

# NCCHCA Health Insurance Outreach & Enrollment Workgroup

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March 16, 2017

## H-2A Workers and Health Coverage

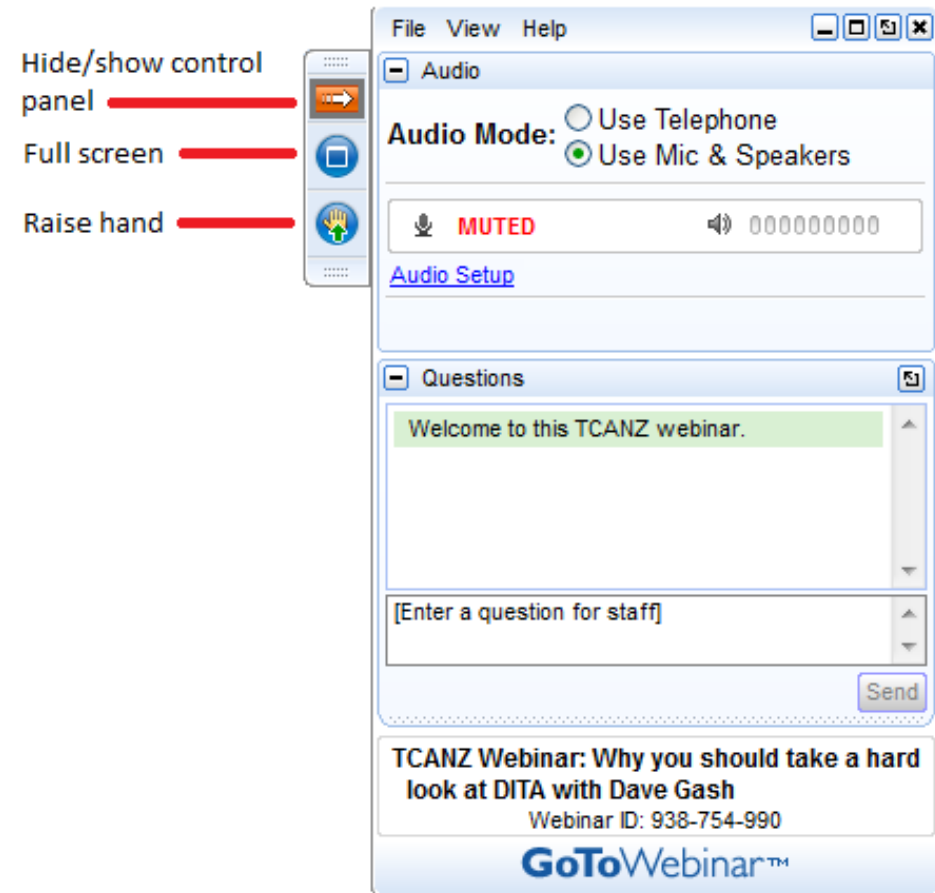


Webinar will be recorded. Recording, notes, and slides will be posted on [Outreach & Enrollment Hub](#).

# Webinar Logistics

Audio is through either your computer or phone.

Type comments/questions in the Question Box.



# NCCHCA Outreach & Enrollment Team

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# Agenda

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- Updates
- H-2A Workers and Eligibility for Health Insurance
- Local H-2A Outreach: Greene County Health Care
- Q&A

# American Health Care Act (AHCA)

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- Healthcare replacement plan **proposed** by Republican leadership in the US House
  - ACA is still law
- Tax credits based on age, not income
  - \$2,000-4,000 per year
  - Low-income individuals and adults age 50-64 would receive fewer tax credits, compared with PTCs under ACA
  - North Carolina would experience an average reduction of \$5,360 in tax credits under AHCA
  - Second worst tax credit reduction in the country, after Alaska
- Individual and employer mandates would end
  - However, coverage lapse of more than 63 days would result in a **30% surcharge** on monthly premiums for a year
- Individuals age 50+ could be charged five times as much as younger enrollees

# CBO Report on AHCA

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- **14 million** people would lose health insurance in 2018
- **24 million** people would lose health insurance by 2026
- Savings of \$337 billion during the first decade of AHCA, mostly as a result of
  - Cuts to Medicaid (25% spending reduction by 2026)
  - Lower tax credits available to help consumers pay monthly premiums
- By 2026, **52 million people** would lack health insurance under AHCA, compared with 28 million under ACA
- Premiums for individuals would rise by 15-20% in 2018 and 2019

# Poll

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Are consumers asking you questions about the American Health Care Act (AHCA)?

