

# HOW PARTNERSHIPS WITH LEGAL SERVICES CAN PROMOTE AGRICULTURAL ACCESS TO HEALTH CARE

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Legal Services

Midwest Stream Forum for Agricultural Worker Health

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# Agenda

- Overview of current federal health policies and structural barriers
- Medical-Legal Partnerships – Colorado Legal Services and Colorado health centers
- Promoting Medical-Legal Partnerships in farmworker communities
- Resources

# Farmworker Justice

Farmworker Justice is a national nonprofit organization that seeks to empower farmworkers and their families to improve their living and working conditions, immigration status, occupational safety, health, and access to justice.



# Migrant Farm Worker Division

of Colorado Legal Services\*

The CLS Migrant Farm Worker Division is a statewide project that seeks to address the unique legal needs of agricultural workers throughout Colorado due to the nature of the work, language barriers, variable immigration status, lack of resources and limited enforcement mechanisms.

*\* Colorado Legal Services has 13 offices across the state and several statewide projects*



# OVERVIEW OF CURRENT FEDERAL HEALTH POLICIES

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# Affordable Care Act

- **ACA is still in effect!**
- Since 2017...
  - Elimination of individual mandate penalty – began in 2019
  - Changes in navigator program (Federal Marketplace)
    - ✓ Reduction in funding - \$10 million for 2020 and 2021
      - 90% reduction from 2016 funding levels
    - ✓ Removal of requirements that states have two navigator grantees and maintain a physical presence in the service area – 2019 Benefit and Payment Parameter Rule
    - ✓ Removal of requirement that navigators provide post-enrollment assistance and reduction in mandatory training components – 2020 Benefit and Payment Parameter Rule
- Texas v. U.S. lawsuit

# Public Charge

## **New definition**

- Someone who receives one or more public benefit for more than 12 months in the aggregate within any 36 month period

## **Definition of public benefit**

- Cash assistance from federal, state, local, or tribal programs (incl. TANF, SSI, and General Assistance)
- SNAP
- Housing assistance
- Medicaid (except emergency Medicaid, Medicaid for children under 21, Medicaid for pregnant women and postpartum care for 60 days)

**Defined, weighted, and assigned “positive” and “negative” values to factors considered under the totality of circumstances test**

# Public Charge – Totality of Circumstances Factors

- ❑ **Age** – 18 to 62 (positive)
- ❑ **Health** – diagnosed with medical condition that is likely to require extensive medical treatment or will interfere with ability to work, attend school, etc.
- ❑ **Family Status**
- ❑ **Assets/resources/financial status** – below 125% FPL (negative)
- ❑ **Receipt of public benefits**
- ❑ **Education and skills** – English proficiency, education level, employment history\*

*Some factors are heavily weighted as negative or positive...*

**Negative** – diagnosed with a medical condition that will interfere with ability to work AND uninsured without means to pay for medical costs; receipt of one or more public benefits for more than 12 months within a 36-month period, not a full-time student or authorized to work but unable to demonstrate current employment; previously found inadmissible on public charge grounds

**Positive** – income above 250% FPL; has private, unsubsidized health insurance coverage





# Public Charge – Takeaways

**Set to go into effect on Oct. 15**

**Public charge is a *future looking* test**

**Highly discretionary**

- All factors in totality of circumstances must be considered

**Public charge applies to certain immigrant categories and is only assessed when either applying for LPR status or applying to enter the U.S.**

- H-2A workers are subject to public charge determination when they apply for their visas at U.S. consulates

**Only benefits used by applicant will be considered**

**Overcoming the factors in the totality of circumstances will be challenging for farmworkers**

# STRUCTURAL BARRIERS TO HEALTH CARE ACCESS

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# Living conditions

- Substandard, overcrowded housing
- Isolated from rest of community – unfamiliar with community resources
- Employer-provided housing
- Lack of access to transportation, May rely on employer or other workers for transportation needs



