

# Health Access for H-2A Workers: Summary of Current Trends and Strategies for Community Outreach



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MIDWEST STREAM FORUM FOR AGRICULTURAL WORKER  
HEALTH  
Grand Rapids, MI

# Farmworker Justice



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

[www.farmworkerjustice.org](http://www.farmworkerjustice.org)

# Farmworker Legal Services of Michigan



Farmworker Legal Services of Michigan is a bilingual legal aid office that provides free legal assistance and referrals to migrant and seasonal farmworkers throughout the state of Michigan.

<http://farmworkerlaw.org/>



# Agenda



- Introductions
- Overview of H-2A Program
- Outreach and Barriers to Access
- Potential Partners and Community-Based Strategies
- Policy Updates
- Available Tools and Resources
- Questions

# 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 is the H-2A 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



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# Rise in H-2A 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

# Growth of the H-2A Program



- The program is growing: In FY 2016, 165,000 were certified, up from 48,000 in FY2005.
  - So far in FY 2017, approximately 160,000 positions have been certified, compared with about 130,000 at the same time last year (approx. 20% increase).
- Michigan's numbers

Year	# of FLC's Submitting Michigan Job Orders	# of Job Orders Submitted by FLC's	# of Positions in FLC Job Orders	Total Michigan Job Orders & Positions
2017*	23	47	3,637	151 (6,591)
2016	14	22	1,984	90 (4,703)
2015	7	10	964	52 (2,301)
2014	3	6	563	36 (1,302)
2013	1	1	120	19 (500)
2012	0	0	0	18 (344)

- \*2017 numbers are through 8/14/2017.
- All numbers are compiled from the job orders posted on the US DOL iCERT (<https://lcr-pjr.doleta.gov/index.cfm?event=ehLCJRExternal.dspQuickJobOrderSearch>).



# Who are H-2A Workers?



- Most H-2A workers are young men between 18 and 35 years old
- Vast majority are from Mexico
- H-2A workers from Central America and Haiti may be on the rise

# H-2A Agricultural Guestworker Program Protections



- U.S. recruitment protections and 50% rule
- Housing
- Transportation
- $\frac{3}{4}$  Guarantee
- Adverse Effect Wage Rate (higher of AEWR, minimum wage or local prevailing wage)
- Workers' Compensation

# Special Issues for H-2A Workers



- **Filing Taxes**
  - Change in interpretation. Complicated issue for H-2A workers.
    - ✦ Factors to consider: length of stay in U.S., amount of years and time worked in U.S., amount earned in U.S., total number of dependents, etc.
  - Should consult reputable tax professional that understands complexity of H-2A and taxes
  
- **Workers' Compensation**
  - Importance of documenting condition or injury
  - Planning for future treatment, including abroad
  
- **Eligibility for Healthcare**
  - Confusion regarding ACA
  - Short-term coverage periods

# 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](https://www.dhs.gov/hotline) at 1-888-373-7888 or text HELP to BeFree (233733)

# H-2A Workers' Labor Rights



- Federally funded legal aid programs can serve H-2A workers
- H-2A workers are protected by the Fair Labor Standards Act and state contract & employment laws
- The Department of Labor, Wage and Hour Division can enforce the H-2A protections
- H-2A workers are not covered by AWPA (the Migrant and Seasonal Agricultural Worker Protection Act)

# Participant Poll



- How many of you have provided medical services to H-2A workers?
- How many of you have provided other types of services to H-2A workers?
- What are some barriers you have encountered to finding or delivering services to H-2A workers?

# Barriers to General Health Care Access

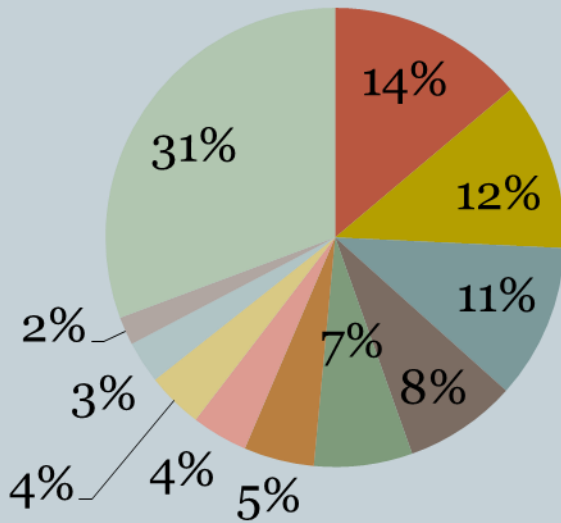


- **Workers have limited access to clinics**
  - More isolated than general farmworker population
  - Reliance on employer for transportation
  - Fears of increased immigration enforcement
  
