CURRENT AG WORKER POLICY TRENDS AND IMPACT ON ACCESS TO HEALTH
Farmworker Justice is a nonprofit organization that seeks to empower farmworkers to improve their living and working conditions, immigration status, health, occupational safety, and access to justice.
AGENDA

- Introductions
- Policy Update
- Challenges and Opportunities
- Resources
WHO’S IN THE ROOM?

HELLO
my name is
WHAT ARE YOU HEARING?

- What are your concerns?
- What are the concerns of the ag workers in your community?
- What are the concerns of the healthcare providers in your community?
- What questions do you have?
Majority of agricultural workers (about 3/4) are foreign born
- Approximately 2/3 are from Mexico
- Approx. 30% citizens, 20% LPRs
- Less than 5% visa holders

>90% have been in U.S. at least 5 years

>50% for more than 15 years (average of 18 years)

About 60% have children (including U.S. citizen children)
CURRENT CONTEXT

• **Impact on day-to-day life:**
  • Fear of family separation
  • School absences, fear during pick-up/drop-off
  • Mental health impacted, especially for children
  • Disenrollment and/or reluctance to access key services
  • Concerns about sharing personal information
  • Isolation/less engagement in overall community
  • Negative effects on local economies
  • Distrust of government & law enforcement
DATA ON IMPACT

- 60.8% less likely to report crimes they witnessed;

- 42.9% less likely to report being the victim of a crime;

- 69.6% less likely to use public services that require them to disclose their personal information;

- 68.3% less likely to participate in public events where police may be present;

- 52.1% less likely to look for a new job;

- And, among those with children, 42.9% less likely to place their children in after-school or day-care programs.
“Sensitive locations” are special sites, including medical facilities, educational institutions and places of worship, in which ICE must exercise caution and avoid enforcement actions unless there are exigent circumstances.

Internal memorandum at ICE that covers enforcement actions such as arrests, interviews, searches and surveillance.

CBP has a similar policy which was created in 2013.

The policy is only internal guidance and not legally binding.
DACA (Deferred Action for Childhood Arrivals)
- Created by Pres. Obama EO in 2012
- Rescinded by Pres. Trump September 2017 (by March 2018)
- Advocacy and mobilization for legislative solution
- Senate voted on four proposals in February 2018 – none passed
- Litigation resulting in injunctions, awaiting key decisions

*Current recipients can apply to renew their status*
TPS (Temporary Protected Status)

- Terminated:
  - Nicaragua (by Jan 2019)
  - Nepal (by June 2019)
  - Haiti (by July 2019)
  - El Salvador (by Sept 2019)
  - Honduras (by Jan 2020)
PARTICIPANT POLL

- How many have heard of the H-2A program?
- Have you served or worked with H-2A workers?
- Do you think the number of H-2A workers in your state is increasing, decreasing or about the same?
- What are some barriers you have encountered to finding or delivering services to H-2A workers?
H-2A GUESTWORKER PROGRAM

- Allows employers to employ temporary foreign agricultural (H-2A) workers
  - If insufficient number of U.S. workers available
  - Wages and working conditions of workers in the U.S. will not be “adversely affected”

- Job offer (“clearance order”) is entered into the agricultural recruitment system

- H-2A workers are in the U.S. on temporary non-immigrant visas
  - Visas are tied to employers who sponsored them
  - Positions are certified by the U.S. Dept. of Labor
  - Employers must provide a required wage rate, housing, transportation to and from their home country, and workers’ compensation insurance
The program is growing: in FY 2017, approx. 200,000 positions were certified, up from approx. 76,000 in FY 2007.

In FY 2017, 200,049 positions were certified, compared with 165,741 for FY 2016 (approx. 20% increase).

FY 2017 timely approval rate: 97.6%

Top 5 states (Georgia, Florida, Washington, North Carolina, California) account for more than half of positions.

State-specific numbers for Midwest Stream:

- Louisiana - (#6)
  2017 – 8,875
  2018* - 7,553

- Michigan - (#9)
  2017 – 6,432
  2018* - 5,502
H-2A GUESTWORKER PROGRAM

- U.S. recruitment protections and 50% rule
- Housing
- Transportation
- ¾ Guarantee
- Adverse Effect Wage Rate (higher of AEWR, minimum wage or local prevailing wage)
- Workers’ Compensation
OUTREACH TO H-2A WORKERS

To find out where H-2A workers are in your area, you can go to the Dept. of Labor’s iCERT portal – https://icert.doleta.gov/
OUTREACH TO H-2A WORKERS

- Search for a job order on iCERT
OUTREACH TO H-2A WORKERS

- Sample job order
RISE IN LABOR CONTRACTORS

- Workers move around and are harder for outreach workers to locate
- Many workers are housed in hotels and other off-site housing
- Employer liability harder to prove
- Informal agreements between employers
H-2A WORKERS & LABOR TRAFFICKING

- Signs:
  - Confiscation of passport, visa, or other documents
  - Debt
  - Recruited through false promises concerning the nature and conditions of his/her work
  - Threats to family members in home country
  - Threatened or intimidated by an employer, supervisor, or recruiter
  - Fear of employer, supervisor, or authorities

- Contact local legal aid or the trafficking hotline - National Human Trafficking Resource Center Hotline at 1-888-373-7888 or text HELP to BeFree (233733)
“AGRICULTURAL GUESTWORKER ACT”

- **H.R. 4092** - Rep. Goodlatte (VA), introduced October 2017

- **H.R. 6417** – “Ag and Legal Workforce Act,” introduced July 2018
  - No path to legal status
  - Workers already here must “self-deport”
  - Eliminates key wage protections
  - Eliminates housing and transportation
  - 10% bond withheld (similar to Bracero)
  - Mandatory arbitration
AGRICULTURAL WORKER PROGRAM ACT

