

CIC's Christmas Gift for Caregivers in Limbo

During the first week of December 2011, I received a number of inquiries from caregiver clients and advocates about the so-called “massive issuance of open work permits” to those with pending applications for permanent residence and open work permit under the Live-in Caregiver Class. Initially, I thought that this might be another one of the many rumors that are being spread around without any factual basis. To verify, I went to the Citizenship and Immigration Canada (CIC) website, checked the news section, but nothing of the sort had been announced. I also checked the published average processing times and it remained “17-18 months” for LCP initial assessments and “17 months” for final decisions. So I wondered, where was this news coming from?

The following week however, I saw for myself a number of open work permits received in the mail for caregiver clients, including those who submitted their LCP permanent residence and open work permit applications only a few months ago.

Just today, December 15th (and my deadline for submitting this column!), the CIC website published a news release where CIC Minister Jason Kenney stated that “we have started issuing open work permits to live-in caregivers as soon as they have completed their obligations and submitted an application for permanent residence.” He even thanked the Caregiver Resource Centre for advocating on behalf of caregivers and for bringing this matter to his attention. [Caregiver Resource Centre is a non-profit organization in Toronto founded by Terry Olayta but the latter clarified that credit should be due to their umbrella organization, First Ontario Alliance of Caregivers in Canada (FOACC), which brought this issue to the Minister's attention during their visit to Ottawa shortly after their conference in September 2011.]

Minister Kenney said that: “As of December 11, 2011, all live-in caregivers who had met their obligations and submitted an application for permanent residence have had their files reviewed. Those who submitted an open work permit application with no missing information are being issued open work permits.”

Now, this is wonderful news indeed, for all caregivers with pending LCP permanent residence and open work permit applications who have been waiting for several months, and those who expected to wait the 17 or 18 months processing time for initial approvals, as currently published on the CIC website.

Prior to this policy change, the lengthy processing times left many live-in caregivers in limbo. While waiting for the 17 or 18 months it takes for the issuance of their open work permits, they were faced with the following scenarios: 1. they are compelled to continue working for the last employer named on their work permit (even under very exploitative conditions) upon completing the required 24 months and submission of their LCP permanent residence and open work permit applications if they wish to benefit from implied status (i.e. legal temporary resident status which allows them to continue working for the same employer even after the expiry of their employer-specific work permit); 2. if they were released by the last employer named on their work permit,

they cannot work for any other employer until they receive their open work permits hence leaving them to rely on the generosity of family and friends or seek employment insurance and other social benefits; 3. work for another employer “under-the-table” and face the dilemma of possibly being caught by the authorities thus jeopardizing their application for permanent residence in Canada OR being unable to earn money badly needed by their families back home for survival and 4. if their provincial health coverage had expired, the caregivers on implied status are generally unable to renew their health coverage thus causing great financial problems for those who may suddenly find themselves in need of urgent medical attention.

After CIC has confirmed the immediate issuance of open work permits, those caregivers formerly in limbo can now breathe easier and work legally for any employer in Canada until the expiry dates on their work permits or any extensions thereafter.

However, I just want to caution the caregivers about the fact that in LCP open work permits issued in the past, there is always a note in the “Remarks” section which states, “Application for permanent residence has received initial approval.” In the case of many of these recently-issued open work permits however, the annotation in the Remarks section reads: “pending APR”. Unfortunately, there was no accompanying CIC cover letter in the recent open work permits that I have seen with this annotation. Since the current timelines of 17-18 months for LCP initial removals have not changed, this means that the immediate issuance of the open work permits is not a guarantee that the LCP permanent residence applications have, or will receive initial approval, hence the remarks, “pending APR”.

Amidst this welcome change therefore, it is very important to continue being vigilant not only about maintaining one’s temporary resident status (i.e. ensuring that work permits are renewed before expiry date and complying with other CIC requirements), but also in ensuring that these changes will truly end up benefiting LCP participants and their families.

Lest I be misunderstood, let me reiterate that I do appreciate the recent changes to the LCP which have already benefited and continue to benefit many caregivers. These include the extension of 4 years from 3 years within which to complete the 24-month live-in caregiving requirement, the removal of the second medical examination, the expediting of LCP LMOs and work permits for those in abusive situations and this most recent issuance of open work permits.

May these changes inspire more vigilant and passionate advocacy until even more significant reforms are realized such as the removal of the mandatory live-in requirement and issuance of non-employer-specific work permits, or better yet, the grant of permanent residence to caregivers and their families upon arrival in Canada. We should never stop hoping and pushing for what the hardworking and courageous caregivers truly deserve.

Meanwhile, let us be thankful for all blessings received in the past year and for our generous and loving God who made them all possible.

Maligayang Pasko at Mapayapang Bagong Taon po sa inyong lahat!

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