



March 27, 2024

Via email: Michele.Kingsley@cic.gc.ca

Michèle Kingsley
Assistant Deputy Minister
Economic, Family and Social Immigration
Immigration, Refugees and Citizenship Canada
365 Laurier Avenue West
Ottawa ON K1A 1L1

Dear Michèle Kingsley:

Re: Home Childcare Provider Pilot (HCCP) and Home Support Worker Pilot (HSWP) Programs

We write on behalf of the Immigration Law Section of the Canadian Bar Association (CBA Section) to follow up on our letter dated April 14, 2023 regarding the Home Childcare Provider Pilot (HCCP) and Home Support Worker Pilot (HSWP) Programs, both due to expire in June 2024.¹ This letter offers practical recommendations for the next iteration(s) of the program(s), which we hope to discuss with you in a meeting to come.

Since January 1st, 2024, the “gaining experience” stream of the HCCP remains permanently closed to new entrants outside Canada after reaching its cap within hours of re-opening. The 2024 HSWP remains open, but the wait times of over a year render the program of little use to elders requiring immediate care.

The Inherent Value of Canada’s Caregiver Program

Canada’s immigration scheme has made a place for caregivers and home support workers since the 19th century. The value of this small but longstanding program cannot be overstated. It has enabled and continues to enable Canadians, particularly women, to advance their own careers while offering individualized care for their children. The elder care program allows loved ones to stay out of care facilities longer, reducing pressure on public health institutions and improving quality of end-of-life care. With Canada’s senior population set to increase dramatically over the next five years, the caregiver program’s importance will continue to grow.²

¹ CBA, Home Child Care Provider Pilot and Home Support Worker Pilot, April 14, 2023, [online](#).

² CBC, With Ontario's senior population about to spike, report predicts big demand for home care, February 19, 2023, [online](#).

The COVID-19 pandemic emphasized the importance of having flexible and immediate care available. It also exposed shortcomings in the HCCP and HSWP programs. They inadequately responded to the needs of Canadian employers and left caregivers in prolonged limbo, despite the vital roles they serve in our communities.

The CBA Section wishes to collaborate with the department on program re-design options to increase efficiency and reflect the inherent value of the work performed by caregivers.

New Alternatives for Future Programming

The expiration of the pilots in June 2024 presents an opportunity for the department to take a novel approach to caregiver programming – one that truly responds to the needs of Canadian families, and better prevents systemic abuse of foreign caregivers.

Canadian employers require nimble care solutions. Caregivers, on the other hand, require safe worksites, independent oversight to prevent abuse, and predictability in the outcome of their immigration journey. We recommend the following program updates to better meet these objectives:

➤ *Remove the requirement that care must be “in home”*

The current and prior programs have excluded home support workers and child care workers employed outside private residences. However, many Canadian employers seek to hire home support workers and childcare assistants to work alongside institutional staff within the healthcare and childcare sectors. We recommend including additional occupations within the healthcare and childcare fields to enable pathways to permanent residence from other NOC classifications in these high demand occupations. We suggest including Care Aides (NOC 33102), Early Childhood Education Assistants (42202), and Personal Education Assistants (NOC 43100).

➤ *Remove the requirement of a job offer from abroad*

If the program returns to a direct-to-employer model, the requirement that caregivers apply with a job offer should be eliminated. Employers are rarely in a position to wait 2+ years after signing a binding job offer with an overseas candidate. Successful candidates are issued open permits on approval, and are therefore not tied to the employer in any way.

Many caregivers currently awaiting a final decision from abroad are informed by IRCC that their intended Canadian employer will be asked to confirm their ongoing intent to employ them on arrival. This letter sometimes arrives as many as 2-3 years after the initial job offer is signed. Many of these applicants have already invested significant resources in their process (e.g. to pay for legal help navigating this exceedingly complex program, to take language tests, to obtain educational credential assessments, to obtain police clearances, to undertake medical exams, and to pay the program application fees). Many discover at this late stage that their employers' needs have changed, and are suddenly confronted with an urgent need to replace their job offer in the allocated 10-30 days. They otherwise risk refusal on grounds that they could not have anticipated and were not responsible for in the first place. Removing this requirement would increase procedural fairness without compromising program integrity.

➤ *Involvement of trusted “3rd party” service providers/agencies (like language testing centres and ECA bodies), to match caregivers with employers*

This approach could allow substantive labour market testing to determine the size of the demand, which is not currently possible with the LMIA system. This approach would allow workers to be placed in a single chosen worksite that recognizes the value of continuity in

care OR allow caregivers to work at multiple worksites, which would better respond to employers' varying needs and ability to hire full or part-time caregivers.

Instead of a "one size fits all" model, we imagine a program that could dovetail with provincial offerings for affordable elder and childcare. This scheme would better shelter vulnerable workers by allowing them to interface with a trusted third-party service provider, rather than directly with their employer. It could also streamline compliance checks by enabling payroll through the third-party service provider. This is already the "preferred model" for health care workers in the private sector, with much private home care done through specialized agencies; however, those agencies repeatedly report challenges maintaining staffing volumes, and have been closed out of the HCCP and HSWP.

➤ *Return program policy to the Regulations*

Caregiver programming has been done by way of Ministerial Instruction since the repeal of ss.112 and 113 of the *Regulations* in May 2017. The relegation of the caregiver program to Ministerial Instruction has had severe consequences for both employers and workers in this sector – particularly for those in the province of Quebec, who have had no clear means to hire and retain workers in this pathway and are excluded from programs introduced by Ministerial Instruction.

The relationship between caregivers/home support workers and their Canadian employers is unique because they offer frontline care to our most vulnerable citizens. The numerous claims of abuse in this program demonstrate the critical need for rigorous program design and implementation.

For these reasons, we recommend that caregiver programming be done by regulation to give workers and their employers clarity on their rights and program requirements.

Conclusion

We wish to emphasize the importance of caregiver programming, and the importance of sustainable options in the next iteration of this program. The CBA Section welcomes an opportunity to dialogue about the future of caregiver programming. We would be pleased to offer additional ideas for program development in this area.

Yours truly,

(original letter signed by Véronique Morissette for Gabriela Ramo)

Gabriela Ramo
Chair, Immigration Law Section

The Canadian Bar Association (CBA) is a national association of 38,000 members, including lawyers, notaries, academics and students across Canada, with a mandate to seek improvements in the law and the administration of justice. The CBA Section is comprised of over 1,200 lawyers, practicing in all aspects of Canadian immigration law and rendering professional advice and representation in the Canadian immigration system to clients in Canada and abroad.