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# H-2A Workers and the Affordable Care Act

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Outreach and Enrollment Program Guide

2017

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# Introduction

This document is designed to help Marketplace in-person assisters (Navigators and CACs) become familiar with the H-2A visa program, how H-2A workers are affected by the Affordable Care Act (ACA), and how to best assist H-2A workers with understanding their options and enrolling in coverage if they chose. While this document provides context and tips for in-person assisters to assist this population, in-person assisters should not rely on this document alone for their training on providing application and enrollment assistance to H-2A workers.

In-person assisters throughout North Carolina have reported that providing assistance to this population has been highly rewarding, and the provision of enrollment assistance services is highly valued and needed. However, due to complicated and nuanced policy, inconsistent and unreliable systems issues, and the many barriers that H-2A workers face in their daily lives, successfully assisting this population requires extensive time, travel, patience, expertise, and collaboration with other partners beyond what is required for the general populations traditionally served by in-person assisters. In-person assisters must take additional steps and assist workers after and beyond the initial enrollment interaction in order to ensure that workers fully understand all of their obligations. Similar to any population, enrollment assisters should take care to explain all options and obligations and let individual H-2A workers make a decision about whether or not they wish to enroll in coverage.

This document was produced by the North Carolina Community Health Center Association. NCCHCA thanks Greene County Health Care, Piedmont Health Services, Farmworker Justice, as well as many other partners for their extensive input. If you have questions or note any needed corrections, please contact Alice Pollard at [pollarda@ncchca.org](mailto:pollarda@ncchca.org).

# Background on Farmworkers, H-2A Program, and H-2A Workers in NC

## H-2A Program

The H-2A guestworker program allows agricultural employers to hire workers from other countries on temporary work permits for agricultural jobs that last ten months or less. To bring in H-2A guestworkers, employers must first show that they have tried and are unable to find U.S. workers to meet their labor needs.<sup>1</sup> Tens of thousands of workers come to North Carolina and other states each year on an H-2A visa. Nationally, the majority of H-2A workers are young men from Mexico.<sup>2</sup>

Not all farmworkers in the US work under an H-2A visa—farmworkers and their families have many different immigration and citizenship statuses. This document focuses on working with H-2A farmworkers due to 1) the large number of H-2A workers who travel to NC each year and 2) the unique circumstances of H-2A workers that require in-person assisters to have unique knowledge about the population. Some, but not all, of the tips in this document will be applicable to non-H-2A farmworker populations. For more information on health coverage options for farmworkers and immigrants, review the [Farmworker Justice](#) and [National Immigration Law Center](#) websites.<sup>3</sup>

## H-2A Workers in North Carolina

### **Q: How many H-2A workers are in NC?**

A: North Carolina has one of the largest populations of H-2A visa workers among all US states. There were over 17,000 H-2A workers in NC in 2015, and the number has greatly increased in recent years (based on data compiled by the NC Department of Commerce). There are many more farmworkers present in NC who are not H-2A workers, as well as their dependent spouses and children.

### **Q: How do H-2A workers get to NC?**

A: Once they receive their work visas, many workers travel on buses from their country of origin to their destination state. The North Carolina Grower's Association, a growers' cooperative that has historically brought the majority of H-2A workers into NC, initially brings the workers they sponsor to Vass, NC to receive general information and orientation. From this principal location, the workers are then sent to the farms where they will be working. In addition, there were a growing number of other labor contractors who bring in workers to NC directly from Mexico or from other states.

### **Q: Where do H-2A workers live?**

A: H-2A workers typically live in remote, employer-provided housing and have limited access to transportation.

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<sup>1</sup> Farmworker Justice. H-2A Guestworker Program. Accessed: <https://www.farmworkerjustice.org/content/h-2a-guestworker-program>

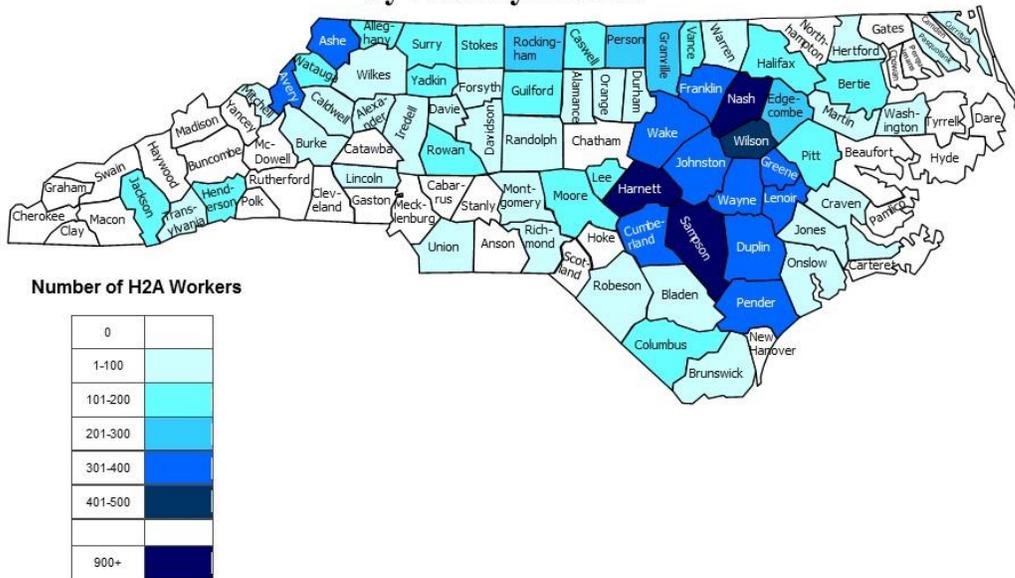
<sup>2</sup> Farmworker Justice. The H-2A Temporary Agricultural Worker Program. Accessed: <https://www.farmworkerjustice.org/sites/default/files/documents/H-2A%20webcast%20-%20Final4-30-12.pdf>

<sup>3</sup> Farmworker Justice: [www.farmworkerjustice.org](http://www.farmworkerjustice.org) and National Immigration Law Center: [www.nilc.org](http://www.nilc.org)

**Q: Where are H-2A workers in NC?**

A: H-2A workers live and work in many different counties in North Carolina. A large number of H-2A workers are in the eastern NC counties. The below map, developed by the NC Office of Rural Health, shows the density of H-2A workers by county.

**Density of H2A Workers in North Carolina by County in 2013**



NC Office of Rural Health and Community Care

**Q: When do H-2A workers arrive in NC?**

A: H-2A workers arrive in North Carolina throughout the calendar year. Most workers arrive between March and June, with others arriving before and after those dates. Most workers continue with the same employer the entire season they are present, with the exception of some workers who travel to western NC to work on the Christmas tree harvest in the fall after completing their work in the East. Workers who arrive outside of the Marketplace Open Enrollment period are eligible for a 60-day Special Enrollment Period.

**Q: How do H-2A workers access health care in NC? What is their experience with health care in their country of origin?**

A: Many H-2A workers come from rural parts of Mexico. Health services may be limited where they live, and they may be accessed through a family doctor or through government clinics. In any case, many workers will not have had previous experience with health insurance, and even those that have had experience with health insurance may not have experience with the private health insurance system. Some patients have never been to a doctor or dentist before coming to North Carolina. Others may have received Western medical care in Mexico; however, the medical practices they are used to may be different from those in our clinics in the United States. Other workers may be used to obtaining medical advice from family or traditional healers.

H-2A workers receive workers' compensation from their employer and may have experience seeking medical care for a work-related injury or illness. Under H-2A rules, all employers who hire H-2A workers must provide workers' compensation insurance for all occupation-related injuries or illness. Workers' compensation coverage is not comprehensive enough to qualify as minimum essential coverage under the ACA.

Most counties in NC with significant H-2A worker populations have a farmworker health outreach program and/or a migrant health center. Migrant health centers receive federal funding to provide services specifically to farmworkers. In NC, all migrant health centers are also part of or incorporated with larger community health centers that serve the general population. Many migrant health centers have outreach programs that visit farmworkers in their homes in the evenings to provide health education, health assessments, and case management to farmworkers. The NC Farmworker Health Program (out of the NC Office of Rural Health) also contracts with organizations to provide outreach services based out of community health centers (those that are not migrant health centers), health departments, hospitals, and other non-profit organizations.

These farmworker health programs reduce many barriers to healthcare that farmworkers encounter, and can link farmworkers to available services. These trusted resources often coordinate care, provide transportation to medical appointments, and provide interpretation during medical appointments.

## H-2A Workers and the Affordable Care Act

The following pages provide answers to some frequently asked questions regarding H-2A workers’ rights and obligations under the ACA. Most of the text is drawn from the following publications: [Farmworker Justice: ACA & H-2A Agricultural Workers Frequently Asked Questions](#) and [NC Justice Center: ACA, H-2A Workers, and Taxes](#).

**Q: Are H-2A workers eligible to enroll in coverage and receive subsidies under the Affordable Care Act?**

A: “Yes. Because they are in the United States lawfully on non-immigrant visas, H-2A workers are eligible to purchase an insurance policy through the federal Marketplace and to receive a tax credit to help pay for that insurance coverage. If an H-2A worker wants to buy health insurance in the federal marketplace and apply for the federal tax credit, he may do so. However, he must also meet other eligibility requirements.”

From: North Carolina Justice Center. [Questions and Answers: H-2A Workers, Taxes, and the Affordable Care Act](#).

**Q: Does the Affordable Care Act require H-2A workers to enroll in health coverage?**

A: “It depends. H-2A workers are required to enroll in health insurance under the ACA only if they are required to pay taxes in the United States. If they (a) earn enough money to be required to file income taxes and (b) meet the definition of a “resident alien” under the tax code, then they are required to pay taxes and required to enroll in health coverage unless they meet another exemption from the ACA’s individual mandate. The definition of “resident alien” is complicated and can be found in [IRS Publication 519](#). Since H-2A workers are not legal permanent residents, they have to meet the “substantial presence test,” which considers how many days they have been present in the U.S., in order to be considered “resident aliens.” Legal Aid of North Carolina-Farmworker Unit provides this helpful formula to determine if an H-2A worker (or anyone on a temporary visa) is a resident alien or not:

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:	_____ / 3 Number of days divided by 3 =	
THE YEAR BEFORE THE PREVIOUS YEAR:	_____ / 6 Number of days divided by 6 =	
	TOTAL =	

^^ If your total is 183 days or more based on the above chart, you are considered a “resident alien” for tax purposes. You must file taxes, and you must enroll in health coverage unless you meet one of the exemptions.”

From: North Carolina Justice Center. [Questions and Answers: H-2A Workers, Taxes, and the Affordable Care Act](#).