- **Workers may be reluctant to go to a doctor or access medical care**
  - Concern about cost of visit or treatment
  - 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

# Where are H-2A Workers?

FY 2016

- Florida
- North Carolina
- Georgia
- Washington
- California
- Louisiana
- Kentucky
- New York
- Arizona
- South Carolina
- All other states



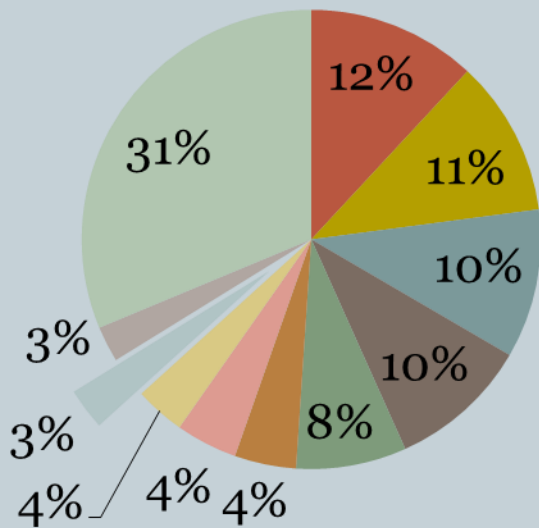
State	# of CPs	% of CPs
Florida	22,828	13.8%
North Carolina	19,786	11.9%
Georgia	17,392	10.5%
Washington	13,689	8.3%
California	11,106	6.7%
Louisiana	8,301	5.0%
Kentucky	6,779	4.1%
New York	5,522	3.3%
Arizona	5,391	3.3%
South Carolina	3,896	2.4%



# Where are H-2A Workers?

FY 2017 YTD (\*Information only through Q3)

- Georgia
- North Carolina
- Florida
- Washington
- California
- Louisiana
- Kentucky
- Arizona
- Michigan
- South Carolina
- All other states

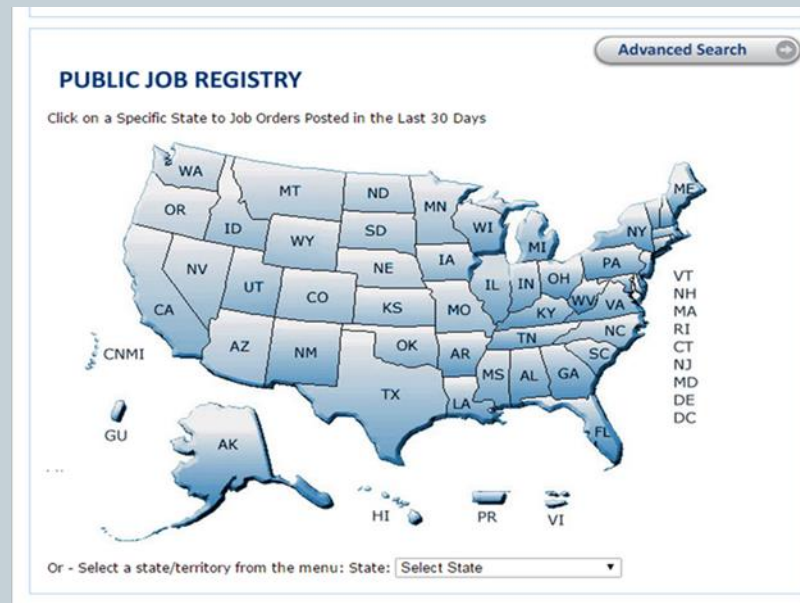


State	# of CPs	% of CPs
Georgia	18,886	11.8%
North Carolina	17,405	10.9%
Florida	16,664	10.4%
Washington	15,611	9.8%
California	12,292	7.7%
Louisiana	6,904	4.3%
Kentucky	6,847	4.3%
Arizona	5,659	3.5%
Michigan	4,646	2.9%
South Carolina	4,021	2.5%

