caregivers with precarious immigration status

There is an urgent need for a regularization program for those caregivers who have not been able to gain permanent residence status over the years. Some have worked here for decades in a situation of precarious immigration status.