If an H-2A worker meets the substantial presence test, he is considered a resident alien. However, his annual income must meet or exceed the tax-filing threshold for him to be required to enroll in health insurance coverage. The 2016 tax filing thresholds are listed in the chart below.

### 2016 Federal Tax Filing Requirement Thresholds

Filing Status	Age	Must File a Return If Gross Income Exceeds
<b>Single</b>	Under 65	\$10,350
	65 or older	\$11,900
<b>Head of Household</b>	Under 65	\$13,350
	65 or older	\$14,900
<b>Married Filing Jointly</b>	Under 65 (both spouses)	\$20,700
	65 or older (one spouse)	\$21,950
	65 or older (both spouses)	\$23,200
<b>Married Filing Separately</b>	Any age	\$4,050
<b>Qualifying Widow(er) with Dependent Children</b>	Under 65	\$16,650
	65 or older	\$17,900

### Q: Will H-2A workers be eligible for premium tax credits (PTCs)?

A: It depends. Workers with H-2A visa status are eligible to purchase coverage in the Health Insurance Marketplace, and H-2A workers can qualify for PTC to lower the monthly cost of their health insurance premiums. However, H-2A workers must meet all other eligibility guidelines for PTC.

- Federal Poverty Level: H-2A Workers are eligible for PTC with income between 0-400% FPL
- Availability of Other Minimum Essential Coverage: To qualify for PTC, H-2A workers cannot have access to other MEC, including job-based coverage (unless that job based coverage is unaffordable or doesn't meet minimum value as defined by the Marketplace).
- Tax Filing: H-2A workers must file taxes for the year that they are applying for coverage in order to qualify for APTC.
- Tax Filing Status: H-2A workers cannot file Married Filing Separately and claim PTC.
- Enroll in Marketplace Plan: H-2A workers must enroll in a Marketplace plan to qualify for PTC.

**Q: What income does an H-2A worker have to have to qualify for premium tax credits (PTC)?**

As long as they meet other eligibility requirements, most H-2A workers will qualify for PTC with incomes between 0 to 400% of the federal poverty level (FPL). Because most H-2A workers are among a group of immigrants and non-immigrant visa holders who do not qualify for Medicaid due to their immigration status, eligible H-2A workers can qualify for PTC even with incomes below the FPL.

**Q: What tax filing status should an H-2A worker use if he wishes to get tax credits under the ACA?**

A: “The most likely filing status for a married H-2A worker would be “married filing jointly” if he wishes to claim the tax credit for health insurance coverage under the ACA. The National Immigration Law Center states:

Married couples cannot get tax credits through the health insurance marketplace... unless they file taxes jointly with their spouses. Exceptions apply to survivors of domestic violence and people eligible to file as a “head of household.”

A person living in the U.S. who has a spouse living abroad can file as “married filing jointly” if the spouse residing in the home country chooses to be treated as a resident alien for tax purposes. If so, both spouses will be treated as residents for federal income tax purposes for the entire tax year. If you elect to do this, you and your spouse will be taxed on your worldwide income, and you will not be able to claim to be a nonresident of the U.S. under any tax treaty. Your spouse will need to apply for an ITIN, if she or he does not already have one (and does not have an SSN), and submit the ITIN application with the tax return.

An H-2A worker who is legally married and wants to claim the ACA tax credit cannot file as “Head of Household” unless: he maintains a home where his qualifying children live for more than half the year, he can claim a deduction for those children, and his spouse did not reside in the home with the qualifying children during the last six months of the year (i.e., spouses must be actually separated).

A single H-2A worker or one who is not legally married may claim an ACA tax credit using either the “Single” tax filing status, or the “Head of Household” designation if he maintains a home in which his qualifying children (or other dependents) live with him for more than half the year. His presence in the U.S. working on an H-2A visa is likely to be considered a “temporary absence” from his household to allow him to file as “Head of Household” if he is not married.

Each H-2A worker should consult with an accountant, VITA tax clinic, or a reliable community-based organization for assistance in determining the correct filing status for himself and his family. H-2A workers should also make sure that the information that they put into the health insurance application regarding their family status matches what they put into their tax return.”

From: North Carolina Justice Center. [Questions and Answers: H-2A Workers, Taxes, and the Affordable Care Act.](#)

**Q: Will H-2A workers be liable when they are not in the US?**

A: “No. H-2A workers are only required to have health insurance during their time in the United States. Workers need to cancel coverage prior to their return to their home countries.”

From: Farmworker Justice. [Issue Brief: The Affordable Care Act and H-2A Agricultural Workers Frequently Asked Questions.](#)

**Q: Can H-2A workers claim dependents outside of the U.S. in the Marketplace application?**

A: “If the dependent meets IRS definitions, then the H-2A worker can claim the dependent as part of his household size when applying for health insurance in the Marketplace. According to the IRS, a child can generally qualify as a dependent for tax purposes if the child:

- Is a U.S. citizen or resident of the U.S., Canada or Mexico;
- Lives with the worker for more than half the year;
- Is under the age of 19 at the end of the year OR under 24 if the child is a full-time student for at least five months of the year OR is permanently and totally disabled at any time during the year; and
- Does not provide more than one-half of his or her own support for the year.

If a worker claims a dependent in the Marketplace application, he must also claim the dependent when he files his federal income tax return.” The H-2A worker must obtain an Individual Taxpayer Identification Number (ITIN) for any spouse and children abroad that will be listed on the tax return.

From: Farmworker Justice. [Issue Brief: The Affordable Care Act and H-2A Agricultural Workers Frequently Asked Questions.](#)

**Q: If H-2A workers arrive after the end of the Open Enrollment period, can they still enroll?**

A: “Yes. A worker’s move to the U.S. triggers a special enrollment period. Upon arrival in the U.S., the worker will have 60 days to apply and enroll in health insurance in the Marketplace.”

From: Farmworker Justice. [Issue Brief: The Affordable Care Act and H-2A Agricultural Workers Frequently Asked Questions.](#)

Some sample scenarios that show how the policy applies to certain worker situations are outlined in Appendix A of this document.

## Tax Information

Navigators and Certified Application Counselors should not offer tax advice to any consumers. However, because of the intersection between taxes and the Affordable Care Act, in-person assisters will come across many questions from workers about tax filing. The below Q&A may address some worker concerns, especially for those who enroll in coverage with a premium tax credit.

Educational information for H-2A workers about taxes can be found on the Legal Aid of NC Farmworker Unit website: <http://www.farmworkerlanc.org/es/publicaciones/cuadernillos>.

**Q: How does an H-2A worker obtain a Social Security Number?**

H-2A workers can enroll in Marketplace coverage without a Social Security Number. However, workers will need to get a SSN prior to filing taxes. They can apply for a Social Security Number by filling out form SS-5. The form can be sent in by mail, or you can bring it in or fill it out at local SSA office. It can take several weeks for the card to arrive, and worker must have a reliable address at which to receive mail in order to receive the card.<sup>4</sup>

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<sup>4</sup> NC Community Health Center Association. Helping H-2A Workers Enroll Webinar Part I. March 2015. Presentation by Kate Woome-Deters.

**Q: How does an H-2A Worker Obtain an ITIN Number for his Spouse and Children Who are Abroad?**

A: “If a married H-2A worker wishes to enroll in health coverage and receive the tax credit under the ACA, he must obtain an Individual Taxpayer Identification Number (ITIN) for his spouse and children abroad. Unfortunately, the process can be cumbersome. The worker applying for ITINs for his family members must file IRS Form W-7 with his tax return. In addition to filing the form W-7, “[m]ost applications must now include original documents. Applications for...nonresident aliens for the purpose of claiming tax treaty benefits may submit notarized or apostilled copies of required documents. If you do not submit a passport document, you must provide a combination of documents (at least two or more) that are current and that (1) verify your identity (that is, contain your name and a photograph), and (2) support your claim of foreign status.”

The Mexican consulate can assist H-2A workers and all Mexican nationals in obtaining the right documentation for an ITIN application. H-2A workers of other nationalities should check with their consulates or embassies to see if assistance can be provided.

“In addition to a passport, examples of acceptable documentation include: national identification card (showing photo, name, current address, date of birth and expiration date); civil birth certificate; foreign driver's license; or visa. A complete list of acceptable documentation can be found in the Form W-7 Instructions (PDF).”

An ITIN is also only available for a dependent if the dependent is a resident of the United States, Mexico, Canada, South Korea or India. “If the dependent is a minor, the documentation must establish the relationship between the dependent and the representative signing the application on the dependent's behalf. Such documentation could include a birth certificate, adoption papers, or other court-appointed papers showing legal guardianship.”

Please see the end of this guide for a special note on the need to reapply for some ITINs in 2017.

From: North Carolina Justice Center. [Questions and Answers: H-2A Workers, Taxes, and the Affordable Care Act.](#)

**Q: How can H-2A workers file jointly if their spouse is not in the US?**

The best course is for the spouse in Mexico to sign an IRS Form 2848, which is a Power of Attorney and Declaration of Representative form that allows someone here to file their taxes for them, including their spouse. The H-2A worker can obtain an IRS Form 2848 when he is in the U.S. during the season that he enrolls in the ACA. When he returns home in the fall, he can have his wife sign it. When he comes back to the U.S. in the spring, he will then have the form on hand and it will allow him to sign the joint tax return on his wife's behalf. When he is home in the fall/winter, he should also obtain his wife and children's original documents needed in order to apply for an ITIN number. With the original documents and the Form 2848, he should have what he needs to file the joint tax return on behalf of his spouse and himself when he returns in the spring.

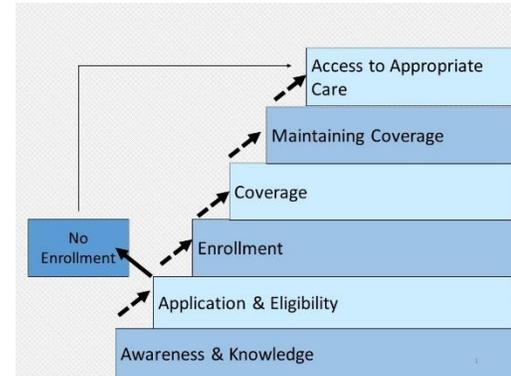
Also, if the wife works and earns income in Mexico, the H-2A worker will need to bring some sort of proof of her income in Mexico.

## H-2A Worker Outreach & Enrollment Programs

Several programs in North Carolina have developed promising practices to help H-2A workers understand their obligations and opportunities under the ACA and access health coverage. This section includes some promising practices and ideas.

