

# MIGRANT WORKERS AND ACCESS TO SOCIAL BENEFITS IN ONTARIO

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**Ontario Legal Clinics Migrant Worker Working Group**

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# Overview

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# Introduction

- Who do we mean by “migrant workers”?
  - Seasonal Agricultural Workers
  - Live-in Care Givers
  - Temporary Foreign Workers
  - Without “status”
- Migrant workers, even those with “status”, are in a precarious situation. **Get legal advice before applying for social benefits.**
- For free legal advice, contact your local community legal clinic:  
<http://www.legalaid.on.ca/en/contact/contact.asp?type=cl>

# Employment Insurance: Regular Benefits

To qualify for “regular” benefits a migrant worker must:

1. Be unemployed through no fault of their own
2. Be in Canada
3. Have worked the required number of hours of **insurable** employment during the “qualifying” period (usually one year). A “new entrant” or “re-entrant” must have worked at least 910 hours; otherwise, they must have worked between 420-700 hours (depends on the unemployment rate in the area).
4. **Barrier for migrant workers:** Be “capable and available” for work – must be able to show the ability to obtain a work permit with a new employer upon securing employment
5. **Barrier for workers without status:** if paid under the table, may not have made contributions to Employment Insurance

# Employment Insurance: Regular Benefits



- Weekly benefits are 55% of your average earnings to a maximum of **\$524** (for 14-54 weeks, depending on unemployment rate and length of employment).
- Low income families paying the child tax benefit may be eligible for the Family Supplement (top up to \$524/week)

# Employment Insurance – Special Benefits

- **Maternity and parental benefits:** off work to care for a newborn - **If living outside Canada, must have a current Social Insurance Number (most SINs expire at the end of a work permit)**
- **Compassionate care benefits:** off work to care for a family member who has a significant risk of death within 6 months - **If living outside Canada, must have a current Social Insurance Number (most SINs expire at the end of a work permit)**
- **Sickness benefits:** unable to work due to illness – **must be in Canada**
- Must have worked 600 hours during the qualifying period
- Weekly benefits are the same as regular benefits
- To apply for EI: <http://www.servicecanada.gc.ca/eng/ei/application/employmentinsurance.shtml>



# Social Assistance: Ontario Works

For a migrant worker to qualify for Ontario Works, they must:

1. Financially qualify (have less income than they would receive from OW)
  2. Be a resident of Ontario (usually have to show **intent to stay** in Canada)
  3. NOT be a tourist
  4. **Barrier for migrant workers:** NOT be in Canada on a visitor permit UNLESS they have made a refugee claim or applied for permanent residence
  5. If subject to a removal order, will have to show either that they cannot leave Canada for reasons wholly beyond their control or that they have applied for permanent residence
- Monthly rate for a single person: \$656
  - To apply for OW: [http://www.mcass.gov.on.ca/en/mcass/programs/social/apply\\_online.aspx](http://www.mcass.gov.on.ca/en/mcass/programs/social/apply_online.aspx)

## Social Assistance: Ontario Disability Support Program



- For a migrant worker to qualify for ODSP they must meet the same OW requirements AND be a “person with a disability.”
- Monthly rate for a single person: \$1,098

To apply:

[http://www.mcass.gov.on.ca/en/mcass/programs/social/odsp/income\\_support/IS\\_Application.aspx](http://www.mcass.gov.on.ca/en/mcass/programs/social/odsp/income_support/IS_Application.aspx)

# Health and Safety Rights at Work

**THE RIGHT TO KNOW** what hazards are in the workplace.

- Includes the right to be given training, information and the competent supervision needed to protect yourself.

**THE RIGHT TO PARTICIPATE** (as an advisor) via a workplace health and safety committee.

- Only in workplaces of 20 or more Workers.
- Only available in certain kinds of farming: ( Mushroom, Greenhouse, Dairy, Hog, Cattle & Poultry).
- Committee made up of two members of management and two workers selected by workers.

**THE RIGHT TO COMPLAIN** about health and safety violations without being penalized.

- The employer cannot dismiss or discipline you for asking about rights.
- Reprisal applications are filed with the Ontario Labour Relations Board.
- The Board does not correct the safety violation it determines whether the dismissal was motivated by the worker's safety concerns.
- The employer must prove that the dismissal was not motivated by the worker's safety concern.
- If you are reprimed against you may receive reinstatement of wages / lost wages/ general damages.

# Health and Safety Rights at Work

## THE RIGHT TO REFUSE UNSAFE WORK

### **Q: When can I exercise my right?**

A: When you **honestly** believe that the physical condition of the workplace (equipment, machine, device, or thing) is dangerous. (This includes violence but not harassment)

### **Q: What Do I need to say?**

A: No magic words are needed- it's enough to say "I don't think this is safe."

### **Q: What should my employer do if I complain?**

A: Employer is obligated to investigate.

### **Q: What if my employer does not fix the problem?**

A: Call an Minister of Labour inspector to investigate.

### **Q: I called the investigator what now?**

A: A worker must remain at work while the investigation takes place –don't go home (unless the employer sends you home.)

- The Employer may assign alternative work.
- The Employer may assign the unsafe work to another worker as long as the other worker is advised of the situation.

### **Q: Where can I go if I want more Information?**

A: Look at our [workers guide](#) on our website [www.workers-safety.ca](http://www.workers-safety.ca) .

- Visit us at Toronto Workers' Health and Safety Legal Aid Clinic. 180 Dundas St West, Suite 2000, Toronto ON.

