

# QUESTIONS FOR CIC

## Mr. Matthew GRAHAM

### **SECTION 1: Work permit**

1. When a live-in caregiver loses her job in 2015, she must find a new position under the new rules. Can she work until she finds a new job as a caregiver in order to provide for her needs, i.e. get an open work permit and work apart from a job as a caregiver during this “transfer period”?

If a live-in caregiver under the Live-in Caregiver Program (LCP)\* loses or chooses to leave their job, they may apply for a new work permit. The requirements for the new work permits have not changed - they will typically require a new Labour Market Impact Assessment (LMIA). Once this work permit is obtained, the caregiver can begin to work again. Should the work permit obtained be based on an LMIA that specifies live-in, and the caregiver does live in their employer's home for the period of work, the work experience obtained under this work permit may be used towards meeting the LCP permanent residence requirements; under the grandfathered LCP, and the program requirements remain the same.

Should the caregiver have obtained a new work permit that was based on an LMIA but did not specify live-in, this work experience would not be eligible under the LCP. However, should this work experience be in one of the eligible occupations under the new caregiver classes, the Caring for Children or Caring for People with High Medical Needs, they may use it to meet the work experience requirements of these classes. Additionally, if in the future, the caregiver obtains a new work permit that was based on an LMIA that specifies live-in, the work experience obtained under this new work permit could be used to accumulate the two years of work experience required under the LCP. Again, the program requirements under the LCP remain the same.

In order to be eligible for an open work permit, the caregiver must have met the program requirement under the LCP including the two years of work experience and applied for permanent residence. Therefore, an open work permit could not be used to accumulate the two years of work experience required under the LCP.

\*The live-in caregiver entered Canada with a work permit that was based on a LMIA that was requested by their employer on or before November 30, 2014,

2. If yes, what are the conditions?

N/A

## **SECTION 2: Permanent residence**

3. How did the government choose this number of 2750?

The caps for the Caring for Children program and the Caring for People with High Medical Needs program reflects the maximum allowable under the authority for Ministerial Instruction programs under the Immigration and Refugee Protection Act (IRPA) 14.1(2):

Despite any instruction given by the minister under paragraph 87.3(3)(c), no more than 2,750 applications in a class established under paragraph 14.1(1) may be processed in a year.

The cap of 2,750 was originally written into IRPA for Ministerial Instruction programs in 2012 as that was deemed to be an ideal maximum that would allow the department to quickly design and launch economic programs to take advantage of immediate or emerging economic opportunities.

The number of applications reflects the number of principal applicants. Accompanying family members (spouses plus dependent children) are in addition to this number.

4. Is CIC going to adapt the number of work permit delivered to this number? i.e., will there be a harmonization since currently there are more work permits delivered compared to permanent residence visas?

No, the number of work permits issued will not be harmonized with the number of applications accepted under the Caring for Children and Caring for People with High Medical Needs classes. Those caregivers who are not eligible under the LCP\* would typically be considered 'regular' temporary foreign workers; Immigration, Refugees and Citizenship Canada (IRCC) does not place limits on Temporary Foreign Worker Program (TFWP) work permits to align with permanent resident programs intake. Similar to the Canadian Experience Class, caregivers who are temporary foreign workers who have obtained the necessary Canadian work experience may choose to apply for permanent residence.

\*The caregivers initial work permit is based on an LMIA that was requested by their employer to Service Canada after November 30, 2014.

5. Assuming that a caregiver is waiting for her PR and her work permit has expired, can she get an open work permit? Can she still maintain her status under the live-in caregiver program?

If the individual has submitted their application for permanent residence under the LCP and resides in Canada and has completed their two year work experience requirement,

they can be issued an open permit under the LMIA exemption under R205a. These open work permits are issued to individuals in the Live-in Caregiver Program. The intention of this provision is to reduce the impacts of processing delays on the applicants' labour market integration.

6. Can a caregiver ask for an open work permit under the new program?

Similar to other federal permanent resident economic immigration programs such as the Canadian Experience Class or the Federal Skilled Worker Program, caregivers who intend to reside outside of Quebec and apply for the Caring for Children pathway or the Caring for People with High Medical Needs pathway are eligible for a bridging open work permit once they have received confirmation from IRCC that their application is complete and eligible for processing and if their current work permit will expire within four months.

Further, IRCC has committed to six-month processing for the majority of applications for permanent residence under the two caregiver pathways thereby reducing the impact of processing delays that have occurred under the LCP.

7. At the end of the 4 years (duration cumulative cap), can a caregiver who applied for a PR remain in Canada whereas her application is in process?

Similar to the LCP, under the two pathways, caregivers have up to four years to obtain the two-years of full-time work experience in Canada in an eligible caregiving occupation. Once this work experience is obtained and if the applicant meets the other program requirements and intends to reside outside of Quebec, they can submit their application for permanent residence. The majority of these applications will be processed within six-months, as committed by IRCC.

In addition, the applicant may be eligible for a bridging open work permit once they have received confirmation from IRCC that their application is complete and eligible for processing and if their current work permit will expire within four months. There is no cap on the issuance of bridging open work permits. Once an applicant has obtained a bridging open work permit, they are no longer subject to the cumulative duration cap.

8. When is a caregiver “eligible for processing” regarding the requirements to ask for an open work permit?

In order to be eligible for a bridging open work permit, caregivers who intend to reside outside of Quebec and apply under one two new permanent resident pathways must have received confirmation from IRCC that their application is complete and eligible for processing and that their current work permit will expire within four months.