### From Coverage to Care: A Case Management Approach

One of the most important things that an Outreach and Enrollment Program should consider is how they will provide ongoing support to H-2A workers before and after they enroll. Programs that assist with H-2A workers should be prepared to have multiple contacts with workers throughout the year and should proactively follow-up with workers to address issues and ensure they are able to maintain and utilize coverage. Programs may need to provide assistance with: application and enrollment, paying premiums, resolving Marketplace data matching issues, communicating with the insurance company or Marketplace, terminating coverage before a worker leaves, accessing 1095-A tax forms, claiming exemptions, connecting to health care services, and more. If an enrollment assister who assists a farmworker with enrollment is unable to provide ongoing assistance, such as might occur when volunteers and partners provide assistance at an enrollment event, they should ensure that an organization can provide ongoing support and make sure the worker knows who to contact for assistance.



The chart below shows the steps a worker may need to take during the year, as well as a sample abbreviated work plan detailing how Outreach and Enrollment programs can help H-2A workers along the way.

H-2A Worker Activities	Outreach & Enrollment Program Activities to Support Worker
Understand obligations and options. Make informed decision about whether or not to enroll.	Visit farmworker housing or other locations to deliver education about workers options and obligations. Use tools such as Legal Aid’s <i>Cuida tu Salud y tu Bolsillo</i> curriculum to provide education. Talk to individual workers about their situation to provide individualized guidance.
Complete Marketplace application and get correct eligibility result. (Note: Worker may decide not to enroll or may be ineligible for PTC)	Meet with farmworkers, either at housing, your office, or other locations to complete Marketplace application. Multiple visits may be required to complete application and enrollment.
Enroll in coverage.	Provide education on health insurance terms using tools such as <i>Cuida tu Salud y tu Bolsillo</i> . Help workers enroll in their chosen plan.

<b>H-2A Worker Activities (continued)</b>	<b>Outreach &amp; Enrollment Program Activities to Support Worker (continued)</b>
Pay first premium.	Provide education and tools for workers to pay first premium. For example, provide handout on how to get a money order. Provide envelopes with issuer name and address. Consumers should be proactive about paying first premium & call insurance company if they do not receive a bill, as paperwork from insurance company can sometimes be delayed.
Pay all premiums.	Provide necessary information and tools to make ongoing payments. Provide stamped envelopes with correct address. Provide reminders with phone calls or texts.
Resolve any Marketplace data matching issues.	Help workers scan or mail requested documentation. Help workers follow-up with Marketplace every few weeks until they've confirmed the issue is resolved.
Select Primary Care Provider (if required by plan).	If the plan requires it, make sure workers understand the requirement and can select a PCP. This may require a visit back to camp to help them call and select PCP.
Use coverage at PCP and other providers.	Make sure a worker understands where they can access care and what to do in case of an emergency. If possible, provide transportation to necessary medical visits or arrange with other staff to do so.
Terminate coverage before leaving U.S. the following year	<p>Follow-up with workers via text, phone, or sending post cards in mail to remind them to terminate coverage. Visit camps to call Marketplace with workers or terminate online if they have trouble doing so on their own.</p> <p>Enlist the help of radio, partner organizations, and social media to remind workers to terminate coverage.</p>
While at home, secure needed documents for filing federal income tax return (including documents to apply for ITIN for family members).	Before workers leave, remind them of what documents they will need for tax-filing.
Before tax time the following year, get 1095-A from Marketplace.	When workers arrive the following year, visit camps to see if they need assistance getting 1095-A from Marketplace.
File taxes for the year in which they received PTC by using IRS Form 8962 to reconcile APTC and Form 8965 to claim exemptions.	Make sure workers know what exemptions they're eligible for and how to claim them.

## Connecting with H-2A Workers

H-2A workers face many barriers to even beginning the application and enrollment process. H-2A workers typically live in remote, employer-provided housing. They typically work long hours, making it difficult to meet with enrollment assisters during normal business hours. In addition, many workers lack access to transportation and have great difficulty traveling to and from enrollment offices. Also, most H-2A workers in NC exclusively speak Spanish. Yet some other workers' primary language may be an indigenous language, with Spanish as their secondary language. To mitigate these barriers to enrollment, assisters need to find ways to meet workers where they are—figuratively and literally.

In 2014 and 2015, NC farmworker outreach programs and enrollment assisters had success in helping H-2A workers enroll. Some of the best practices and potential strategies for reaching farmworkers include the following tips:

- **Connect with the Experts.** Existing Farmworker Outreach groups can provide support and introduce enrollment assisters to farmworkers in their area. This is a key first step, as existing groups have built trust with and knowledge of the farmworker community. In addition, these groups may be able to provide services to support enrollment, such as initial education, transportation, interpretation, and follow-up.
- **Travel to Farmworkers to Provide On-Site Enrollment Assistance.** In 2014 and 2015, many enrollment assisters traveled to farmworker camps and other housing to provide services at these locations. This eliminated the transportation barriers that farmworkers face in coming to enrollment services. Assisters often traveled to the same camps multiple times to conduct education, complete enrollment, and provide follow-up assistance.
- **Practice Flexibility with Enrollment Assister Schedules.** Enrollment assisters will need to be flexible and able to meet with workers upon short notice, as H-2A workers may not have much notice of when they have time off of work. For example, one team of enrollment assisters has “rainy day clinics” for enrollment when the weather keeps workers out of the fields. In addition, another group discussed trying to meet with workers when they first arrive, as they may have down time in those first few days. Sundays are also typically good days to host enrollment appointments, as farmworkers commonly have Sunday as their lone day off from work.
- **Provide Assistance for Getting to Appointments.** Some Farmworker Outreach programs had success partnering with growers (H-2A employers) to arrange for time off from work and transportation to an enrollment appointment or event for farmworker employees. Enrollment can then be done at the office or at an event. Outreach staff may also be able to provide transportation for farmworkers.
- **Enrollment Events.** In 2015, some groups hosted enrollment events on Sundays in which multiple assisters were available at one time to assist H-2A workers with enrollment. In preparation for the enrollment events, assisters visited individual farmworker camps to provide education about health insurance and options. The agency organizing the event also helped coordinate transportation to get workers to the event. After enrolling and prior to leaving the event, all farmworkers would meet with the agency in their area who would be a source of on-going assistance. The agency provided

instructions on worker's next steps after enrolling. After the event, at least one organization of in-person assisters should be prepared to provide follow-up support.

In-person assisters report that having a few educational encounters with workers before the actual application and enrollment appointment can be helpful. The more education done upfront, the more workers understand the process and can develop trust with enrollment assisters. In addition, education for growers is very important, and initial visits can include meetings with growers to explain assisters' goals and the application process.

## Initial Education with H-2A Workers: Key Points

The focus of initial education should be to explain consumer options and obligations for each option. When conducting education, programs should emphasize that workers have options about whether or not to enroll. They can speak both about the benefits of health insurance, but also the options for exemptions if a worker decides not to enroll in coverage. As with all consumers, enrollment assisters should allow H-2A workers to make their own choice about whether or not to enroll in health coverage.

Some of the important information to share with H-2A workers includes: overview of health insurance in US and benefits of enrolling, how health insurance differs from worker's compensation, overview of the Affordable Care Act, how an H-2A worker knows if he has to enroll, how to enroll and get a tax credit, what they will need to do if they get a tax credit (for example: tax filing). As each workers' individual situation will determine how the individual mandate applies to them, it's important to provide both group and customizable education so that workers can make an informed decision of what to do.

## Tools for Outreach and Enrollment Programs

There are several resources that can assist enrollment workers during the education and enrollment process.

### Outreach & Education Resources

Fliers from Farmworker Justice (<http://www.farmworkerjustice.org/content/access-healthcare-0>)

- [A Guide on Enrollment](#) (English)
  - [La Ley de Cuidado de Salud Asequible y Usted: Enrollment](#) (Spanish)
- [A Guide for Lawfully Present Workers and their Families](#) (English)
  - [Una guía para los trabajadores agrícolas y sus familias que están presentes legalmente en los Estados Unidos](#) (Spanish)
- [A Guide to the Health Insurance Requirement](#) (English)
  - [Una guía sobre el seguro médico obligatorio](#) (Spanish)
- [The Affordable Care Act and You: A Guide for H-2A Workers](#) (English)
  - [La Ley de Cuidado de Salud Asequible y Usted: Una Guía para los Trabajadores H-2A](#) (Spanish)
- [A Guide on Employer-Provided Health Insurance](#) (English)
  - [Una guía sobre el seguro médico que provee el empleador](#)

### Fliers and Presentation from Legal Aid of North Carolina

(<http://www.farmworkerlanc.org/es/publicaciones/ley-del-cuidado-de-la-salud>)

- [“¡Cuida tu Salud y tu Bolsillo!” Manual for Trainers](#) (In Spanish):  
This manual helps service providers learn how to explain the following issues to H-2A workers:
  - What is the Affordable Care Act
  - Why is it important to have health insurance?
  - How does health insurance work in the U.S. in general?
  - How does an H2A worker know if s/he has to enroll?
  - How to enroll and get a tax credit

The manual uses the character of Don Seguro to explain concepts.

- Derechos laborales para los trabajadores contratados con el programa H-2A en Carolina del Norte
  - [http://www.farmworkerlanc.org/es/wp-content/uploads/2009/10/H2A\\_Booklet\\_2015\\_Spanish1.pdf](http://www.farmworkerlanc.org/es/wp-content/uploads/2009/10/H2A_Booklet_2015_Spanish1.pdf)
- Ley Del Cuidado de la Salud
  - [El vocabulario que debes aprender cuando tienes un seguro médico \(05.05.15\)](#)
  - [Información general acerca de la Ley del Cuidado de la Salud. \(05.05.15\)](#)
- [“¡A MI TAMBIÉN ME HA PASADO!” Un juego para aprender a usar un seguro médico](#)
- Gráfica informativa acerca de los trabajadores agrícolas y la Ley del Cuidado de la Salud
  - [Gráfica completa](#)
  - [Gráfica parte 1](#)
  - [Gráfica parte 2](#)

### Farmworker Health Insurance Team (FHIT) Video

Innovative educational video for H2A farmworkers on the Affordable Care Act. This Short, Spanish-language, dramatized parody of the popular Mexican soap opera, Dos mujeres, un camino can be accessed on YouTube or by DVD.

- For people outside of North Carolina: [http://bit.ly/dosopciones\\_video](http://bit.ly/dosopciones_video)
- For people in North Carolina: [http://bit.ly/dosopciones\\_video\\_NC\\_ONLY](http://bit.ly/dosopciones_video_NC_ONLY) (includes phone number for workers to call to connect with enrollment assistance)

### Application and Enrollment Resources

#### [Sheet to Collect H-2A Worker Information Needed for Application](#)

This sheet is used to collect the information needed from each worker for an application. This is especially useful if the application will be done over the phone. It can also be used for reference later on. After utilizing

for application, the consumer should either keep this form or shred it. The Assister Organization should not retain this information.