# Disability Benefits from the Canada Pension Plan

## Do I qualify? →

1. Must be under 65 years old.
  2. Must meet the minimum contribution requirement.
    - Pay role deduction of 9.9% of earnings to a max contribution of \$4712. Half paid by employer half by worker.
    - Paid contributions for 4 out of the last 6 years OR
    - If you paid contributions for the last 25 years then you must have contributed 3 out of the last 5 years.
  3. Must suffer from a physical/mental disability that is both:
    - **“Prolonged”** : long term / indefinite duration OR terminally ill
- AND
- **“Severe”** : can’t do any kind of work / unable to “regularly pursue substantially gainful employment.”

# Disability Benefits from the Canada Pension Plan

## Where is the application? →

- Service Canada Website: <http://www.servicecanada.gc.ca/eng/services/pensions/cpp/disability/benefit/>

## If I qualify what can I get ? →

- A monthly taxable benefit → Average amount: \$841.95.
  - Maximum amount: \$1212.90.
- Dependent child benefit → \$228.66.
  - **IF** children of recipients are under 18 and in the care or custody of the Applicant OR
  - Children are 18-25 and in school.

## How is that calculated? →

- Everyone receives \$453.52 plus an amount based on contributions.
  - Migrant farmworkers are typically low wage and seasonal.
  - Their contributions will be low. Therefore → they won't receive much more than the basic \$453.52.

# Retirement: Canada Pension

- Canada Pension Plan: retirement pension for individuals who have worked in Canada
- To qualify, migrant workers must:
  1. **Have contributed** to the program at least once through deductions from salary (problem for under the table work)
  2. Be at least 60 years old
  3. Amount based on how much contributed and for how long (maximum \$1,065 monthly – **often much lower for migrant workers**)



To apply:

<http://www.servicecanada.gc.ca/eng/services/pensions/cpp/retirement/index.shtm#ch>

# Retirement: Old Age Security

- Retirement pension for seniors who live or lived in Canada for a lengthy period.
- If living outside Canada:
  1. Must be 65 years of age or more.
  2. Must be a Canadian citizen OR a **legal resident of Canada** on the day before the applicant stopped living in Canada.
  3. Retirees must have **resided in Canada for a minimum of 20 years** after the age of 18.
- Maximum of \$563.74 monthly (based on length of residence – max pension at 40 years)
- To apply: <http://www.servicecanada.gc.ca/cgi-bin/search/eforms/index.cgi?app=profile&form=isp3000>

# Retirement: Guaranteed Income Supplement



- A benefit provided automatically to low-income seniors who are also receiving Old Age Security.
- Must be a **resident of Canada**.
- Maximum for a single person: \$764.40 monthly

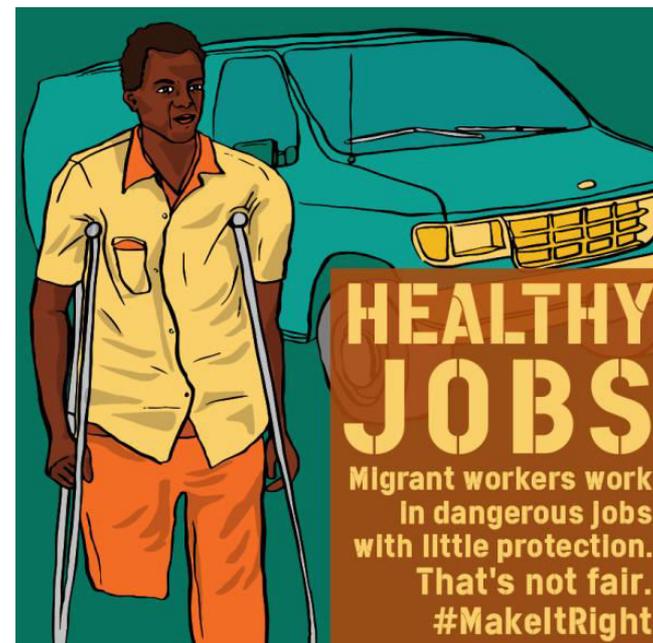
# Retirement: International Agreements

- Residency requirements for OAS and CPP-D (or pensions in home countries) can be met with help from one of Canada's International Social Security Agreements.
- Some of the countries that have such agreements include: Antigua & Barbuda; Barbados; Dominica; Grenada; Jamaica; Mexico; Trinidad and Tobago.



# Health Care

- Live-in Caregivers and Seasonal Agricultural Workers are eligible for OHIP after 3 months, while working in Ontario. Employers must provide alternative coverage during the first 3 months. **What about other migrant workers?**
- **Access to OHIP is tied to a work permit**
- **Ontario (General Manager, Ontario Health Insurance Plan) v. Clarke, 2014 ONSC 2009**
- **Some migrant workers do not receive or face barriers obtaining a health card**
- Useful contacts:
  - No OHIP card: Service Ontario - 905-521-7564
  - Confirm coverage: 1-800-387-5559
  - SAWP Service Ontario hotline 905-521-7184
  - TTY 1-800-387-5559
  - Mfw.moh@ontario.ca



# Community Health Centres

- **I don't have Ontario Health Insurance. Where can I go?**
  - Community Health Centers can treat people who do not have insurance.
- **Where do I find a Community Health Centre close to me?**
  - Go to their website to find a list of locations.  
<http://www.health.gov.on.ca/en/common/system/services/chc/locations.aspx>



# Organizing for Access for All

- Building trust and solidarity
- Get more information about migrant workers rights from organizations that are advocating for access for all:
  - Justicia: <http://www.justicia4migrantworkers.org/>
  - Migrant Workers Alliance for Change: <http://www.migrantworkersalliance.org/>
  - Asian Community AIDS Services: <http://www.acas.org/>
  - For legal clinic workers:  
Inter-clinic Migrant Worker Working Group



# Questions?

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