# 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

UNITED STATES DEPARTMENT OF LABOR  
Employment & Training Administration

A to Z | Site Map | FAQs | Forms | About DOL | Contact Us | Español

ETA Home Find Job & Career Info Business & Industry Workforce Professionals Grants & Contracts TAA Program Foreign Labor Certification Performance & Results Regions & States

Enter Search Term Search

ETA Home > iCERT Portal > Public Job Registry

### Public Job Registry

Advanced Search

**Quick Search**

ETA Case Number:

Case Type:

Status:  (circled in blue)

State or Territory of Intended Employment:

Job Location within:  of ZIP Code:





















Job Title:

Employer Name:

Job Order Posting Date Range: From:  To:  (circled in blue)

Industry:  Search NAICS Code

Search Reset


ETA Case Number	Job Posting Date	Case Type	Status	Employer Name	State	Work Start Date	Work End Date	Job Title	Job Order	Cert
<a href="#">H-300-15212-788</a>	08/06/2015	H-2A	ACTIVE	Severt's Tree Farm...	VA	09/17/2015	12/20/2015	Farmworker	 (circled in blue)	
<a href="#">H-300-15205-324</a>	07/31/2015	H-2A	ACTIVE	WOODBINE FARMS ...	VA	09/09/2015	11/03/2015	farmworker laborer c...		
<a href="#">H-300-15207-655</a>	07/31/2015	H-2A	INACTIVE	Springwood farm	VA	09/10/2015	10/31/2015	Farmworkers and lab...		
<a href="#">H-300-15203-424</a>	07/30/2015	H-2A	ACTIVE	Mt. Clifton Fruit Co...	VA	09/08/2015	12/10/2015	Orchard Worker		
<a href="#">H-300-15205-324</a>	07/29/2015	H-2A	INACTIVE	NICHOLS FARM LC	VA	09/08/2015	11/03/2015	Farmworker and Lab...		
<a href="#">H-300-15203-779</a>	07/28/2015	H-2A	INACTIVE	FRED L. GLAIZE, L.C.	VA	09/08/2015	10/30/2015	Farmworker and Lab...		
<a href="#">H-300-15205-697</a>	07/27/2015	H-2A	ACTIVE	RUSSELL ORCHARDS	VA	09/08/2015	11/06/2015	Farmworker and Lab...		
<a href="#">H-300-15195-450</a>	07/23/2015	H-2A	INACTIVE	FRUIT HILL ORCHA...	VA	09/01/2015	10/31/2015	Farmworker and Lab...		
<a href="#">H-300-15195-145</a>	07/22/2015	H-2A	INACTIVE	Westwood Farm Inc	VA	09/01/2015	10/16/2015	Farmworker and Lab...		
<a href="#">H-300-15195-658</a>	07/22/2015	H-2A	INACTIVE	Timber Ridge Fruit ...	VA	09/03/2015	10/30/2015	Farmworker and Lab...		

10 / 9 10 84 Row(s)

**Disability Access:** If you have a disability and are unable to access some of the information contained on the Job Registry portion of this Website because of its format or other features, please email [H-2A@registry.chicago@dol.gov](mailto:H-2A@registry.chicago@dol.gov) or call 1-312-866-8000. Your request will be referred to the appropriate Department of Labor office responsible for providing assistance to you in this regard. In order to help us serve you better, please provide us with a description of your disability and your contact information so we can reach you in the event questions arise while identifying or addressing a solution to your request.

# Outreach to H-2A Workers

- Sample job order



**U.S. Department Labor**  
Employment and Training Administration

#26

R E C E I V E D

SEP 2 2015

AGRICULTURAL SERVICES

DWB Control No. 1205-0134  
Expiration Date: October 31, 2015

**Agricultural and Food Processing Clearance Order ETA Form 790**  
Orden de Empleo para Obreros/Trabajadores Agrícolas y Procesamiento de Alimentos

(Print or type in each field block - To include additional information, go to BLOCK # 28 - Please follow Step-By-Step Instructions)  
(Favor de usar letra de molde en la solicitud - Para incluir información adicional vea el punto # 28 - Favor de seguir las instrucciones paso-a-paso)

