

## **Canadian Care Giver Immigration Program Called The Best**

Of all the programs the Canadian government has to offer immigrants, the best has to be the care giver program. Under this program, an individual who is prepared to look after children, the elderly, or the disabled in a private household, can come to Canada and eventually qualify to stay permanently. The beauty of the program rests in the fact that unlike the others which require wealth, unique skills or family connections, this program helps ordinary people immigrate to Canada. For as long as I can remember, the program has been the bane of the existence of the Immigration Department yet thankfully, its supporters in Canada have had the strength to keep it alive. While the United States has a similar program, it is nowhere near as effective. The requirements of the Canadian program are quite straight-forward and the process under which the applicants have been allowed into Canada is interesting.

To qualify under the program, the would-be care-giver must meet four requirements. Firstly, the care-giver must have completed the equivalent of Canadian high school. Secondly, the applicant must be willing to live and work in the private home of the sponsoring family. He or she must be employed on a full-time basis, and cannot work for more than one employer at a time. Thirdly, the immigrant must have six months of fulltime training in a classroom setting or twelve months of full-time paid employment, including at least six months of continuous employment with one employer, in a field or occupation related to the live-in care-giver position being sought. This experience must have been obtained within the three years immediately prior to the day on which the application for a work permit is submitted. For example, an elementary school teacher would qualify for a nanny position with a Canadian family. The training may have been obtained as part of a formal education. Finally, the care giver must be able to speak, write and understand either English or French at a level that allows for independent functioning in a home environment.

In some ways these are onerous requirements. For example, a nanny who is going to care for the children of somebody who speaks German in the home will not qualify if her English is not good, even though she may speak German perfectly, and even though she may have a Ph.D. in education and meet all the other qualifications. Similarly, does somebody who may not intend to settle in Canada permanently really need to have a high school education to look after the elderly? Some changes to the program would make it even better, but there can be no denying the fact that the program, even as it is, helps a great many people who are in need in Canada.

One of the main reasons for the program's survival has been the fact that most Canadian care givers are not prepared to move in with the family of the individuals who need care. While there may be unemployed nurses and other medical personnel looking for work in Canada who, in theory, could fill these needs, the fact of the matter is that such unemployed individuals do not like running the risk of having to be available at odd hours of the day and night by living in the relevant home. And this is just what is needed to keep the door open to the foreign care givers. Sometimes these foreign care givers are family members who are welcomed into the new home with glee since this not only helps

the Canadian family, but also makes it possible for these families to help their kin move here. This, of course, raises eyebrows and elicits snarls from Canadian visa officers who see it as an attempt to circumvent normal immigration procedures. But it is tolerated.

Human Resources Canada generally expects that the family has made efforts to find qualified Canadians before applying to hire foreign live-in care-givers. This includes demonstrating that efforts were made through comprehensive advertising in newspapers, reputable Internet job banks including the relevant provincial HRSDC job bank, publications, etc. It helps the hiring family's chances if the process was clear in presenting the wages offered and the job duties required. Hiring agencies can be used, although it is important to insure the agency's reputability. Such an agency can be used to obtain HRDC confirmation, but it cannot sign the contract for you.

There are three steps to the process of hiring a foreign live-in care-giver: getting HRDC approval of the job offer, signing a contract between the employer and employee, and obtaining a Canadian work permit. This process begins within Canada when the relevant family submits an application for a Labour Market Opinion to Human Resources Canada. They are given a booklet which explains the program and are invited to enter into a written contract with the immigrant in which the duties, money and living arrangements are spelled out. Basically, the foreigner is paid a monthly amount as required by the provincial laws from the host family. The care giver must be provided with a private, furnished room within the home, and working conditions must satisfy federal and/or provincial standards of labour and workplace safety legislation. The work cannot be for a health agency, labour contractors, day care or foster care, and the wages that are being offered must be comparable to wages paid to Canadian live-in care-givers or else the job offer will not be approved. Additional requirements are also placed on employers who live in British Columbia or Quebec.

The signed contract and an application are submitted to Human Resources Canada who usually takes a few weeks to approve the matter. When the application is submitted, the people at Human Resources must be told where to send the approval letter.

Sometimes the applicant for the job is visiting Canada when the application is filed. In this case Canadian immigration law requires the applicant to leave the country and apply from their home country's Canadian consulate. An exception to this rule is that the applicant can apply from another country if they have lived there in lawful status for at least one year. For example, the Los Angeles Consulate can be designated as the Consulate where the applicant wants to be interviewed to obtain their visa if the applicant has lived in the USA for a year. Human Resources Canada will then send their approval letter to that Consulate and that is where the applicant must travel to take the next step. Almost always now the applicant will have to return home to get approval.

Once Human Resources has approved the job offer and the employer-employee contract has been signed, the final step is for the foreign care-giver candidate to apply for a work permit from Citizenship and Immigration Canada at a Canadian consulate abroad. Once the care giver arrives at the relevant Canadian Consulate, my experience has been that he or she should expect to be there all day. Show up early. The care giver should produce a

copy of the Human Resources Canada Labour Market opinion letter approving the application of the employer, a passport and the relevant Canadian processing fee. He or she will also need to produce original and English translations of all diplomas and other pertinent documents which should include letters from the home country attesting to the applicant's experience or training and good moral character. These documents will be required during the interview itself.

The receptionist collects the applicant's papers, and the applicant is told to sit and wait for the interview. Usually, about an hour or so later, the applicant is given another form to fill out at the Consulate. This form inquires into the applicant's work and educational history. Care should be taken in completing this application since it must correspond to the assertions being made about previous relevant education or work experience related to care giving. In particular, dates should correspond to the dates that are on diplomas or other documents submitted to prove the applicant fits the required criteria. Conflicts between this form and other documents related to education or work experience feed the suspicions of visa officers who are looking for reasons to deny applications.

