

Interim Caregiver Pathway Ending Soon

With the June 4, 2019 deadline fast approaching, this is just a shout-out to those who may qualify for permanent residence (PR) under the Interim Pathway for Caregivers (IPC) but have not yet submitted their PR and open work permit (OWP) applications.

In case anyone missed the news, the IPC was introduced by Immigration Minister Ahmed Hussen on 23 February 2019, when he made the initial announcement regarding the PR program for caregivers that will replace the current caregiver pathways that are set to expire on 29 November 2019. While IRCC is still ironing out the details of the new PR program for caregivers, the IPC went into full force shortly afterwards.

As previously announced, PR applications under the IPC will only be accepted within a short three-month period: from 4 March 2019 to 4 June 2019. According to IRCC, this program “is meant to provide a permanent residence option for those who, in good faith, have come to Canada and are providing care to Canadians, without a clear pathway to permanent residence.”

Caregivers may qualify for permanent residence under the IPC if they meet the following criteria:

- a) completion of at least one year of full time authorized work as a caregiver (for children or for people with high medical needs or a combination of these jobs) since 30 November 2014;
- b) completion of education that is equivalent to a Canadian high school diploma (foreign credentials must be accompanied by a valid education credential assessment);
- c) completion of an official English language test with a minimum score equivalent to CLB 5;
- d) at the time of PR application, hold a valid work permit, on implied status or eligible for restoration, other than those who are holding a live-in caregiver program work permit.

If the caregiver applicant will meet the above requirements, there is also the added benefit of being granted an open work permit that will allow the applicant to work for any employer in any occupation in Canada while the PR application is in process, as in the old Live-in Caregiver Program (LCP).

Unlike the two caregiver pathways which are expiring on 29 November 2019, there is no quota on the number of PR applications that IRCC will accept under the IPC until 4 June 2019. To date, there has been no indication whether this deadline will be extended.

A further accommodation provided by IRCC for applicants under the IPC program is that it will accept evidence that the caregiver applicant has applied for an education credential assessment and/or scheduled to take an official English language test, if the results will not be received by 4 June 2019.

Despite its well-meaning objective however, the IPC still leaves a lot of caregivers unable to qualify for permanent residence under this class in the following situations:

- a) if they were authorized to work under the live-in caregiver program;

- b) if they will be unable to complete at least a year of qualified caregiving work by 4 June 2019;
- c) if they have lost temporary foreign worker status for any reason;
- d) if they are unable to meet the language and education requirements; or
- e) if the caregiver and/or a family member is found to be inadmissible at the permanent residence application stage and after having completed the required caregiving work on valid work permits

Although IRCC is granting some flexibility in some aspects of the application, the very short window of opportunity for those who intend to apply under the IPC makes it extremely important that the permanent residence application is done correctly. If the application is incomplete and is returned after the IPC ends on 4 June 2019, then the caregiver applicant may have lost a very rare opportunity.

Moreover, if the language test results and education credential assessment would later turn out not to meet the minimum requirements, the PR application under the IPC will be refused.

If the PR application under the IPC is refused, any future PR application will then have to meet requirements under the existing or future caregiver pathways or be based on the highly-discretionary option of applying for permanent residence on humanitarian and compassionate grounds.

The IRCC has not provided further details on the new caregiver programs other than that they will be announced soon and before the November 2019 expiry of the current pilot programs.

All we know is that the new caregiver programs will have the following features:

- a) the caregivers will be assessed for permanent residence before they come to Canada;
- b) the caregivers will be issued occupation-specific (instead of employer-specific) work permits that will allow them to change employers without need to obtain new work permits;
- c) the caregivers' spouses will be granted open work permits and their dependent children will be issued study permits; and
- d) upon completion of two years of work experience, the caregiver (and their dependent family members) "will have access to a direct pathway" for permanent residence in Canada.

Interestingly, the Ontario government is also considering the issuance of provincial nomination to workers in NOC C and D occupations including caregiving. If this materializes, then this could be another possible route to permanent residence for caregivers.

Until details of these other options become clear, those who qualify under the IPC should not waste the opportunity and are strongly urged to apply before the deadline of 4 June 2019.

This article is meant for information purposes only and not as specific legal advice. Each case is unique and is best discussed in detail with a qualified, experienced and trusted immigration legal advisor to increase the chances of success.

The author is a Filipino-Canadian immigration lawyer and may be reached at deanna@santoslawa.ca or tel. no. 416-901-8497.