

Families Hiring In-home Caregivers

Families can hire a foreign caregiver to provide care, in a private residence, to children, seniors or persons with certified medical needs, when Canadians and permanent residents are not available.

Description

Under the Temporary Foreign Worker Program (TFWP), families can hire foreign caregivers. However, the caregivers must:

- provide care on a full-time basis (minimum 30 hours per week);
- work in the private household where the care is being provided; and
- meet the requirements set by Employment and Social Development Canada (ESDC)/Service Canada and Citizenship and Immigration Canada (CIC).

These families or private household employers will be able to hire foreign workers, on a live-in or live out basis, for 2 categories of in-home workers, which include:

1. Caregivers for children
 - Children under 18 years of age

This category could include positions such as:

- Home child care providers, often called nannies – lower-skilled (National Occupational Classification (NOC) code [6474 - Babysitters, Nannies, and Parents helpers](#))

2. Caregivers for people with high medical needs
 - elderly persons, 65 years of age or over; or
 - people with disabilities, a chronic or terminal illness

This category could include positions such as:

- Registered nurse or registered psychiatric nurse – higher-skilled (NOC code [3152 – Registered Nurse](#))
- Licensed practical nurse – higher-skilled (NOC code [3233 – Licensed Practical Nurses](#))
- Nurse aide or patient service associate – lower-skilled (NOC code [3413 – Nurse Aides, Orderlies and Patient Service Associates](#))
- Home support worker – lower-skilled (NOC code [6471 – Visiting Homemakers, Housekeepers and Related Occupations](#))

Note:

Foreign Caregivers working in Canada MAY be eligible for permanent residency, provided they meet CIC requirements. For more information on the pathways to permanent residence for caregivers, and the specific occupations that are eligible, visit [CIC](#).

Employers must meet the program requirements for the Streams for Higher-skilled or Lower-skilled Occupations including paying the prevailing wage for the occupation in the location where the work will be performed, and conducting the necessary recruitment and advertisement requirements for the stream.

Advertisement

A job posting is an announcement of an employment opportunity in a public medium such as newspapers, job posting Internet site, bulletin boards, etc. It provides a broad exposure of the vacancy to Canadian citizens and permanent residents in Canada who would be potential candidates for the position.

To meet the minimum advertising requirements set by the Program, employers must advertise:

1. On the national [Job Bank](#) or its provincial/territorial counterpart in [British Columbia](#), [Saskatchewan](#), the [Northwest Territories](#), [Quebec](#) or [Newfoundland and Labrador](#)
 - The advertisement must be posted for a minimum of 4 weeks starting from the first day the ad appears and is accessible to the general public.
 - The advertisement must remain posted to actively seek qualified Canadians and permanent residents until the date a labour market impact assessment is issued.
2. Using 2 or more additional methods of recruitment consistent with the normal practice for the occupation.
 - employers can choose 1 or more recruitment methods among these:
 - print media (local newspapers, job boards, youth magazines etc.); and
 - general employment websites (jobboom.com, workopolis.com, monster.ca, etc.).
 - The advertisement must be posted for a minimum of 4 weeks starting from the first day the ad appears and is accessible to the general public.
3. Targeting underrepresented groups
 - Employer can:
 - try to recruit workers from local or provincial/territorial employment centres, service centres for Aboriginal youth, new immigrants and people with disabilities;
 - offer bursaries to attract students or youth, pursue online recruitment strategies, or undertake ongoing advertising and interviews in order to maintain a pre-screened applicant pool.

The advertisement must include the:

- Company operating name
- Business address
- Title of position
- Job duties (for each position, if advertising more than one vacancy)
- Terms of employment (e.g. project based, permanent position)
- Wage
- Benefits package being offered (if applicable)
- Location of work (local area, city or town)
- Contact information: telephone number, cell phone number, email address, fax number, or mailing address;
- Skills requirements:
 - Education
 - Work experience

Note:

Third-party representatives or recruiters can be the main contact for any job advertisements posted on behalf of the employer. However, the ad must be listed under the employer's Canada Revenue Agency Business Number.

Additional Advertisement Requirements

Employers may be required to conduct alternative or additional advertisement efforts such as, increased duration (length of time) or broader advertisement (whether local, regional or national). These additional efforts would be required if Employment and Social Development Canada (ESDC)/Service Canada determines that it would likely yield qualified Canadian citizens and permanent residents who are available to work in the occupation and region.

Proof of Advertisement

Employers must demonstrate that they meet the advertising requirements by providing proof of advertisement and the results of their efforts to recruit Canadian citizens and permanent residents (e.g. copy of advertisement and information to support where, when and for how long the position was advertised). Records of the employers' efforts should be kept for a minimum of 6 years, as stipulated in provincial/territorial and federal legislation, such as the *Income Tax Act*. ESDC/Service Canada may request these documents for future assessments.