#### [Handout for H-2A Workers Post Enrollment](#)

The step by step instructions sheet from Greene County Healthcare has all the information the H2A worker may need after enrollment. It has basic information about their plan (start date, premium, etc.) it also has an example on how to fill out a money order, where to send it, documents they might need to send to the marketplace and the address for that as well, and where to call and what to do before they leave the US. The information in this sheet may need to be adapted based on service area and needs.

#### [Greene County Healthcare Plan Review Tool](#)

This tool includes all plans available to consumers in the service area. Greene County Healthcare has used this tool for their area when people complete the application on the phone from start to finish. If a consumer doesn't have the option of using a computer this is a visual tool that has proven to be very helpful when explaining and selecting health insurance.

#### [Farmworker Project Post Enrollment Instructions Booklet](#)

This booklet, produced by the NC Farmworker Project, provides easy-to-understand instructions for H-2A workers to follow after enrollment. It includes spaces to fill in all of their application and plan details, as well as tax forms they may need and reminders about next steps.

## Marketplace Application and Enrollment Tips

*This section was last updated in February 2016 and reflects recommended Marketplace application practices for the Federally Facilitated Marketplace at that time. It walks through some, but not all, sections of the application, and reviews considerations and key strategies for helping H-2A workers complete an enrollment application. In-person assisters should keep up to date with the most current information regarding Marketplace application and enrollment.*

As with non-farmworker populations, the preferred Marketplace application method for H-2A workers is either an online or phone application. These usually allow a worker to complete the application and enrollment process in one sitting. Because most H-2A workers cannot get through the online identity verification process, most H-2A workers will need to call the Marketplace Call Center at some point during the application process. However, **in-person assisters have reported that doing most of the application online is more reliable for getting H-2A workers a correct eligibility result. Therefore, the online application should be used whenever possible.**

If an H-2A worker arrives outside of the Marketplace Open Enrollment period, they will have a 60 day Special Enrollment Period from the time they arrive in the country or from the date their visa is issued. If they move while in the U.S., they may qualify for another Special Enrollment Period, but only if they have coverage for at least one day in the 60 days prior to moving. They need to complete enrollment—not merely apply—within this 60 day period, so it's important to use application methods that allow the worker to complete enrollment in the shortest amount of time possible.

### Application Process

**Creating Account and Listing Contact Information:** Use all capital letters for first and last names of applicants. In December 2015, CMS announced that consumers who have an apostrophe, dash, or other special characters in their first or last name can include them when completing their Marketplace applications. Consumers should enter their name exactly as it appears on their identification, citizenship, or immigration documents. This will reduce the likelihood that they will have to provide additional information to the Marketplace to verify their information.

#### **Identity Verification Issues and Workarounds**

When applying for health insurance using the HealthCare.gov online application, identity verification is required in order to submit an application. The HealthCare.gov online application verifies the identity of applicants using financial data from Experian. This means that applicants with no credit history in the U.S. (e.g., applicants who've never had credit cards or taken out loans) cannot have their identity verified using the website.

To get around the identity verification issue when applying online, try the following three workaround methods:

## 1. Combination of Online and Phone Application

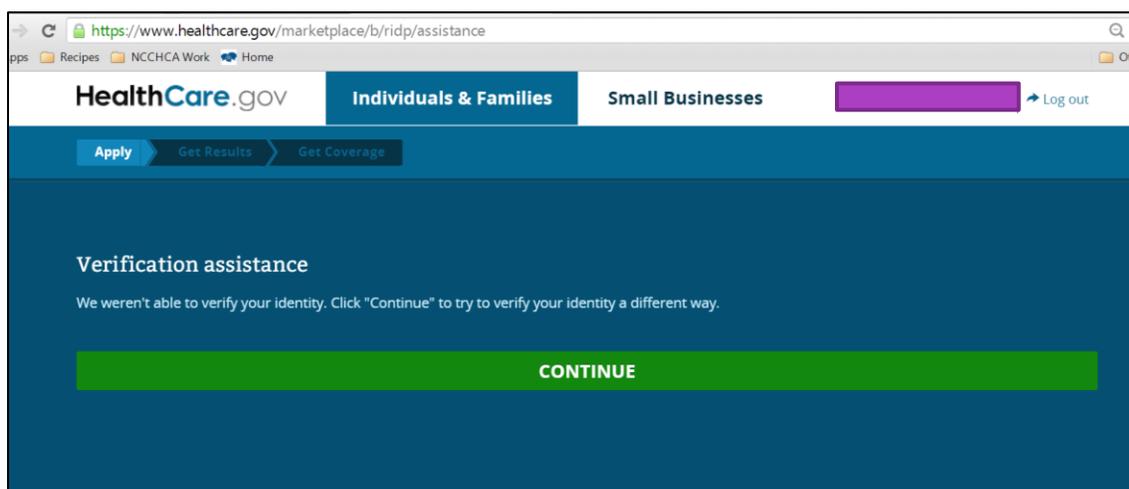
Begin with an online application. When you receive the message that identity cannot be verified, you will first be directed to call Experian. Do not call Experian—they likely will not be able to assist and calling them will only add time to the process.

Instead, continue the online application without verifying identity. There is link that says “continue application and verify identity later.” The link may also say, “Click here to return to profile.” Navigate to the point where you can complete the online application. You may have to enter in information onto identity verification page several times before you are allowed to continue the application to the point where you can upload identity verification documents and continue the application.

Go through the application and stop when you get to the page with three (sometimes more) questions asking consumer to affirm statements regarding incarceration and reporting changes (towards the end of the application). **Do not sign or submit the application yet.** Write down the application ID number generated with the application.

At that point, call the Marketplace and ask them to finish processing the application. Tell them that you have a consumer who has completed the online application but cannot submit due to identity verification. Tell them you need them to “push” the application through. The Marketplace representative should be able to submit the application, though they may repeat some application questions. Once the representative submits the application, the consumer will get an eligibility result that will appear on your computer screen. You can then view the plans and prices with the consumer and complete the enrollment.

Going through with this method is helpful because it allows you to see the results on your computer screen instead of having to review plans over the phone. *With this method, you will also want to upload identity documents. You can do this through the HealthCare.gov online application.* Uploading identity documents will make it easier for the consumer to submit an online application in future years and to make changes to the application once identity is verified.



## 2. Phone Application

Identity verification is **not required** for applications done through the Call Center. Consumers should be able to call the Marketplace Call Center (1-800-318-2596) and complete an entire application and enrollment over the phone. To access Spanish language services, call the Marketplace at 1-800-318-2596 and say "agent" or press "0" (zero). Once an agent is on the line, state the name of the language needing an interpreter.

When phoning the Call Center to complete an application over the phone, it's best to provide little detail to the representative. Do not attempt to explain the identity verification issue. Do not attempt to explain why the consumer should be eligible for a Special Enrollment Period. Simply ask to complete the application over the phone. If the Call Center Representative informs you that it is outside of Open Enrollment, acknowledge this fact and simply state that you'd like to complete the application for a denial if nothing else. The questions in the application will trigger the SEP.

If you run into an uncooperative Call Center representative, you can ask to speak to a Call Center Supervisor. There is no reason that Call Center representatives cannot complete an application over the phone.

If an application is done over the phone, the applicant will not be able to view the health plans through the usual online enrollment tool. Representatives read the plan information to the applicant over the phone. If a consumer is selecting a plan over the phone, you can use the Browse Coverage Options Tool (<https://www.healthcare.gov/see-plans/> or <https://www.cuidadodesalud.gov/see-plans/>) to give the consumer a visual guide to their options and search provider directories or formularies before enrolling through the Call Center. In addition, it can be helpful to review the plans before calling the Marketplace so that the consumer knows which plan they would like before calling.

If an assister is on the line with the applicant, the Call Center will ask the applicant to verbally authorize the assister to be on the call (as they do with all applications done through the phone this way).

Consumers can also designate an assister to communicate with the Call Center on their behalf when the consumer is not present. This designation lasts for one year and can be done by calling the Marketplace Call Center. This designation does not allow the assister to make decisions on behalf of the consumer. Please note that many assisters have reported that the Call Center does not retain a record of this consent being granted, even though they should.

## 3. Create Account Online and Upload or Mail Documents to Marketplace for Manual Identity Verification.

Through this method, consumers would upload or mail their identity verification documents to the Marketplace. After a few days or weeks (depending on method of submission), consumers can return and attempt to submit an application online. With this method, consumers cannot complete enrollment in one

appointment and must return to see an assister or apply on their own once manual identity verification is complete. **This method is not recommended due to the long delays involved.**

### **Get Started Section: Address of Applicant**

When completing the application, the applicant must list a home address where they reside. This will determine what plans are available to them. Some H-2A workers will use an address that the grower also uses. Some will have a camp address.

According to a CMS update from May 2015, if a consumer would like information from the Marketplace sent to a P.O. Box, they should list their P.O. Box as both their home/physical address and mailing address.

### **Family and Household Section**

#### **Social Security Number**

H-2A workers do not need a Social Security Number (SSN) to fill out the initial application for health insurance through the Marketplace, but if they qualify for a SSN, they will need one by the time they file their taxes in the following year (and they will need to file taxes if they receive APTC). If you meet with an H-2A worker who does not yet have a SSN, they can go through the health care application but they should apply for a SSN as soon as possible so that they can file taxes and reconcile APTC.

SSN is an optional field on the Marketplace application, even though it will ask for the number multiple times. If an H-2A worker has a SSN, they should enter it on the application. ITINs should not be listed on the application in place of SSN. SSN is also used to search income histories and verify income. If someone has a SSN, entering it may speed up the income verification process.

#### **Immigration Status Verification**

Consumers seeking health coverage must attest to being a U.S. citizen or having an eligible immigration status. The application will ask applicants with eligible immigration status to list a document that proves their status. Consumers should fill in fields as completely as possible. The information is cross-checked with the Department of Homeland Security SAVE system.

When helping complete an application assisters should **use ALL CAPITAL LETTERS for first and last name of applicants.**

When you check the box on the online application to indicate the applicant has an eligible immigration status, a dropdown box will appear asking you to indicate document type. There are two methods of inputting the document information that can work for H-2A workers: (1) selecting the Arrival/Departure Record, or (2) selecting "other documents" and entering a description of the document type. For both methods, workers will need their Arrival/Departure Record (I-94/I-94A), which is usually attached to their passport.