The interview is usually next. It is typically conducted in the absence of counsel. Applicants outside Canada do not have the right to have their lawyer present. The questions asked usually start off with who, what, where, why, when and how of the situation and cover the four grounds for legal admission to Canada. Part of the interview is to determine whether the applicant has a sufficient grasp of English or French to function in the job in Canada. Sometimes if the consular officer suspects a complete lack of language knowledge an applicant is asked to read out loud a passage from the Globe and Mail, for example and then asked to briefly explain what was read in their own words. Assuming all goes well, it is possible for the care giver to get approval from a Canadian Consulate as soon as a medical is approved.

Assuming all goes well the applicant is given a letter of approval which he or she presents to the Canadian immigration official on arriving in Canada. The letter basically states that the applicant has been approved as a care giver and requests the border official to issue the person a work authorization and visa. The visa is issued for one year and assuming the care giver encounters no troubles, is renewed for the second year almost automatically. At the end of the second year the care giver can then apply for permanent residence in Canada which usually takes about three months. If Canada Immigration has some suspicions about the care giver's life in Canada and his or her compliance with the rules the applicant may be invited in for an interview. Such an interview is designed to inquire into whether the applicant has set down roots in the community. Evidence of involvement in community affairs, taking English or other evening courses, savings and friendships will help the applicant in this back-end review before permanent residence is granted.

The beauty of this program lies in the fact that those individuals who are successful in their applications can improve their lives, and the lives of their descendants, forever.

Through this program they can change their destinies, and the destinies of those who follow them. Few opportunities like these exist in the world for ordinary people, and for that reason, Canada should be very proud of this aspect of its immigration policy.

## **COMPARISONS TO THE U.S.A.**

The United States has similar, but far less attractive, opportunities for those who wish to work as live-in care-givers. There are two avenues available for interested foreigners: the “au pairs” program, and a green card application through employment.

Au pairs is an exchange program that permits an American household to provide live-in childcare work for a foreign worker for a maximum of one year. Among the requirements placed on both the worker and the employer are that the work is limited to ten hours per day and 45 hours per week, foreigners are hired as child care-givers and not as general housekeepers, and the wages paid must be at least minimum wage. The worker must be provided with a private bedroom and meals. She may not provide the type of childcare services relating to the care and protection of infants and children typically performed by trained personnel such as nurses. The worker must be proficient in spoken English and have a high school diploma or equivalent. In addition to the work, she must attend an institution of higher education to gain at least six semester hours of academic credit.

This program falls into the category of the various non-immigrant visas that exist in the US. A worker must be intent on returning to her home country when the program is over. She must first be accepted as a participant in the program, and subsequently apply for the J-1 visa, which is typically issued quickly. Sponsoring organizations identify, screen, select and match applicants with families, and local counsellors maintain ongoing contact with the participants over the course of the year. Under the J-1 visa, a worker can travel in and out of the US, and visas are available for accompanying spouses and unmarried children under the age of 21. However, stays are limited to one year and cannot be extended. It is next to impossible to apply for a green card while working as a live-in care-giver, since the applicant is expected to leave at the end of the year's work. While this program provides various benefits to both the family and the applicant, it is geared to be a temporary experience and not a means of working towards obtaining a green card. And that is its biggest failing.

Alternatively, a foreigner can apply for a green card as a third preference unskilled worker, in this case as a live-in care-giver. The application process has three stages: labour certification for a foreign worker through the Department of Labour, a petition by the employer to the US Citizenship & Immigration Service on behalf of the certified foreign worker, and an application by the foreigner for a green card.

There are a few factors to consider in such an application. First, the potential employer must demonstrate a business necessity for live-in services and that an American or family member cannot fill the role. Secondly, the employer must be prepared to meet the wages and conditions required for such a worker, which are similar to those in the au pairs

program. Lastly, some effort must be made to advertise the position to an American worker or an alien with work authorization, both before the application is filed and as part of the application process. All this takes time.

The application for labour certification requires an employment contract that contains a description of the job. It also requires a description of previous efforts made at recruitment. The qualifications of the desired applicant must be detailed as well. The job is subsequently advertised again, with respondents required to contact the Department of Labour. That Department then refers applicants to the employer to be interviewed for their suitability. An employer must have solid, job-related reasons for rejecting applicants. On average, this all takes several years. Once labour certification is obtained, however, the employer can file a petition with the U.S. Citizenship and Immigration Service for the worker. When the immigrant's visa number becomes available, he or she can apply for a green card. Foreign workers must document certain onerous work and education requirements to qualify. The prospective employee must have one full year of paid domestic experience, at least three months of which comes from a different employer than the sponsor. However, this experience does not necessarily have to be live-in, and need not be continuous. A spouse and unmarried children under the age of 21 are entitled to accompany the worker to the United States.

As is evident from this review of care-giver requirements, the American system pales in comparison to that of Canada. Where the Canadian process may take three to four months for approval, the application process in the US is very lengthy, due in part to a recent quota reduction for green cards in this category. Labour certification can take two years or more to complete, while the petition approval and subsequent green card application can take up to an additional ten years. The reality is that many couples that require live-in care will resort to hiring illegal immigrants, which can pose problems down the road both for them and for the employee. Ironically, the waits created through a stringent immigration policy can exacerbate the very problem of illegal immigration the policy was created to prevent. The Canadian program has successfully demonstrated that the need for live-in care-givers can be met while balancing the priorities of domestic hiring and secure immigration. The United States would be well served to follow the Canadian example.

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