Requirements

- [Processing Fee](#)
- [Language Restriction](#)
- [Language Proficiency](#)
- [Education, Training or Experience](#)
- [Multiple Employers](#)
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Processing Fee

Employers must pay \$1,000 for each position requested (e.g. \$1,000 x number of positions = total payment) to cover the cost of processing a Labour Market Impact Assessment (LMIA) application.

- The processing fee payment (in Canadian dollars) can be made by:
 - certified cheque (payable to the Receiver General for Canada)
 - money order (postal or bank)
 - Visa
 - MasterCard
 - American Express
- There will be no refund in the event of a negative LMIA, or if the application is withdrawn or cancelled by the employer since the fee covers the assessment process and not the outcome.
- Employers requesting to have their LMIA application reconsidered, as a result of a negative LMIA, must submit a new application and processing fee for each position.
- Refunds will only be available if a fee was collected in error (e.g. an incorrect fee amount was processed).

Employers must be aware that Employment and Social Development Canada (ESDC), has a policy that prohibits employers and third-party representatives from recovering the LMIA processing fee from TFWs.

Language Restriction

A distinct language assessment factor has been introduced as subsection 203 (1.01) of the *Immigration and Refugee Protection Regulations* (IRPR). As a result, English and French are the only languages that can be identified as a job requirement both in LMIA applications and in job advertisements by employers, unless they can demonstrate that another language is essential for the job.

Language Proficiency

Employers must ensure that the caregiver being hired speaks, reads and understands at least one of Canada's official languages (English or French). Caregivers must have a level of fluency that enables them to communicate effectively and independently in an unsupervised setting.

Education, Training or Experience

Requirements are those for the Streams for Higher-skilled Occupations and for Lower-skilled Occupations depending on the position. Some occupations may require the foreign worker to be licensed by a professional body in order to perform the job (e.g. registered nurses).

Employers must ensure that the caregivers meet the requirements for the position they are being hired to perform.

Note:

CIC has established 2 pathways to permanent residency for caregivers, which are:

- *Caring for Children;* and
- *Caring for People with High Medical Needs.*

Each pathway has its own language and education requirements. For detailed information on these requirements, visit [CIC](#).

Multiple Employers

Private household employers can partner with another employer (maximum of 2 official employers), to share the responsibilities of hiring an in-home caregiver. For example, 2 adult children may act as employers of a caregiver for an incapacitated parent. In situations that involve multiple employers, only 1 application is required; however both employers must meet all of the program requirements and sign all documents (e.g. Labour Market Impact Assessment (LMIA) application, employment contract (mandatory in the case of a lower-skilled/low-wage occupation), bedroom description form (mandatory in the case of a live-in caregiver)).

Canada Revenue Agency Business Number

Individuals hiring a foreign caregiver are considered employers and must obtain a business number (BN) from the Canada Revenue Agency (CRA) to:

- meet the initial registration requirements for advertising on the national Job Bank website or its provincial/territorial counterpart;
- apply for a TFW;
- pay the worker's wage (including vacation pay);
- make deductions from the worker's wage as prescribed by the law and the TFWP; and
- issue pay stubs, statements, remuneration paid (T4) or Records of Employment (ROE).

To Obtain a Business Number

A BN is a 9-digit business identifier that CRA assigns to an employer located in Canada for tax purposes.

Employers can register for a BN by:

- Internet:
Use the [CRA Business Registration On-line service](#)
- Phone:
Call the CRA Business Enquires line at 1-800-959-5525 (toll-free). Before calling, be ready to answer all the questions in the [Request for a BN Form \(RC1\)](#).
- Mail or fax:
Complete the Request for a BN Form (RC1) and mail or fax it to the nearest [tax services office](#).

Note:

- Employers cannot use any existing company BN, should they have one, to hire a foreign caregiver. They must obtain a separate BN for the specific purpose of hiring a caregiver.
- In instances of multiple employers applying to hire a foreign caregiver, only 1 BN is required.

Businesses outside Canada

- Employers in the United States can contact the International Tax Service Office at: 1-800-267-5177 ext. 9144 (toll-free)
 - Employers from outside Canada and the United States can call collect at: 1-613-954-9681
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Record of Employment

Under the provisions of the *Employment Insurance Act*, all employers are required to provide a [Record of Employment](#) (ROE) when an interruption of earnings occurs for an employee. This requirement applies whether the employee is a Canadian or a foreign worker. The ROE, which indicates the wages paid and the number of weeks the TFW worked, is required by the foreign worker as proof to qualify and apply for permanent residency. TFWs also need the ROE to apply for Employment Insurance benefits.