# Working conditions

- Lack of sick leave
- Non-traditional work hours
- Lack of familiarity about workplace rights
- Fear of employer retaliation
- Abusive Mayordomo



# Discrimination

- Lack of language access – especially workers from indigenous communities of Mexico and Guatemala
- Fear due to immigration status
- Cultural barriers
- Poverty/low wages
- Sexual Harassment



# MEDICAL-LEGAL PARTNERSHIPS

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Colorado Legal Services and Colorado Farmworker  
Health Services Providers

# Examples of Medical-Legal Partnerships

***There can be many different types of Medical-Legal Partnerships!***

- Annual Meetings (pre-season)
  - Share priorities, outreach materials & posters
  - Establish or review protocol / procedures for referrals and check-ins
- Annual Trainings for Medical and Legal Outreach Workers
  - Train each others Outreach Workers
- Coordinated Evening Outreach to Labor Camps - *not joint outreach*
- Focused Outreach / Presentations to Farm Workers
  - Pesticides Project
  - Breast Cancer Awareness
  - UTI Awareness
- Legal Night Hosted at Health Clinic
- In-house Legal Staff at Health Clinic / Social Worker at Legal Aid

# CLS Partnerships with CO Health Providers

- FJ Training of CLS Outreach Workers on ACA
- CLS Table at Annual Health Fair in Olathe
- CLS Outreach Workers Summer Visits to CO Clinics
- Dentist Visit to H2A Labor Camp in NE Colorado
- CLS Advocacy for Access to Farm Worker Housing
- Focused Outreach to Clinics Regarding Sexual Harassment Complaints
- Coordinating Outreach to Camps on Mobile Clinic Calendar



# CLS Perspective on Medical-Legal Partnerships

## Benefits

- Improve FW Access to Medical & Legal Services
- We all are Better Informed
- Twice the coverage
- Issue Spotting
- Gaining Client Trust
- Strengthens advocacy for laws and policies that impact greater numbers of FWs
- Establish Long-term Relationships
- Funding opportunities

## Challenges

- Employers
- Consistent Communication
- Staff Turnover
- Difference in Coverage Areas
- Program Priorities
- Time
- Resources

# PROMOTING MEDICAL-LEGAL PARTNERSHIPS IN FARWORKER COMMUNITIES

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# Why Medical-Legal Partnerships are important in farmworker communities...

- Promotes coordination of resources
- Encourages knowledge-sharing about farmworker issues
- Empowers farmworkers to improve their health, living, and working conditions by connecting them to both health and legal services
- Addresses systemic problems that lead to poor health outcomes

# Farmworker Medical-Legal Partnerships often are different from “traditional” Medical-Legal Partnerships

Due to challenges unique to farmworker communities, traditional medical-legal partnerships may not be appropriate.

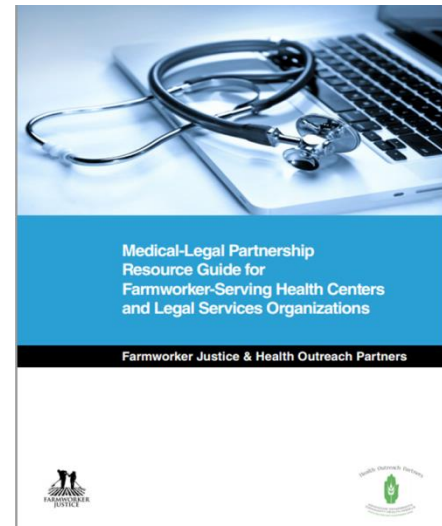
Successful farmworker medical-legal partnerships:

- Referrals
- Cross-training on health and legal issues of farmworkers
- Policy advocacy
- Board participation

# FJ & NCMLP resource

- Original publication – 2013
- Revised publication – May 2020

FJ & NCMLP will update resource with new medical-legal partnership models, strategies



# Colorado Legal Services Resources

**Farm Worker Outreach Materials on website**

coloradofarmworkers.org

or

**by contacting staff**

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# Questions & thank you!

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