Nos. 4 through 8 for STATE USE ONLY Números 4 a 8 para USO ESTATAL																	
<p>1. Employer's and/or Agent's Name and Address (Number, Street, City, State and Zip Code / Nombre y Dirección del Empleador/Patrón y/o Agente (Número, Calle, Ciudad, Estado y Código Postal):</p> <p><b>The Nuthouse Inc.</b> 1680 Horse Pasture Rd Roseboro, NC 28382</p> <p>a) Federal Employer Identification Number (FEIN) / Número federal de identificación del Empleador: [REDACTED]</p> <p>b) Telephone Number / Número de Teléfono: (910) 564-2421</p> <p>c) Fax Number / Número de Fax: (910) 564-5459</p> <p>d) E-mail Address / Dirección de Correo Electrónico: lbp@intrstar.net</p>	<p>4. SOC (O*NET/OES) Occupational Code / Código Industrial: <b>45-2092</b></p> <p>a. SOC (O*NET/OES) Occupational Title / Título Ocupacional: <b>Farmworkers &amp; Laborers</b></p> <p>5. Job Order No. / Num. de Orden de Empleo: <b>10415624</b></p>																
<p>2. Address and Directions to Work Site / Domicilio y Direcciones al lugar de trabajo: 1680 Horse Pasture Rd, Roseboro, Sampson County, NC 28382</p> <p>See attached map with driving directions.</p> <p>Fixed-site employer. Employer owns and/or controls the worksite.</p>	<p>6. Address of Order Holding Office (include Telephone number) / Dirección de la Oficina donde se radica la oferta (incluya el número de teléfono): <b>P.O. Box 27625 Raleigh, NC 27611</b></p> <p>a. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (incluya el número de teléfono de su línea directa): <b>W.L. Grant</b></p>																
<p>3. Address and Directions to Housing / Domicilio y Direcciones al lugar de vivienda: 1680 Horse Pasture Rd, Roseboro, Sampson County, NC 28382</p> <p>See attached map with driving directions.</p> <p>a) Description of Housing / Descripción de la vivienda: DWMH (Cap &gt; 2)</p>	<p>7. Clearance Order Issue Date / Fecha de Emisión de la Orden de Empleo: <b>9-2-15</b></p> <p>8. Job Order Expiration Date / Fecha de Vencimiento o Expiración de la Orden de Empleo: <b>Exempt</b></p> <p>9. Anticipated Period of Employment / Periodo anticipado o previsto de Empleo: From / Desde: <b>11/01/2015</b> To / Hasta: <b>08/27/2016</b></p> <p>10. Number of Workers Requested / Número de Trabajadores Solicitados: -- <b>-2-</b></p>																
<p>11. Anticipated Hours of Work per Week / Horas Anticipadas/Previstas de Trabajo por Semana. Total: 35</p> <table style="width: 100%; font-size: small;"> <tr> <td>Sunday / Domingo</td><td style="text-align: center;">0</td> <td>Thursday / Jueves</td><td style="text-align: center;">6</td> </tr> <tr> <td>Monday / Lunes</td><td style="text-align: center;">6</td> <td>Friday / Viernes</td><td style="text-align: center;">6</td> </tr> <tr> <td>Tuesday / Martes</td><td style="text-align: center;">6</td> <td>Saturday / Sábado</td><td style="text-align: center;">5</td> </tr> <tr> <td>Wednesday / Miércoles</td><td style="text-align: center;">6</td> <td></td><td></td> </tr> </table>	Sunday / Domingo	0	Thursday / Jueves	6	Monday / Lunes	6	Friday / Viernes	6	Tuesday / Martes	6	Saturday / Sábado	5	Wednesday / Miércoles	6			<p>12. Anticipated range of hours for different seasonal activities / Rango previsto de horas par alas diferentes actividades de la temporada: <b>7 a.m. to 3 p.m.</b></p>
Sunday / Domingo	0	Thursday / Jueves	6														
Monday / Lunes	6	Friday / Viernes	6														
Tuesday / Martes	6	Saturday / Sábado	5														
Wednesday / Miércoles	6																
<p>13. Collect Calls Accepted from / Aceptan Llamadas por Cobrar de:</p>																	

# Potential Questions to Ask H-2A Workers



- How many years have you worked as an H-2A worker? What is your home country?
- Did you have to pay someone in your home country in order to receive this job?
- Did you receive your contract or work order?
  
- Are you paid by hour or by piece rate? Are you making the promised wage?
- How many hours of work per week were you promised? How many hours per week are you currently working?
  