From 2015 experience: There are two methods listed here for verifying H-2A worker's visa status through the Marketplace application. Some assisters in NC have reported that using Method Two (2) is more likely to generate correct eligibility results for H-2A workers with incomes below 100% FPL, but this is not guaranteed to work each time.

**METHOD ONE:** Under document type, select Arrival/Departure Record (I-94/I-94A). Most H-2A workers should have this document, which is usually attached to their passport.

Application ID: [redacted]

**GET STARTED**

**FAMILY & HOUSEHOLD**

2 More about this household

3 Summary

You don't have to be a U.S. citizen or U.S. national to qualify for health coverage. Select "no" to view a list of other eligible immigration statuses, and choose the status that best describes yours.

**Is [redacted] a U.S. citizen or U.S. national?**

Learn more about immigration status

Yes

No

Check he [redacted] as eligible immigration status



Application ID: [redacted]

**GET STARTED**

**FAMILY & HOUSEHOLD**

1 [redacted]

2 More about this household

3 Summary

**Document type (Select one)**

Learn more about document types

- Permanent Resident Card ("Green Card", I-551)
- Select...
- Permanent Resident Card ("Green Card", I-551)
- Temporary I-551 Stamp (on passport or I-94, I-94A)
- Machine Readable Immigrant Visa (with temporary I-551 language)
- Employment Authorization Card (EAD, I-766)
- Arrival/Departure Record (I-94, I-94A)**
- Arrival/Departure Record in foreign passport (I-94)
- Foreign passport
- Reentry Permit (I-327)
- Refugees' Travel Document (I-571)
- Certificate of Eligibility for Nonimmigrant (F-1) Student Status (I-20)
- Certificate of Eligibility for Exchange Visitor (J-1) Status (DS2019)
- Notice of Action (I-797)
- Other documents or status types

After selecting document type, a new question will populate asking you to input the number. Input the number listed on the record.

Application ID: [redacted]

**GET STARTED**

**FAMILY & HOUSEHOLD**

1 [redacted]

2 More about this household

3 Summary

**Document type (Select one)**

Learn more about document types

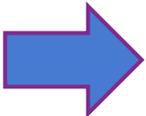
Arrival/Departure Record (I-94, I-94A)

The I-94 Arrival/Departure Record is issued to individuals when they enter the U.S. The bottom portion of the I-94 should be stapled to the person's passport. Enter the I-94 number usually found on the top left side of the form.

**I-94 number optional**

[Input field]

XXXXXXXXXX



**METHOD TWO:** Under document type, select "Other documents or status types" from the dropdown menu. A new list will populate. From the new list, click "Other."

North Carolina Apply Get Results Get Coverage

Application [redacted]

GET STARTED

FAMILY & HOUSEHOLD

2 More about this household

3 Summary

INCOME

ADDITIONAL INFORMATION

REVIEW & SIGN

Document type (Select one)  
[Learn more about document types](#)

Other documents or status types

Does Alice Pollard have any of these documents or status types? (Select all that apply.)

Document indicating member of a federally recognized Indian tribe or American Indian born in Canada

Certification from U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR)

Office of Refugee Resettlement (ORR) eligibility letter (if under 18)

Cuban/Haitian Entrant

Document indicating withholding of removal

Resident of American Samoa

Administrative order staying removal issued by the Department of Homeland Security (DHS)

Other

None of these

Update: Some assisters in NC have reported that using Method Two (2) is more likely to generate correct eligibility results for H-2A workers with incomes below 100% FPL.

After selecting "Other" from the list, a question will populate asking you to describe the document and to provide the number. Complete these sections as completely as possible. Under document description, you can write "H-2A visa." You will enter the I-94 number from the Arrival/Departure record.

GET STARTED

FAMILY & HOUSEHOLD

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INCOME

ADDITIONAL INFORMATION

REVIEW & SIGN

You need to tell us if the applicant has an eligible immigration status. You can continue the application now, and we'll send you a reminder notice.

Document description (35 characters maximum)

Enter one of these numbers

Alien number

I-94 number

Enter the I-94 number

XXXXXXXXXX

## Tax Questions

As with all consumers, H-2A workers must indicate that *they will file taxes* for the year they are seeking APTC. This is a very important issue to discuss with the consumer when they enroll, as filing taxes may be new for an H-2A worker. Assisters should also take care to let a worker know that if they receive APTCs, they will need to receive the 1095-A form the following year before filing their taxes. This may be difficult, as the worker may return to a different camp the following year. If a worker does not receive the 1095-A form via mail, they may be able to access the information by calling the Marketplace Call Center after January of the following year to write down the information. For example, if a worker enrolls in a plan in 2016, they will need to file their 2016 taxes in 2017. After January of 2017, they can phone the Marketplace Call Center to access the information on their 1095-A form, which they will use to fill out IRS form 8962 when they reconcile their APTCs.

GET STARTED

FAMILY & HOUSEHOLD

2 More about this household

3 Summary

INCOME

ADDITIONAL INFORMATION

REVIEW & SIGN

[redacted]'s household information

Does [redacted] file a federal income tax return for 2015? You don't have to file taxes to apply for coverage.

Yes

No

SAVE & CONTINUE

### **Marriage Question**

H-2A workers who are married should think carefully about their tax filing status. If possible, each H-2A worker should consult with a tax accountant, VITA tax clinic, or a reliable community-based organization for assistance in determining the correct filing status for himself and his family.

**If a worker is single or not legally married**, they can mark single on the Marketplace application. The worker would then file taxes using either the “Single” tax filing status or the “Head of Household” designation depending on his situation.

**If a worker is legally married**, he will most likely have to file with the “married filing jointly” status if he wishes to claim the tax credit for health insurance coverage under the ACA. Filing jointly means that the spouses’ information must be listed on the application, as they are considered part of the household.

H-2A workers may file jointly with their spouses, but need to take extra steps and consider other effects this filing status may have on their household and income. Workers who file “married filing separately” will not qualify for tax credits, but they are likely to qualify for an exemption from the requirement to have health insurance. For more information, see the [NC Justice Center factsheet on H-2A Workers, Taxes, and the ACA](#).

### **Dependents**

H-2A workers from Mexico may be able to claim a “qualifying child,” or a “qualifying relative” as a dependent on their tax return. Dependents must meet IRS definitions. Tax filers can only claim someone as a dependent if they are a U.S. citizen, resident or national, or a resident of Canada, Mexico, and in certain cases India and South Korea.

Applicants for health coverage and a tax credit in the Marketplace should list their family members on their Marketplace application in the same way they plan to list them on their tax return later in the following year. If an H-2A worker will list a qualifying child or relative on their taxes as a dependent, they should be listed on the Marketplace application as a non-applicant.

H-2A workers will need to obtain an ITIN for dependents or spouse that they will list on tax return. Because of this, some assisters recommend not listing dependents on the application unless the worker has already obtained an ITIN for them. An ITIN should not be listed in place of SSN on the Marketplace application.

### **Address for Spouse and Dependents Living Abroad**

If an H-2A worker includes his spouse and/or dependents on his tax return, he will need to include them (as members of his household but non-applicants) on the Marketplace application, even though they are not eligible for health coverage.

The HealthCare.gov application only accepts U.S. addresses. If a consumer has a spouse or a tax dependent residing at a foreign address, the consumer’s domestic address should be entered for that dependent. This guidance comes directly from CMS. Additionally, the address must be entered identically for each person on the application who lives at the same address. For example, do not enter “Street” for one person’s address and “St.” for another.

### Medicaid Denial Question

One of the questions on the Marketplace application asks if any consumers applying for coverage have been found ineligible for Medicaid due to their immigration status since October 1, 2013. **CMS has indicated that only consumers who have received an official denial should indicate they have been denied Medicaid due to their immigration status.** Only H-2A workers who have received an official Medicaid denial since October 1, 2013 should answer affirmatively to this question. Once a worker receives an official denial, answering that they have been denied will ensure the generation of correct eligibility results, including a determination of PTC eligibility for H-2A workers with incomes below the FPL.

Were any of these people found not eligible for Medicaid or the Children's Health Insurance Program (CHIP) in the past 90 days? Or, were any of them found not eligible for Medicaid or CHIP due to their immigration status since October 1, 2013?

Check the box only if a person was found not eligible for this coverage by their state, not by the Marketplace.

[Learn more about how to answer this question](#)

None of these people

None of these people

### Income

In estimating income, workers should account for any household income that will be included on their tax return. Some workers will have received multiple W-2s in the past year because they worked for different farms. Be sure to enter all of the income information. In addition, be sure to account for any changes from year to year and estimate as high as income may go to prevent any need for repayment. If an H-2A worker is asked to submit proof of income, make notes of any inconsistencies or discrepancies on income documents. For example, if sending in paystubs, note how many weeks the consumer will be in the U.S. for 2016 and any changes in income from week to week. For more information on best practices for submitting proof of income, see [these tips](#) from *In the Loop*.

If a worker is new to the H-2A program or new to a certain employer, they may be able to get insight into their income estimate by looking at the income of other workers who worked at the farm in previous years.

### Employer Coverage

Workers who have an offer of affordable employer coverage that meets minimum value standards will not qualify for PTC. In 2016, there were increasing reports of workers being offered employer coverage. In-person assisters should take care to ask workers about this and if necessary, find out information from employers. In some cases, workers may not realize that they've been offered, or even enrolled, in employer coverage.

### Additional Information: Special Enrollment Period Questions

H-2A workers who arrive outside of Open Enrollment are likely to qualify for a Special Enrollment Period (SEP) which will allow them to enroll after Open Enrollment ends. The qualifying life events that are likely to trigger this SEP eligibility for an H-2A worker are:

- Gaining new lawfully present status (H-2A visa)

The H-2A worker would have 60 days to enroll after entering the U.S.

- Moving

- *Move to U.S.*

The H-2A worker's move to the U.S. would also trigger an SEP. They would have 60 days to enroll after moving to the U.S. In 2016, the question about a recent move on the Marketplace application has been changed to include a check box that says, "Check here if <Consumer Name> moved from a foreign country." By checking this box you don't have to provide a ZIP code for a previous address (HealthCare.gov does not allow entry of foreign zip code or address).

- *Move within U.S.*

Starting in July 2016, consumers seeking a Marketplace SEP based on a permanent move within the U.S. are required to have had coverage for at least one day in the 60 days prior to their move in order to qualify for the SEP. This does not apply to workers moving from a foreign country.

If an H-2A worker moves *within* the US, he may qualify for an SEP if: 1) he gains access to new qualified health plans (QHPs) that he did not have access to where he previously lived and 2) he had coverage for at least 1 day in the 60 days prior to this move.