Proof of Individual Requiring Care

Employers must provide proof that they or a dependant is in need of care. The documentation that must be submitted along with the application form includes proof of one of the following:

- age and parentage for each child under the age of 18 (provide one of the documents listed):
 - long form birth certificate
 - adoption order
 - official guardianship, or
 - medical doctor's note confirming the pregnancy and the due date
 - age for each senior, 65 years or older (provide one of the documents listed):
 - birth certificate
 - passport, or
 - Old Age Security identification card
 - disability, chronic or terminal illness for each disabled, chronically or terminally ill person (provide one of the documents listed):
 - completed [Medical Disability, Chronic or Terminal Illness Certificate \(EMP5600\)](#) form, signed and dated by the physician, or
 - physician's note attesting that the patient has a disability, chronic or terminal illness
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Financial Ability

Employers must submit a copy of their Notice of Assessment from the CRA showing their financial ability to pay the caregiver's wages. In exceptional cases where the employer is not required to pay income tax in Canada, copies of paystubs, bank statements, personal work contract or other official documents can be submitted as proof of income.

Note:

In cases of multiple employers where the income of 1 employer is not sufficient to meet the financial ability to hire a caregiver, the income of both employers can be combined to meet this requirement. However, the 2 employers must submit copies of their individual Notice of Assessment from CRA.

Employment and Social Development Canada (ESDC)/Service Canada will assess the employer's financial ability by using the Low Income Cut-offs (LICO) produced by Statistics Canada. Employers can perform their own calculations before submitting their application by using the [Financial Ability Calculator](#).

Transportation

Employers of lower-skilled in-home caregivers must always pay for the transportation costs (e.g. plane, train, boat, car, bus) of the caregiver to the work location in Canada. These costs must be paid up-front to ensure that they are not part of any negotiations related to the employment contract, if applicable. This process helps protect temporary foreign workers, who may be tempted to accept alternative travel arrangements in return for a job offer.

Employers may have a financial agreement with any member of their family to pay for the transportation costs.

Transportation costs may include:

- transportation from the caregiver's country of current residence to the work location in Canada;
- transportation from the caregiver's current residence in Canada to the new work location;
- gas expenses when the caregiver drives a personal car to the new work location. The cost of gas should be paid to the caregiver before leaving for the work location, by direct deposit, cheque or other means. To calculate the cost of gas:
 - **Cost = number of km x price of gas**
- return transportation from the caregiver's current residence in Canada to his or her original country of residence.

Note:

- The mode of transportation selected must reduce the travel time, expenses and inconvenience to the caregiver.
- Under no circumstances, can an employer recover the transportation costs from the TFW.

Transportation costs paid by the employer do NOT include:

- hotels, meals and miscellaneous expenses during the caregiver's travel to the work location;
- transportation or other expenses for vacations or emergency trips.

Employers must keep records (e.g. invoices, receipts, copies of flight itineraries, tickets, boarding passes) of all transportation costs paid, for a minimum of 6 years. This information may be required as proof if employers re-apply for a subsequent LMIA or if they are selected for an inspection.

Note:

This requirement DOES NOT apply to employers of higher-skilled in-home caregivers.

Housing

Employers cannot under any circumstance require a caregiver (either lower-skilled or higher-skilled) to live in their home. However, if an employer and foreign caregiver decide that a live-in arrangement is the most suitable, for the needs of the person requiring care or to assist the TFW, there are certain criteria that must be met. Specifically, employers must ensure the:

- accommodation is being provided in the home of the person receiving care;
- accommodation is private and furnished bedroom;
- bedroom door has a lock and safety bolt on the inside;
- bedroom meets the municipal building requirements and the provincial/territorial health standards; and
- foreign caregiver is NOT charged room and board for the accommodations, as per the policy, under the TFWP.

Employers must submit the completed [in-home Employer Supplied Bedroom Description form \(EMP5599\)](#) with the application.

Employers of lower-skilled in-home caregivers, who are not providing live-in accommodations, must ensure that suitable and affordable accommodation is available to the TFW. In addition, these employers should be prepared to provide proof (e.g. newspaper ads) that affordable housing is available in the community where the TFW will be employed. Meanwhile, employers of higher-skilled in-home caregivers do not have to meet this requirement.

Health and Workplace Safety

Health Insurance

Employers of lower-skilled in-home caregivers must always pay for the TFW's private health insurance. Coverage must begin from the time the TFW arrives in Canada until the worker is covered by the appropriate provincial/territorial health insurance plan. The waiting period to be eligible for the provincial/territorial health insurance is available on the Ministry of Health Web sites for each province or territory. The private insurance coverage provided to the TFW must be similar to the provincial/territorial health insurance plan.