# Equitable Relief Opportunity for Medicare Beneficiaries

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- Currently enrolled in Medicare Part A and coverage through the Marketplace
- Dually enrolled in Medicare Part A and coverage through the Marketplace and subsequently enrolled in Medicare Part B with a late enrollment penalty
- Equitable relief reduces late enrollment penalty
- Available to qualified individuals between now and **September 30, 2017**
- Eligible individuals apply through the Social Security Administration



# Ways Assistors Can Help

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- Inform Medicare eligible individuals of the equitable relief opportunity
- Direct eligible individuals to apply for equitable relief through the Social Security office by calling or visiting their local Social Security office
- Advise individuals with Medicare (and those soon to be eligible) that they are not eligible to receive premium tax credits (PTCs) or cost-sharing reductions (CSRs) for coverage purchased through the Marketplace once Medicare Part A begins
- Help consumers gather documentation of their Marketplace coverage (e.g., eligibility determination notice, Form 1095-A, etc.)
- Share contact information for SHIP with individuals who have questions about Medicare

# H-2A Workers and Eligibility for Health Insurance



**NCCHCA**

**ALEXIS GUILD  
SENIOR HEALTH POLICY ANALYST  
FARMWORKER JUSTICE  
3.16.17**

# 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)

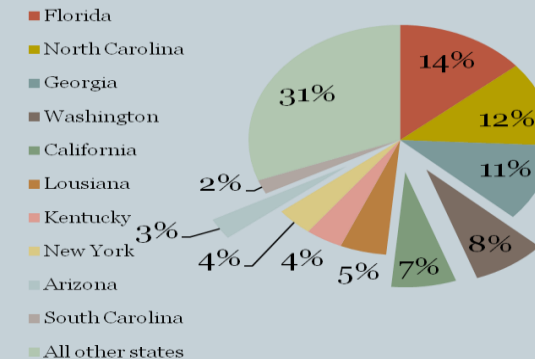
# Agenda



- Overview of the H-2A program
- H-2A Eligibility for Health Insurance
- Special Considerations
- Policy Update – American Health Care Act, CMS Market Stabilization Proposed Rule
- Questions/Resources

# What is the H-2A Program?

- H-2A workers are in the U.S. on temporary non-immigrant visas
  - Visas are tied to employers who sponsored them
  - Positions are up to 10 months, 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 2016, 165,000 were certified, up from 48,000 in FY2005.
  - NC = 19,786 certified positions
  - FL (the #1 receiving state) = 22,828 certified positions



# H-2A Agricultural Guestworker Program Protections

- DOL certification process
- U.S. recruitment protections and 50% rule
- Housing
- Transportation
- 3/4 Guarantee
- Adverse Effect Wage Rate (higher of AEWR, minimum wage or local prevailing wage)
- Workers' Compensation



Earl Dotter

# 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 AWPAA (the Migrant and Seasonal Agricultural Worker Protection Act)

# 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
- Rise in H-2A labor contractors



# 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

# Barriers to General Health Care Access



- **Workers have limited access to clinics**
  - More isolated than general farmworker population
  - Rely on employer for transportation
- **Workers may be reluctant to go to a doctor or access medical care**
  - Fear of employer retaliation (especially for work-related injuries)
  - May not trust health care provider or outreach worker
- **Follow-up treatment may be difficult, especially once they leave the U.S.**

# Rights and Responsibilities of H-2A Workers under the ACA



- Eligible for health insurance through the marketplaces
- Eligible for financial assistance and cost-sharing reductions to lower the cost of health insurance
- The “individual mandate” applies!
  - Must have comprehensive health insurance during their time in the U.S. or will be subject to a tax penalty, unless qualify for an exemption

## How are H-2A Workers' Rights and Responsibilities under the ACA Different from Other Workers?



- Not eligible for Medicaid
  - H-2A workers are eligible for tax credits below 100% FPL
- Only responsible for health insurance coverage during their time in the U.S.
  - Should not be responsible for the penalty during the months of the year that they are in their home countries
  - Qualify for “certain noncitizen” exemption (exemption “C”) during the months they are outside of U.S.
- Must disenroll from health insurance before leaving the U.S.