The screenshot shows a web form with the following elements:  
- Title: "Did any of these people recently move? optional"  
- Subtext: "If an enrolled person is moving out-of-state, consider applying for coverage in your new state first to prevent a temporary gap in coverage. [Learn more about what to do when moving out-of-state](#)"  
- A dropdown menu with a purple bar and a checkmark icon.  
- A text input field for "U.S. ZIP code:" with a placeholder "XXXX-XXXX".  
- A checked checkbox for "Check here [purple bar] moved from a foreign country."  
- A date input field for "When did [purple bar] move?" with the value "01/21/2016" and a calendar icon.  
- A "None of these people" checkbox.  
- A green "SAVE & CONTINUE" button at the bottom right.

Some assisters have noted that trying to claim multiple SEPs at once can sometimes cause problems with eligibility results. If workers still qualify for a SEP based on new immigration status, it's recommended they use that SEP when completing the Marketplace applications and not indicate their recent move. They can leave this question blank, as it is optional.

There are also other SEPs that H-2A workers might qualify for. A list can be found at this link:  
<https://www.healthcare.gov/how-can-i-get-coverage-outside-of-open-enrollment/>

### SEP Confirmation Process

Since June 2016, the Marketplace has implemented several changes to the process of enrolling through a Special Enrollment Period (SEP). In April 2017, new rules for accessing SEPs were outlined in the Market Stabilization Final Rule. Starting in June 2017, the Marketplace will begin to roll out rules requiring pre-verification of eligibility for SEPs. New applicants enrolling through a SEP will be required to submit proof of eligibility for SEPs before a consumer's coverage can begin. The process will be phased in over the course of the year and will first apply to the most common SEPs, including loss of other coverage and permanent move, when the rollout is scheduled to begin in late June. Pre-enrollment verification will eventually apply to all people newly enrolling in Marketplace coverage and to all categories of SEPs. As of this writing, details about the process were not known, so it is unclear about the immediate effect on H-2A workers, but assisters can anticipate that H-2A workers will need to begin to submit SEP verification documents at some point in the next year. Assisters should keep updated about the rules around SEPs so they can assist all consumers.

Before the new pre-verification rules take effect, consumers need to submit verification only if they were enrolling through certain SEPs: loss of minimum essential coverage; permanent move; birth, adoption, placement for foster care, or child support or other court order; and marriage. Currently, documentation is not required before enrollment takes effect and can be submitted after the fact.

Assisters can review [this chart](#) from Families USA that outlines the type of documents that consumers can submit to the Marketplace to prove eligibility. Note that consumers accessing a SEP due to a move are asked to provide proof of their former and current address.

Family member(s)	Results	Next steps
May Leon	<ul style="list-style-type: none"> <li>Eligible for a Special Enrollment Period, but more information is needed.</li> </ul>	<ul style="list-style-type: none"> <li>You need to send the Marketplace documents that prove you're eligible to enroll through a Special Enrollment Period. This notice explains what you need to send and how to send it.</li> </ul>
May Leon	<ul style="list-style-type: none"> <li>Eligible to purchase health coverage through the Marketplace</li> </ul>	<ul style="list-style-type: none"> <li>Choose a health plan and make first month's payment</li> </ul>

### Failure to Reconcile 2014 or 2015 APTC

If a consumer received but has not yet reconciled 2014 or 2015 APTC, they will not be eligible to receive 2017 APTC until they take action to reconcile 2014 or 2015 APTC with either a new or corrected tax return. If an H-2A worker in this situation wants to enroll in 2017 coverage with APTC, they should take action to reconcile past APTC. If they did not file a 2014 or 2015 tax return with IRS Form 8962, they will need to do so. After filing, the H-2A worker can return to the Marketplace and answer a question attesting to having reconciled past APTC. This will allow them to enroll in 2017 coverage with APTC. They should not indicate they have filed and reconciled APTC in response to this question until they actually do so.

## Eligibility Results

H-2A workers are generally eligible for premium tax credits if their income falls within 0-400% of the federal poverty level (FPL). They are eligible for cost sharing reductions if their income falls within 0-250% of the federal poverty level. You can find 2016 and 2017 federal poverty levels at this link:

<http://familiesusa.org/product/federal-poverty-guidelines>.

Most H-2A workers will meet these income requirements. However, H-2A workers also have to meet other eligibility standards for premium tax credits:

- They must file taxes for the year they are receiving APTC and indicate they will do so on their application. If they received APTC in past years, they must file taxes and reconcile APTCs.
- If they are married, they must file jointly with their spouse (very few legally married H-2A workers will qualify to file as Head of Household and receive APTC). They **cannot** file taxes married separately and receive PTC.
- They cannot have access to employer coverage that meets certain affordability and value standards.

In addition, to qualify for cost sharing reductions in addition to premium tax credits, the worker must choose a silver level plan.

**Assisters should check eligibility letters for accuracy, as H-2A workers have received incorrect eligibility results in the past, often due to the system failing to recognize PTC eligibility below 100% FPL.**

If the system cannot verify an applicant's immigration status, or if the consumer does not include their immigration document numbers, the system will assume that the individual meets the immigration requirements for Medicaid. Therefore, the system **will not** screen for or recognize eligibility for premium tax

credits below 100% FPL. Consumers in this situation will receive an incorrect eligibility notice indicating they are ineligible for premium tax credits.

In this situation, the eligibility determination notice will notify consumers that they should submit documents to resolve their immigration status inconsistency in order to obtain PTCs. Once the inconsistency has been resolved, and the person is found to be ineligible for Medicaid due to immigration status, the FFM will be able to immediately grant APTCs and the individual will be able to proceed to plan compare on the online application. (Note: this fix does not address cases when individuals are incorrectly sent to their state Medicaid office for a denial)

Sample eligibility notice indicating consumer may be eligible for APTC if immigration data matching issue is resolved.

Family member		
Applicant One	<p>Income tax return for 2015, you'll need to provide this exemption certificate number (ECN) on your return: GR9UPDN. It's important that you provide this number when you file your tax return so the Internal Revenue Service (IRS) knows you're eligible for the exemption.</p> <ul style="list-style-type: none"> <li>Eligible to purchase health coverage through the Marketplace, including catastrophic plans</li> </ul>	information
Applicant One	<ul style="list-style-type: none"> <li>May be eligible for a premium tax credit, but we need more information from you about your immigration status. This is because some consumers who aren't eligible for Medicaid based on immigration status may be eligible for help paying for coverage if they have annual household income below 100% of the federal poverty level, are considered lawfully present, and meet all other requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Choose a health plan and pay the full amount for the first month. If you send more information, you may get advance payments of the premium tax credit to help lower costs in the future.</li> <li>If you become eligible for advance payments of the premium tax credit, you may also be eligible for a Special Enrollment Period to enroll or change plans.</li> </ul>

**Steps to take when an immigrant below the poverty line is deemed ineligible for APTCs:**

1. Ensure that immigration documentation was entered on the application correctly and as completely as possible. If the individual has a Social Security Number, make sure it is entered on the application. For more information, review this [webinar](#) from Health Reform Beyond the Basics on the application process for immigrants.
2. Try entering immigration documentation information into the online application using the "Other-Other" method.
3. If the individual is deemed to be in the Medicaid gap and the Marketplace requests additional verification, upload that verification to the consumer's Marketplace account.
4. Complete a Medicaid application via [e-pass](#) (preferred) OR [print a copy of the paper application](#) for the consumer to take to their local Department of Social Services (DSS). Where possible, work with your county DSS office to expedite the denial of the application. In many cases, local offices may be willing to issue a prompt denial when it is clear that an applicant's immigration status renders them ineligible for Medicaid. You can explain that the denial is required to help the individual obtain correct results in the Marketplace. Once a written Medicaid denial is received, return to the Marketplace application and check the box that asks whether or not the applicant has been denied for Medicaid. Also check the next pop up box to confirm that the denial was based on immigration status. Checking both boxes should trigger correct eligibility results. Consumers should not check this box without first obtaining a Medicaid denial.
5. [File a Marketplace appeal](#). Remember, filing an appeal is the only way to protect an applicant's date of application and obtain retroactive coverage. An applicant only has 90 days from the date of the incorrect eligibility determination to file an appeal.

It's important for in-person assisters to continue to monitor the case and follow-up with the consumer after these steps are taken to assist them with any necessary next steps.

**We strongly advise against the following, unauthorized workarounds:**

1. Checking the Medicaid denial box on healthcare.gov without first obtaining a Medicaid denial. Doing so constitutes perjury on a federal application for benefits and may have future consequences for the applicant.

2. Contacting the call center and explaining that the individual *should* be eligible for tax credits because they are ineligible for Medicaid based on their immigration status. The call center does not have a work-around for this situation beyond checking the Medicaid denial box on the application. If the call center re-submits the application to get correct results, they are most likely inappropriately checking the box indicating a Medicaid denial. Having the call center check the Medicaid denial box does not protect the consumer from perjury even if the consumer does not specifically ask the call center to do so.

## Resolving Data Matching Issues

After submitting a Marketplace application, many H-2A workers experience data matching issues (DMI). In these cases, the Marketplace is unable to electronically verify information submitted on the application, usually information related to immigration status or income. In many cases, applicants are able to enroll in Marketplace coverage right away with APTC, but they need to submit supporting documentation within either 90 or 95 days. If a worker has an immigration status data matching issue that goes unresolved within 95 days, their coverage will be terminated. If an income issue is unresolved within 90 days, APTC will be adjusted or terminated.

In some cases, an H-2A worker who has an income below 100% FPL and has an immigration data matching issue will receive an incorrect eligibility notice. The eligibility notice will not recognize eligibility for APTC. If the DMI is resolved, the Marketplace will issue a new eligibility notice and the worker will be able to enroll with APTC.

### **What documents should be submitted?**

For a list of documents that can be submitted, see this link: <https://www.healthcare.gov/help/how-do-i-resolve-an-inconsistency/>. Please note, in some cases, H-2A workers will need to submit multiple documents to resolve an issue.

A cover letter or note should also be included indicating what documentation is being submitted and what issue it is addressing.

For income data matching issues, documentation should closely match the initial attestation on the application. Many assisters have found it useful to include clarifying comments explaining any income information, such as information about how long the worker will be in the U.S., why their income from one year may be different from the other, why income may fluctuate, and whether or not the documentation is a representation for entire HH income.

### **How should information be submitted?**

For instructions on how to submit documentation, please review this website: <https://www.healthcare.gov/data-matching-application-inconsistencies/>. If at all possible, documentation should be uploaded to the Marketplace account. If information is mailed, the consumer's name, state of

residence, DOB, and Application ID should be written on each piece of documentation AND the barcode from the eligibility notice should be included.