9. When does a caregiver know if she is in the caps or not?

As new classes, intake under both the Caring for Children pathway and the Caring for People with High Medical Needs pathway has been relatively low since launching on November 30, 2014. IRCC consistently monitors intake volumes for these programs and will update the IRCC website once volumes are significant enough to merit reporting against the caps.

10. At what moment will the caregiver receive her open work permit considering that she needs to provide the “CIC confirmation” to ask for it?

Under the new Caregiver classes, the caregiver can apply for a bridging open work permit once their permanent residence application has received a “positive eligibility assessment” and they’ve received an acknowledgement of receipt from IRCC. Once received, this can be used to apply for a bridging open work permit.

11. When will the caps begin?

The cap of a maximum of 2,750 complete applications, for the Caring for Children and the Caring for People with High Medical Needs pathways, will be processed each year in each pathway (not including spouses and dependants). The cap is reset every year.

12. Will the CIC post regularly on their website the number of applications they received under the new program so that we can know when the caps are reached?

IRCC consistently monitors intake volumes for these programs and will update the IRCC website once volumes are significant enough to merit reporting against the caps.

13. When a caregiver fulfill all the requirements to become a permanent resident, but didn’t have the chance to meet the quota, is it possible for her to ask for the PR the next year from her country of origin?

Yes, individuals can apply for the two new pathways from both inside and outside of Canada as long as the caregiver continues to meet the program requirements including obtaining the two years of full-time work experience within the last four years.

14. Is there a maximum age regarding the caring for children class?

No, there is no maximum age for the applicant under the caring for children class.

The age limit for the children being cared for is 18 years of age under the Caring for Children pathways. It should also be noted that when officers assess the caregivers work experience, they will assess the work experience against the requirements specified in the Ministerial Instructions including “the performance of the actions described in the lead statement for the occupation of home child care provider set out for unit group 4411 in

the *National Occupational Classification* and the performance of a substantial number of the main duties listed for that unit group, including all of the essential duties”.

15. CIC mentions a delay of treatment of 45 months to deliver the PR under the old program. Will this delay still apply for caregivers who are currently working under the old regime given that CIC announces a new delay of 6 months for the new program?

IRCC has committed to reducing the backlog of caregivers. In 2014, the department admitted a record high of 17,500 caregivers and their dependents to Canada as permanent residents (PRs). In 2015, the plan is to admit 30,000 permanent resident caregivers and their family members.

While IRCC continues to admit record high numbers of caregivers and anticipates the wait times will decline as a result, those caregivers who apply under the two new pathways will be offered 6 month processing times.

In addition, caregivers who have applied for permanent residence through the LCP and also meet the program criteria under one or both of the new caregiver pathways may also apply for these programs; this will not impact their position in the processing queue nor their eligibility under the LCP.

16. A caregiver who has worked under the old program and changes to the new program, can she use the time that she worked for the old program in order to ask for a PR under the new program (24 months requirement)?

A caregiver would not change programs; they would simply choose a permanent residence program. If the caregiver has obtained the required work experience and meets the other program criteria, they may be eligible to apply for either of the new permanent residence pathways for caregivers. Additionally, a caregiver who has obtained two years of work experience under the LCP and meets the other program criteria may apply for permanent residence under the LCP as well as under one of the new caregiver pathways. There is nothing to preclude the caregiver from applying for both the LCP and one or both of the caregiver pathways as long as they meet the relevant program requirements.

Further, should the caregiver have entered Canada under the temporary phase of the LCP and chooses to no longer live in the home of their employer, they would need to obtain a new work permit that is based on a new LMIA issued under the TFWP. This work experience would not be eligible under the LCP. However, once this caregiver has obtained two years of work experience as a temporary foreign worker in an eligible occupation, they may choose to apply for permanent residence under the Caring for Children or the Caring for People with High Medical Needs pathways. Additionally, should the caregiver meet the program requirements of any other permanent residence economic immigration programs, they could also choose to apply to those as well.

### **Additional Questions during the CBA presentation**

17. How long is a Bridging Open Work Permit?

The duration of the bridging open work permit is 12 months.

18. For applicants seeking a work permit, the missions are often asking applicants to demonstrate their language levels. E.g. New York is requiring a certain level of English/French for work permits.

The requirements to apply for a work permit as a caregiver which is not associated with a LMIA which was received by ESDC/Service Canada on/or before November 30, 2014, will be the same as for any other temporary foreign worker applying for a work permit. They must meet the employer requirements outlined on the LMIA, as well as the National Occupational Classification (NOC). Finally, they must meet the general requirements of R200, as does any temporary foreign worker.

If the applicant's Canadian employer requires a certain level of English (or French), in other words, if the LMIA indicates that French or English knowledge are required for the job, then the visa offices will request a language test to assess their language abilities.

19. What documentation must applicants provide when applying for the new caregiver programs to demonstrate they intend to reside in a province other than Quebec?

For both the Caring for Children and Caring for People with High Medical Needs and pursuant to 2(1) of the Ministerial Instructions, a person must intend to reside in a province other than Quebec to become a member of either the Caring for Children or Caring for People with High Medical Needs class.

People who are living and working in Quebec are eligible to apply and can count their work experience in Quebec towards the work experience requirement under both caregiver pathways, provided they plan to live elsewhere in Canada.

The onus is on the applicant to satisfy an officer of their intent to reside outside of Quebec, and they may wish to include supporting documentation with their application to substantiate their intent.