# Note about Workers' Compensation



- Workers' compensation  $\neq$  Minimum essential coverage



*Workers must have comprehensive health insurance, either from their employer or through the marketplace, to comply with the individual mandate*

# Special Considerations



- Many H-2A workers arrive outside of open enrollment
  - Eligible for 60-day Special Enrollment Period that starts the day they enter the U.S.
  - Triggering event = “gaining lawful status”
- Workers must disenroll from health insurance before leaving the U.S.
- Migrant H-2A workers who work for labor contractors
  - Migrant workers qualify for “permanent move” SEP (see [guidance](#) from CMS)
  - Documentation requirements



# Special Considerations - Taxes



- Confusion about the responsibility of H-2A workers to file taxes
- Workers from Mexico may be able to claim dependents in Mexico on their Marketplace application
  - Dependents must meet IRS definitions
  - Dependents need ITINs
    - ✦ Mexican consulate can assist Mexicans with this process
- Generally, H-2A workers must file as single, married filing jointly, or as head of household to be eligible for tax credits under the ACA\*
- H-2A workers who enroll in health insurance should obtain an SSN before they file their taxes
- Substantial presence test – If workers file as non-resident aliens, they qualify for the certain noncitizen exemption

# Substantial Presence Test



NUMBER OF DAYS YOU HAVE BEEN IN THE U.S.		
THE CURRENT YEAR (YEAR YOU ARE PAYING TAXES ON):	Number of days =	
THE PREVIOUS YEAR:	<div>_____ / 3</div> Number of days divided by 3 =	
THE YEAR BEFORE THE PREVIOUS YEAR:	<div>_____ / 6</div> Number of days divided by 6 =	
	TOTAL (add the above 3 rows) =	183

If total is 183 days or more, considered a resident alien for tax purposes



# Special Considerations - Exemptions



- **Certain noncitizen exemption**
  - If worker files taxes as non-resident alien
  - H-2A workers can claim this exemption for the months they are not in the U.S.
- **Other exemption H-2A workers may qualify for:**
  - Affordability
  - Short Coverage Gap
  - Below tax filing threshold
  - Hardship

# Special Considerations – Employer-provided Health Insurance



- **Seasonal worker exemption**
  - Large employers whose workforce over the 50 FTE threshold are seasonal workers who work for fewer than 120 days in a calendar year **ARE NOT** included in the employer mandate
  - H-2A workers are counted towards the employer mandate
- **Newly hired seasonal employees vs. non-variable hour employees**
  - Seasonal employees = customary employment is 6 months or less
  - Employers can use an initial measurement period between 3 and 12 months to determine if the newly-hired employee works on average 30 hours/week
- **Workers declining employer offers of health insurance**
  - Pressure from employers/contractors to decline coverage
  - Are workers aware that they are declining health insurance?
  - Workers who decline employer offers of health insurance are likely not eligible for financial assistance to purchase health insurance in the Marketplace

# Policy Update – Potential Impact on H-2A Workers



- American Health Care Act
  - Repeal of employer mandate
  - Eligibility for tax credits
- Proposed CMS Rule – Market Stabilization
  - 100% Pre-enrollment verification for all SEPs
  - Shorter open enrollment period for 2018 (Nov. 1, 2017 – Dec. 15, 2017)
    - ✦ Comment period closed March 7, 2017. You can find the proposed rule at <https://www.gpo.gov/fdsys/pkg/FR-2017-02-17/pdf/2017-03027.pdf>

# Resources – North Carolina



Legal Aid NC- Farmworker Unit— Resources on the ACA and taxes for H2A workers <http://www.farmworkerlanc.org/es/publicaciones/ley-del-cuidado-de-la-salud>

NC Justice Center—H2A Workers, Taxes, and the Affordable Care Act  
[http://www.ncjustice.org/sites/default/files/H-2A%20workers%20and%20taxes%20and%20ACA\\_FINAL.pdf](http://www.ncjustice.org/sites/default/files/H-2A%20workers%20and%20taxes%20and%20ACA_FINAL.pdf)

NC Farmworkers Project Enrollment Booklet  
<http://www.farmworkerlanc.org/es/wp-content/uploads/2015/08/7.10.-15-NC-Farmworkers-Project-Follow-Up-Enrollment-Booklet.pdf>