**What can consumers do after submission?**

It's very important for consumers to stay on top of data matching issues. In some cases, the Marketplace may not receive submitted information or the submitted information may not resolve the issue. Assisters should track which H-2A workers have a DMI and help them contact the Marketplace several times within their resolution period to see if the issue has been resolved. They should not assume it's been resolved until they get definitive word from the Marketplace.

If the resolution deadline is approaching and the Marketplace cannot verify resolution, H-2A workers can submit a life change to their application. If nothing has changed, they can just confirm the information already in the application. In 2015, assisters found that doing so should reset the resolution period and in some cases resolved the issue. This should only be used as a last resort, as it can cause later complications with tax forms and requires submission of additional information.

## Post-Enrollment Assistance and Issues

There are many issues for H-2A workers to think about after the enrollment, including making premium payments, reporting life changes, terminating coverage when leaving the country, and filing taxes the following year to reconcile APTC. When meeting with a worker, assisters should be sure to talk through this issues to make sure the H-2A worker feels comfortable and understands their next steps. It is critical to pay attention to these post-enrollment issues.

### **Making Payments**

Consumers must pay their health insurance premium each month. The first premium payment is needed in order for coverage to begin and must be paid on time. Federal rules require the insurer to accept paper checks, cashier's checks, money orders, and all general-purpose pre-paid debit cards, as well as electronic funds transfers (EFTs).

Assisters should support workers to make their first and subsequent premium payments. Because the first bill from an insurance company can often come late or not at all, H-2A workers should be instructed to be proactive about making their first premium payment. That said, it's better for them to include a voucher with their first payment. If a worker has not heard from the insurance company within a certain time frame after enrollment, they should call the insurance company. Assisters can often help by checking in with the worker a few days after enrollment.

Assisters should talk to workers about how they can get a money order and make payment and whether they need additional assistance completing that step. Documents in the Resource section of Appendix B provide examples of educational tools.

Assisters may also provide the workers with as many pre-addressed, pre-stamped envelopes that they need to make payments.

Some issuers may accept payment for multiple months at one time. However, assisters should check with the individual issuer to make sure this is accepted. In the past, some payments made at once were not appropriately applied to future months.

### **Filing Taxes**

Everyone who receives advanced payments of the premium tax credit (APTC) must file taxes for the year they receive APTC. Consumers will receive a pre-populated statement (1095-A form) from the Marketplace in January or February of the following year which they will need when their taxes are filed. They will use this form to reconcile payments of APTC. When consumers receive their 1095-A form, they should be sure to check it for errors. This is especially important if they terminated coverage before December. While this form is mailed out by the Marketplace, it can also be accessed through a HealthCare.gov account, and the information can be accessed through the Marketplace Call Center.

If a worker does not receive the 1095-A form via mail, they may be able to access the information by calling the Marketplace Call Center after January of the following year. The H-2A worker can request a new form be sent to a new address or the Call Center Representative may read off the information on the form to the consumer. The consumer can write it in a blank 1095-A form: <http://www.irs.gov/pub/irs-pdf/f1095a.pdf>. If the Call Center reads the information over the phone, the consumer should still attempt to get a paper copy of the form so that they can maintain it for their records. For example, if a worker enrolls in a plan in 2015, they will need to file their 2015 taxes in 2016. The Marketplace will mail 1095-A forms for 2015 in January 2016. After January of 2016, if consumers have not received a form in the mail, they can phone the Marketplace Call Center to access the information on their 1095-A form. Workers may receive multiple 1095-A forms during the same year if they reported a life change to the Marketplace, experienced a data matching issue, or switched plans.

In addition, H-2A workers may need to take steps to get a SSN for themselves and an ITIN for their spouse or any dependents that they will list on their tax return. For more information on what workers need and how they can apply, check out resources on the [Legal Aid Farmworker Unit website](#).

### Reporting a Life Change if H-2A Worker Moves within U.S.

If an H-2A worker enrolled in Marketplace coverage moves to another county in NC or to another state, they should report that change to the Marketplace and update their address. They can do this through the Call Center.

If the worker had coverage for at least one day in the 60 days prior to their move, they would qualify for a Special Enrollment Period to change plans. This may be desired if the worker moves to a new area of the state where there are a little or no providers in-network with their previous plan. For example, some plans offered in North Carolina have smaller networks, so consumers may want to explore their provider options in the area to see if it makes sense to change plans. If a worker does change plans during the year, the deductible on the plan will reset, so any costs applied to the deductible in their previous plan will not carry over to their new plan—this may be an important factor to consider if enrollees have already undergone significant out-of-pocket expenses. Enrollment assisters should also consider the new plan’s start date when helping a worker decide whether to change plans.

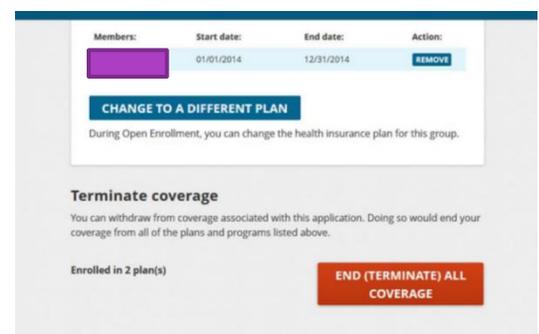
If a worker did not have coverage for at least one day in the 60 days prior to their move, they will not qualify for a SEP to get a plan. This doesn’t apply to moves from a foreign country, only moves within the U.S.

### Terminating Coverage

Consumers may voluntarily terminate their enrollment upon request for any reason. **H-2A workers should terminate coverage before they return to their home country.**

**Consumers should return to the Marketplace to terminate coverage at least two weeks before their desired termination date.** This should be done through the Marketplace. Coverage can be terminated either online or via phone. **If possible, assisters should make a note of the time period an H-2A worker is scheduled to leave the country and follow-up with them close to that date to assist in terminating coverage.**

To terminate coverage online, consumers can:



- Log into “MyAccount” on Healthcare.gov and navigate to the “My Plans & Programs” tab;
- Click the “End (Terminate) All Coverage” button;
- Select an effective date of termination that is 14 days from the present date or greater;
- Click on the red button labeled “Terminate Coverage.”
- If successful, a Red Terminated Status should then appear above the plan that was terminated.

### **Connecting to Care**

If possible, enrollment assisters should help H-2A workers in connecting to care under their new plan. Enrollment assisters can help H-2A workers understand what providers they can use under their plan. Some Marketplace QHPs may require the worker to select a primary care provider.

In addition, enrollment assisters should help workers understand how enrolling in coverage may affect their use of safety net providers. Many safety net providers still welcome insured patients and may apply the same income-based discounts. Others may no longer be able to serve consumers who are now insured.

# Exemptions

## Common Exemptions for H-2A Workers

H-2A workers who are not enrolled in coverage for all or part of the months they are in the United States should check to see if they are subject to the individual mandate. If an H-2A worker does not meet the definition of resident alien, he is not subject to the individual mandate and will not have to pay the penalty for not enrolling in health coverage when he files a 1040NR. For more information, see [NC Justice Center's Fact Sheet on H-2A Workers, Taxes, and the Marketplace](#).

If an H-2A worker is subject to the individual mandate but is not enrolled in coverage for all or part of the months they are in the United States, they are subject to a penalty for not having coverage, unless they can qualify for an exemption. Some common exemptions H-2A workers may qualify for are listed below. Most of the exemptions listed below are discussed for year 2015. However, when in-person assisters are helping workers, they may need to address multiple years. For example, a CAC may meet with an H-2A worker who did not enroll in 2015 and will also be uninsured for 2016. The CAC would want to discuss exemption possibilities for both years. Most exemptions stay the same from year to year, but certain thresholds and the way an exemption is claimed may change.

### **Exemption for Time Not Present in United States**

H-2A workers do not have to pay the penalty for time they are not in the United States. However, when H-2A workers who qualify as resident aliens file their taxes, they must indicate they were exempt for their time out of the United States by filing out an additional form, IRS Form 8965. For these months, they will qualify for the exemption based on not being lawfully present in the U.S. On the 2015 Form 8965, this exemption is claimed by writing Code C in Part III of IRS Form 8965 for the months the worker was abroad. If the worker was not present in the U.S. for even one day in a single month, they can claim the exemption for the full month.

### **Short Gap in Coverage**

H-2A workers who enroll in coverage while they are in the U.S. may have a period of time in which they're lawfully present in the country and uninsured before their coverage begins. If they have a gap in coverage of only 1 or 2 months, they will be exempt for this gap under the "short coverage gap" exemption. For example, Juan arrives in the U.S. on April 1 and enrolls in coverage on May 1. His coverage begins on June 1. He leaves the U.S. on November 30 and cancels his coverage at that time. He would be exempt for the months of April and May under the short coverage gap exemption (and he would be exempt for January, February, March, and December under the previous exemption, as he was not physically present in the country).

The short coverage gap is claimed by filing out IRS Form 8965. On the 2015 Form 8965, this exemption is claimed by writing Code B in Part III of IRS Form 8965 for the months in the coverage gap. Keep in mind that this exemption only applies to the first gap in coverage each year.

### **Exemptions if Worker Is Uninsured for Entire Time Present in U.S.**

Some H-2A workers might not enroll in health coverage at all. Some of the most common reasons for not enrolling include:

- a) Worker decides not to enroll.

- b) Worker is married but files separately from spouse and does not qualify for premium tax credits.
- c) Worker is not able to enroll within the 60 day Special Enrollment Period window.

There are some exemptions that may apply to workers who are in these situations.

### Income Below Tax Filing Threshold

Workers who don't have to file a tax return because their income is below the tax filing threshold are exempt. The following chart includes the filing thresholds for different statuses.

If a worker does file taxes, even if his income is below the threshold, he must complete Form 8965 and check one of the two boxes in Section 2 to claim this exemption and avoid the penalty for being uninsured.

Table 1-1. 2016 Filing Requirements for Most Taxpayers

IF your filing status is...	AND at the end of 2016 you were...	THEN file a return if your gross income was at least...
single	under 65	\$10,350
	65 or older	\$11,900
married filing jointly***	under 65 (both spouses)	\$20,700
	65 or older (one spouse)	\$21,950
	65 or older (both spouses)	\$23,200
married filing separately	any age	\$ 4,050
head of household	under 65	\$13,350
	65 or older	\$14,900
qualifying widow(er) with dependent child	under 65	\$16,650
	65 or older	\$17,900

### Income Below 138% FPL and Resident of State that Didn't Expand Medicaid

Workers who had an income below 138% of the FPL and worked in a state (like NC) that did not expand Medicaid can claim an exemption on their tax return. The FPL limits are based on household size and income. Workers would claim this exemption by completing Form 8965 and writing the relevant code. No application is needed in advance.