- Introduced Summer 2017
- S. 1034/H.R. 2690
- Sen. Feinstein (CA) and Rep. Gutierrez (IL)
- Based on “blue card” program in 2013 compromise
Step 1: Apply for Blue Card Status
- Prove employment in agriculture for at least 100 work days in previous two (2) years
- Complete national security/law enforcement clearances
- Not have been convicted of a felony, aggravated felony, 3 or more misdemeanors or certain crimes
- Pay an application fee
- Pay a $100 fine

*Family members: Spouse and minor children present in the U.S. at time of application can also apply.
Step 2: Apply for Green Card

- Continue working in agriculture for either:
  - 100 work days per year in next 5 years; or
  - 150 work days per year in next 3 years
- Continue to meet admissibility requirements
- Pay an application fee
- Pay a $400 fine
- Pay any applicable federal taxes

*Family members: Spouse and minor children with blue card status can also apply.
Step 1: Apply for Blue Card

- Prove employment in agriculture for at least 100 work days in previous two (2) years
- Complete national security/criminal clearances
- Pay an application fee and fine
- *Family members: Spouse and minor children present in the U.S. at time of application can also apply.

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COMPARISON OF LEGISLATIVE PROPOSALS ON AGRICULTURAL WORKERS

Ag Guestworker Act
- No path to legal status
- Must “self-deport”
- Family separation
- Worker tied to individual employer
- Worker not able to travel freely

Ag Worker Program Act
- Path to legal status
- Can remain in country
- Family can apply
- Worker freedom to choose employers
- Worker freedom to travel
AG WORKER ACCESS TO HEALTH
HEALTH POLICY UPDATE

- ACA still the “law of the land”
- Association health plans rule – June 2018
- Cuts to navigator funding
- Public Charge proposal
- FY 2019 Budget
- Farm Bill (SNAP)
BARRIERS TO HEALTH CARE ACCESS

- Workers have limited access to clinics
  - Geographic isolation, rural areas
  - Reliance on employer for transportation
  - Fears of increased immigration enforcement

- Workers may be reluctant to go to a doctor or access medical care
  - Concern about cost of visit or treatment
  - Fear of employer retaliation (especially for work-related injuries)
  - May not trust health care provider or outreach worker
  - Use of traditional medicine and home remedies

- Workers may find it hard to communicate with or understand health care providers
  - Language barriers
  - Education/literacy levels
  - Confusion about eligibility and state of law
BARRIERS FOR H-2A WORKERS

- Outreach - Health center/organization knowledge about presence of H-2A workers

- Confusion between workers’ compensation vs. comprehensive health insurance

- Limited enrollment period – since most workers arrive after the end of open enrollment, they only have 60 days to enroll in coverage upon entering the U.S.
41% of agricultural workers reported not using any U.S. health services in past 2 years (CDC data - compared with 16% of general population)

35% of agricultural workers reported having health insurance (according to 2014 NAWS data)

- 31% had employer-provided health insurance
- 37% had government-provided health insurance

37.6% of migrant health center patients were uninsured (according to 2017 UDS data)
CONNECTING WORKERS TO HEALTH INSURANCE AND HEALTH CARE

- What strategies have been most successful to educate and enroll workers?

- What strategies have been most successful to connect workers to the health center?

- What are your plans to connect workers to health care in 2018?
CONNECTING WORKERS TO HEALTH INSURANCE AND HEALTH CARE

- Where are there gaps?
- How can we overcome obstacles/barriers in our communities?
- How can FJ support these efforts?
IDENTIFYING LOCAL PARTNERS

- Workforce Development and Foreign Labor Certification Office
  - Can help connect domestic workers to jobs, Foreign Labor Certification Office can clarify questions about H2A job orders, as well as take complaints

- Education Providers
  - Migrant Ed - Provide ESL and/or additional education classes to H2A workers
  - Migrant Head Start – provide education to farmworker children

- Religious Groups
  - Visit workers to provide emotional and spiritual support

- Farmworker legal services organizations
  - Educate and empower workers about their legal rights, in order to prevent exploitation and abuse
STRATEGIES TO INCREASE HEALTH INSURANCE AND HEALTH CARE ACCESS

- **Partnerships**
  - Health centers
  - Employers
  - Community-based organizations
  - PCAs, statewide organizations
  - Medical-legal partnerships

- **Ag worker-focused education**
  - Peer-to-peer education (via outreach workers, *promotores de salud*)

- **Sustained in-person assistance**
ENGAGING YOUR COMMUNITY

• **Steps your organization can take to support the local ag worker community**

  » Educate your community about the value of your services and your organization about developments that can impact your services.

  » Work with local leaders, law enforcement and policy makers to educate them about the importance of agricultural workers’ access to your services.

  » Stay informed on local developments regarding law enforcement priorities and proposed legislation in your state and city.

  » Let the ag worker community know that you welcome and value them, and that you want to help.
More information on agricultural workers and accessing healthcare can be found on FJ’s website at https://www.farmworkerjustice.org/resources/health/accessing-healthcare/community-health-centers

- Resources (in multiple languages) include:
  - Fact sheets for workers
  - Issue briefs
  - Health center brochure
COLLABORATING WITH US

- Learn more and stay up to date on developments:
  - Website and sign-in sheet: resources, updates and collaboration opportunities with Farmworker Justice

- Educate your Members of Congress at home and in DC
  - How do ag workers contribute to your communities?

- Media: share your stories!
  - Lift up examples of ag worker contributions and challenges in your communities
THANK YOU!

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