Note:

Under no circumstances, can an employer recover the health insurance costs from the TFW.

Workplace Safety

Employers of lower-skilled in-home caregivers must arrange and pay for workplace safety insurance coverage from provincial/territorial workplace safety insurance providers also known as the Workers' Compensation Board. Any coverage obtained by the employer must correspond to the TFWs arrival date in Canada.

If requested by ESDC/Service Canada, employers must provide a provincial/territorial workers' compensation clearance letter or other appropriate provincial/territorial documentation.

Note:

The requirement for Health Insurance and Workplace Safety DOES NOT apply to employers of higher-skilled in-home caregivers.

Employment Contract

ALL employers of in-home caregivers must prepare and sign an employment contract (mandatory for higher-skilled/wages positions). Although employers are not required to use the contract template provided, they must ensure that the contract used, contains all of the mandatory information and clauses.

In the event that differences arise between the employer and the TFW, the contract will guide the resolution of disputes. In cases where the dispute cannot be resolved between the two parties, the employer or the TFW may contact the [Ministry of Labour](#) in the province/territory where the work is being performed.

ESDC/Service Canada has no authority to intervene in the employer-employee relationship or to enforce the terms and conditions of the contract.

Third-party Representatives and Recruiters

Employers do not need to use the services of a third-party representative or recruiter to apply for a foreign worker. However, employers who choose to use the services of one of these individuals or organizations must pay for all of the fees associated with the service and meet all of the applicable requirements.

Representatives assist employers by providing services, such as:

- explaining and providing advice on the TFWP;
- completing and submitting the application form and all required documents;
- communicating with ESDC/Service Canada on the employer's behalf; and
- representing the employer during the application process.

Employers who wish to use the services of a representative, paid or unpaid, must complete and submit [Schedule A - Appointment of a Third-party Representative](#). Employers must identify their representative and not simply the firm/organization employing this person.

Paid Representatives

Individuals representing or assisting employers in exchange for compensation (e.g. money, goods or services) must be authorized under section 91 of the *Immigration and Refugee Protection Act* (IRPA), which means they have to be a member in good standing with:

- a Canadian provincial/territorial law society, or a student-at-law under its supervision;
- the Chambre des notaires du Québec;
- the Province of Ontario's law society as a paralegal; or
- the Immigration Consultants of Canada Regulatory Council (ICCRC).

Employers should visit [Citizenship and Immigration Canada](#) (CIC) to verify that a specific representative is authorized to represent them or provide immigration advice.

Unpaid Representatives

Individuals representing employers for free (e.g. do not collect fees or other forms of compensation) are not subject to any restrictions under the IRPA. These individuals are usually family members, non-for-profit or religious organizations that assist employers who may not be able to complete the application process on their own.

Recruiters

Recruiters can assist employers by providing services such as:

- placing job advertisements for the recruitment of foreign workers;
- screening potential employees;
- making travel arrangements; and
- negotiating wages/salaries on behalf of the employer.

Employers, using the services of a paid recruiter to represent them during the LMO application process, must complete the Third-party, Recruiter or Employer Agency Information section of the application form as well as the separate [Schedule A - Appointment of a Third-party Representative](#). The paid recruiter representing the employer must be [a member of one of the groups](#) authorized under section 91 of the IRPA.

If a paid representative is not authorized under the IRPA, ESDC/Service Canada will continue to process the application, but will communicate with the employer directly. However, a copy of a signed letter stating that the employer is no longer using the services of the original representative will be required before the employer can:

- hire another paid authorized representative; or
- work with an unpaid representative.

Employers who wish to appoint another representative must also submit a new [Schedule A - Appointment of a Third-party Representative](#).

Note:

ESDC/Service Canada:

- reserves the right to contact employers directly when further information or documentation is required.
- will not mediate a dispute between an employer and a third-party representative nor communicate complaints to a regulatory body on an employer's behalf. Employers who wish to file a formal complaint against their representative should contact the appropriate regulatory body (e.g. the provincial law society, the Chambre des notaires du Québec or the ICCR). For additional information on how to file a complaint, visit [CIC](#).

Valid Power of Attorney

In instances where a person is clearly incapacitated, for example, due to mental illness and has appointed an individual, whether a family member or not, who has a Power of Attorney, then this individual is considered to be the employer of record. This person will be responsible for making all the necessary decisions, including submitting the LMIA application, hiring a live-in caregiver and paying the worker's wage.

A copy of the valid Power of Attorney must be included with the LMIA application.