- Did you receive a safety training?
- What happens if you're injured at work? Do you know who to report an injury to?
- Are you working with pesticides?
  
- Do you have free kitchen facilities or is your employer providing meals? How often do you get to go to the grocery store? Does your employer offer you transportation there?

**Expect it to take time to build trust with H-2A workers – return visits are important!**

# Potential Remedies for Workers



- Improved mental health
- Enforcement of rights
- Monetary compensation
- Visas that aren't tied to a specific employer and have possibility of adjusting status
- Debarment of bad actors

# Identifying Local Partners



- **Workforce Development and Foreign Labor Certification Office**
  - Can help connect domestic workers to H2A jobs, and Foreign Labor Certification Office can clarify questions about H2A job orders, as well as take complaints
- **Migrant Education**
  - Provide ESL and/or additional education classes to H2A workers.
- **Religious Groups**
  - Visit H2A workers to provide emotional and spiritual support
- **Farmworker Law Offices**
  - Educate and empower workers about their legal rights, in order to prevent exploitation and abuse

# Community-Based Strategies



- Addressing “specialized needs” improves overall health
- Medical providers may be the only contact H-2A workers have outside of their employment while they are in the U.S.
  - H-2A workers do not qualify for public benefits, except for emergency Medicaid.
- In Michigan, community health workers and Farmworker Legal Services work together to visit camps, make referrals, and educate workers on both medical and legal issues.
  - Presence of medical services can be good “cover” for legal aid outreach workers to speak with H-2A workers, if worried about retaliation.





# Policy and H-2A Workers



- Requirement to carry immigration status documents (includes H-2A visas)
- Employer concerns over enforcement = (even further) increase in use of H-2A
- Climate of uncertainty

# H-2A Proposals



- **Bills Related to Agricultural Guestworkers**
  - Bills amending current program: “DAIRY” Act, “BARN” Act, “Family Farm Relief”, “Paperwork Reduction Act”
  - Bills proposing new programs: “State-Sponsored Visa” Act, [Goodlatte Bill (H-2C)]
  
- **Other Possible Changes**
  - Appropriations riders – expansion to year-round industry
  - New bilateral agreement between U.S. and Mexico?

# Climate of Uncertainty



## Rescission of DACA Program

- Current documents stay valid until specific expiration date
- No new applications after September 5, 2017 (date of announcement)
- If expire before March 5, 2018 must renew by October 5, 2017
- NO Advance Parole

## Expiration of Temporary Protected Status (TPS)

- Haiti: January 2018
- Other countries in early 2018: Honduras, Nicaragua, El Salvador

## Agricultural Worker Program Act (“Blue” Card)

- Path to LPR and citizenship for agricultural workers
- Spouse and minor children as well
- Work authorization and ability to travel
- Past and future work requirements

# Questions?



# Resources



- Farmworker Legal Services Online Community Education Materials - <http://www.farmworkerlaw.org/cle>
- Intercare Migrant Services - <http://www.intercare.org/outreach>
- Great Lakes Bay Health Centers Migrant Services - <http://www.greatlakesbayhealthcenters.org/services/migrant-health-care/>
- North Carolina Legal Aid pamphlet on rights of H-2A (including sections on worker's compensation and taxes; in Spanish) - [http://www.farmworkerlanc.org/es/wp-content/uploads/2015/08/H2A\\_Booklet\\_2017\\_Spanish.pdf](http://www.farmworkerlanc.org/es/wp-content/uploads/2015/08/H2A_Booklet_2017_Spanish.pdf)

# Resources



- Farmworker Justice's Workers' Comp Guide for Clinicians - [http://www.farmworkerjustice.org/sites/default/files/GUIDE\\_WorkersComp\\_FINAL\\_ONLINE.pdf](http://www.farmworkerjustice.org/sites/default/files/GUIDE_WorkersComp_FINAL_ONLINE.pdf)
- Farmworker Justice's ACA Guides for Workers - <http://www.farmworkerjustice.org/content/access-healthcare-0>
  - Guide for H-2A workers
  - Guide on Employer-Provided Health Insurance
  - Guide on the Health Insurance Requirement
  - Guide on Enrollment
- Dos Opciones, Un Camino - <https://www.youtube.com/watch?v=KRpHlZf9-bY&t=62s>

# Thank you!!



Iris Figueroa, Farmworker Justice  
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