Dos Opciones, Un Camino - <https://www.youtube.com/watch?v=KRpHlZf9-bY&t=62s>

# Resources – Farmworker Justice

- [ACA Guides – available in Spanish, English, and Haitian Creole](#)
  - H-2A workers
  - Employer-provided health insurance
  - Enrollment
  - Health Insurance Requirement
- [FAQ: H-2A workers and the ACA](#)
- [H-2A Fact Sheet](#)



# Questions




# Thank you!



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# H-2A Outreach and Enrollment

Greene County Health Care, Inc.  
Melissa Torres

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# Overview of H-2A workers in eastern North Carolina

- Out of the 22,000 farmworkers served at GCHC about 7,000 are H-2A
- The major (manual) crops in eastern North Carolina are:
  - Tobacco
  - Sweet potato
  - Cucumber
  - Blueberries

# Outreach and Enrollment At Greene County Health Care

- In the year 2014, through the O&E program, and in partnership with Farmworker Services, GCHC undertook the task of enrolling the farmworkers arriving in NC.



# Enrollment Efforts

- Successful enrollments  
2014 = 416
- Successful enrollments  
2015 = 786
- Successful enrollments  
2016 = 1,168



## GCHC Outreach and Enrollment Staff

- Six Enrollment Specialists who work through open enrollment and during the farmworker season.
- Three extra Enrollment Assistants who work throughout the farmworker season (up to nine months)
- All the O&E staff are bilingual



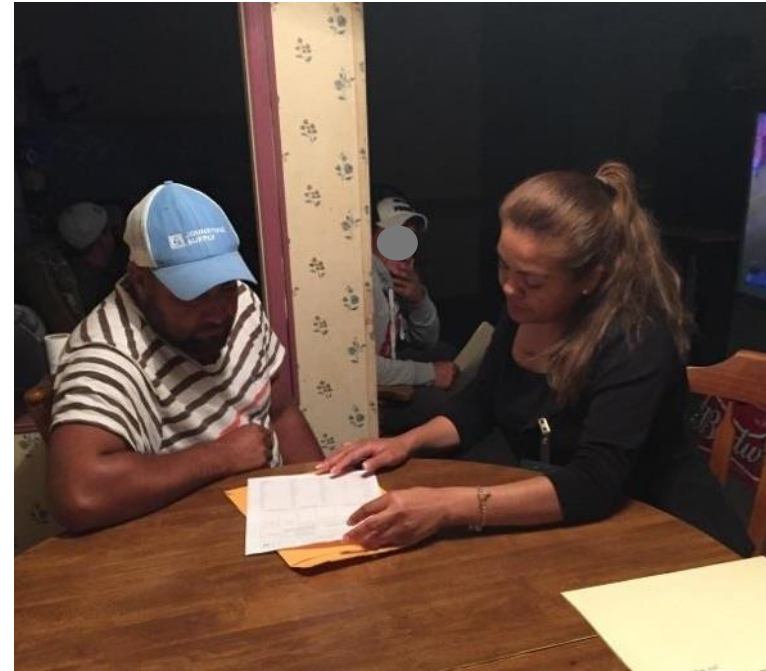
# Challenges

- Their work schedule.
- Remote places where they live.
- Negative experiences they might have had.
- Not understanding the benefits health insurance might bring to them
  - Fear of not being able to access care
  - Fear of navigating the complexity of insurance



# Issues this year

- They think that the ACA will go away and it is no longer necessary to enroll.
- Negative experiences with the insurance companies.
- Issues filing their taxes.



## Outreach best practices for reaching and enrolling H-2A workers

- CAC's must have a clear understanding of the ACA rules; specially those related to H-2A workers.
- Be a reliable source to the farmworkers:
  - Providing information when they need it
  - Exercise availability or flexibility in schedule.
  - Following-up with related needs
    - Assistance with insurance issues
    - Access to care
- Create partnership with other reliable CAC's



# Planning to work with H-2A workers?

- Tips:
  - Reach out to other assisters who have been successful.
  - Create partnerships with:
    - Farmworker Services in your own health center
    - Other health centers
    - Tax preparers
    - Legal aid in your area
  - Take advantage of all the training available.



# Polls

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What is the status of H-2A/farmworker outreach at your health center?

**If your center conducts H-2A/farmworker outreach, how many assisters provide O&E to this population?**

**If your center conducts H-2A/farmworker outreach, how many farmworkers do you estimate enrolling this year?**

# Questions?

# Upcoming O&E Webinar

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**April 27, 2017: Seniors' Health Insurance Information Program (SHIIP), 10:30am**