2015 Federal Poverty Level- 48 Contiguous States and Washington, D.C.

### 48 Contiguous States & the District of Columbia

Family Size	50%	75%	100%	133%	138%	175%	200%	250%	300%	400%
1	\$5,885	\$8,828	\$11,770	\$15,654	\$16,243	\$20,598	\$23,540	\$29,425	\$35,310	\$47,080
2	\$7,965	\$11,948	\$15,930	\$21,187	\$21,983	\$27,878	\$31,860	\$39,825	\$47,790	\$63,720
3	\$10,045	\$15,068	\$20,090	\$26,720	\$27,724	\$35,158	\$40,180	\$50,225	\$60,270	\$80,360
4	\$12,125	\$18,188	\$24,250	\$32,253	\$33,465	\$42,438	\$48,500	\$60,625	\$72,750	\$97,000
5	\$14,205	\$21,308	\$28,410	\$37,785	\$39,206	\$49,718	\$56,820	\$71,025	\$85,230	\$113,640
6	\$16,285	\$24,428	\$32,570	\$43,318	\$44,947	\$56,998	\$65,140	\$81,425	\$97,710	\$130,280
7	\$18,365	\$27,548	\$36,730	\$48,851	\$50,687	\$64,278	\$73,460	\$91,825	\$110,190	\$146,920
8	\$20,445	\$30,668	\$40,890	\$54,384	\$56,428	\$71,558	\$81,780	\$102,225	\$122,670	\$163,560

### Affordability Exemption

This exemption is available to consumers if the lowest cost plan available to them for months in the U.S., minus any tax credits they would be eligible for, is more than 8.05% of their household income (note: this threshold changes each year. In 2016, it is 8.13%). The worker should only count premiums for months they were in the United States. For many H-2A workers, the lowest cost plan will be the lowest cost bronze level plan on the Marketplace. H-2A workers who are married and file taxes separately will likely qualify for this exemption, as they will not qualify for any tax credits. This exemption can be claimed on the tax return for past months with no prior application. This exemption can also be applied for in advance for future months.

If a worker needs to claim this exemption in 2015, they will do so by inputting a code on IRS Form 8965. There is a worksheet on Form 8965 instructions which the worker can use to see if this exemption applies to them. They can look up the lowest cost bronze plan in 2014 and 2015 by using this HealthCare.gov tool: <https://www.healthcare.gov/tax-tool/>.

### **Hardship Exemption**

If other exemptions do not apply for the worker, they may consider completing an application for a hardship exemption. There are 13 specified categories of hardship exemptions. There is also a hardship exemption category for a “hardship that kept someone from getting insurance that is not listed.”

An H-2A worker ineligible for other exemptions may consider applying for this unspecified hardship. The English application can be found here: <https://marketplace.cms.gov/applications-and-forms/hardship-exemption.pdf> and the Spanish application is here: <https://marketplace.cms.gov/applications-and-forms/exemption-application-hardship-spanish.pdf>. There is a box in which the worker can describe the hardship that kept them from getting health insurance. For example, if the worker missed their 60 day Special Enrollment Period window, they could write about how they did not know about the application process or that they could not complete it on their own during the window. If the hardship application is approved, the Marketplace will send the consumer an Exemption Certificate Number to include on their taxes. If the worker files taxes before hearing back about the application, or if he submits a hardship application at the time he files his return, he can write “Pending” on Form 8965 where the ECN would be entered.

## Appendix A: Scenarios

Read through the following sample scenarios to learn more about how ACA policy applies to certain consumer situations.

### LUIS

#### Q: Does the individual mandate apply to Luis?

Luis is 26 years old and is traveling to the U.S. for the first time on an H-2A visa. He will arrive in North Carolina on April 1, 2016 and believes he will leave on November 18, 2016. He has never been to the U.S. before. Luis is not married and doesn't have any children. He thinks he will make \$11,000 in 2016. His employer does not offer any health insurance coverage.

To understand whether or not the individual mandate applies to Luis, it's necessary to determine 1) if he is considered a resident alien for tax filing purposes and 2) his income is above the tax filing threshold. If Luis is considered to be a resident alien and his income is above the tax filing threshold for his filing status, the individual mandate will apply to him.

You can use this formula from Legal Aid Farmworker Unit to determine if Luis is a resident alien or not:

• NUMBER OF DAYS YOU HAVE BEEN IN THE U.S.: LUIS		
THE CURRENT YEAR (YEAR YOU ARE PAYING TAXES ON): 2016	Number of days = April 1- November 18=	231 days
THE PREVIOUS YEAR: 0	_____0___ / 3 Number of days divided by 3 =	0
THE YEAR BEFORE THE PREVIOUS YEAR: 0	_____0___ / 6 Number of days divided by 6 =	0
	TOTAL =	231 days

^^ If your total is 183 days or more based on the above chart, you are considered a "resident alien" for tax purposes. You must file taxes, and you must enroll in health coverage unless you meet one of the exemptions."

Since Luis will be in the U.S. for 231 days in 2016, he is considered a resident alien for tax purposes.

Next, you can check to see if Luis has an income above the tax filing threshold. The tax filing threshold for person filing single and under age 65 is \$10,300. Luis' income in 2016 will be \$11,000.

*Because Luis is considered a Resident Alien and his income is above the tax filing threshold, he is subject to the individual mandate. If he does not get insurance for the time he is in the US, he will pay the penalty for not being insured. It is possible Luis may qualify for a health coverage exemption.*

**Q: Will Luis qualify for premium tax credits?**

If Luis enrolls in a Marketplace, he will qualify for PTC.

Luis meets all of the eligibility requirements:

- His income is between 0-400% FPL.
- He is not married, so he will file taxes as single.
- He is not eligible for other Minimum Essential coverage.

He must also file taxes for the year he receives APTC.

**Q: Does Luis qualify for any exemptions?**

Luis will qualify for an exemption for the time he is outside of the U.S. He will claim this exemption by completing IRS Form 8965 on his tax return.

Even if Luis enrolls in health coverage, he will have a gap in coverage between when he arrives in the U.S. and when his coverage begins. This is because he cannot apply and enroll before coming to the U.S. If this gap is two months or less, he will qualify for a short coverage gap exemption. He will claim this exemption by completing IRS Form 8965 with his tax return. If the gap in coverage is 3 months or longer, he will not qualify for this exemption.

If Luis does not enroll, he may also qualify for an exemption for the months he is in the U.S. From what we know about his situation, Luis qualifies for the exemption for consumers who have incomes below 138% FPL and who live in a state that did not expand Medicaid.

**Q: When can Luis enroll in coverage?**

Luis will be able to enroll in coverage through a Special Enrollment Period up to 60 days after he has entered the U.S. He will need to enroll before June 1.

Consumers are eligible for the premium tax credit if they meet the following requirements:

- ✓ Enrolled in Marketplace plan
- ✓ Meet income requirements (for H-2A workers, have income between 0-400% FPL)
- ✓ File taxes for year receive PTC
- ✓ Do not file a Married Filing Separately tax return
- ✓ Ineligible for other Minimum Essential Coverage

# MIGUEL

Miguel is 35 years old and is from Mexico. He has been coming to the U.S. on an H-2A visa for the past 4 years. He usually comes to the same farm in Eastern NC. He is married and has two children. In the past, he has filed taxes as Married, Filing Separately. Miguel will be in NC from March 14, 2016 to November 18, 2016 and his household income will be about \$15,000 in 2016. His employer does not offer insurance.

## Q: Does the individual mandate apply to Miguel?

To understand whether or not the individual mandate applies to Miguel, it's necessary to determine 1) if he is considered a resident alien for tax filing purposes and 2) if his income is above the tax filing threshold. If Miguel is considered to be a resident alien and his income is above the tax filing threshold for his filing status, the individual mandate will apply to him.

Note: Even though Miguel was in the US in previous years, we don't need to fully complete the chart because he will meet the 183 day threshold in 2016.

• NUMBER OF DAYS YOU HAVE BEEN IN THE U.S.: MIGUEL		
THE CURRENT YEAR (YEAR YOU ARE PAYING TAXES ON): 2016	Number of days = March 14- November 18=	249 days
THE PREVIOUS YEAR: 2015	_____/3 Number of days divided by 3 =	
THE YEAR BEFORE THE PREVIOUS YEAR: 2014	_____/6 Number of days divided by 6 =	
	TOTAL =	

^^ If your total is 183 days or more based on the above chart, you are considered a "resident alien" for tax purposes. You must file taxes, and you must enroll in health coverage unless you meet one of the exemptions."

Since Miguel will be in the US for 249 days in 2016, he is considered a resident alien for tax purposes.

Next, you can check to see if Miguel has an income above the tax filing threshold. The tax filing threshold is different for different filing statuses. In the past, Miguel has filed taxes using the status, Married, Filing Separately. The filing threshold for this status is \$4,000. Miguel's projected income of \$15,000 will be more than this and he will need to file taxes.

*Because Miguel is considered a Resident Alien and his income is above the tax filing threshold, he is subject to the individual mandate. If he does not get insurance for the time he is in the U.S. or claim an exemption, he will pay the penalty for not being insured.*

**Q: Does Miguel qualify for premium tax credits?**

If he continues to use the filing status of Married, Filing Separately, Miguel will not qualify for any PTCs. While Miguel meets the other requirements to qualify, he cannot claim PTCs and use the Married, Filing Separately status. Miguel can likely choose to file taxes as Married, Filing Jointly. However, many married H-2A workers may choose not to use this status because of the additional steps they need to take to use that status.

**Q: Does Miguel qualify for any exemptions?**

Miguel will qualify for an exemption for the time he is outside of the U.S. He will claim this exemption by completing IRS Form 8965 on his tax return.

Miguel may also qualify for an exemption for the time he is in the U.S. and not covered.

Miguel may qualify for two exemptions in particular:

- Resident of a state that did not expand Medicaid with income below 138% FPL. If Miguel plans to claim his two children on his tax return, he will have a household of three. 138% of the FPL for a household of three is \$27,724. Miguel’s income will be below this.
- Affordability Exemption: Cost of coverage is more than 8.13% of household income. To know if Miguel qualifies for this exemption, we need to know how much it would cost for him to purchase the lowest cost Bronze plan available to him on the Marketplace for the months he is in the U.S. Since he does not qualify for APTC, we would look at the full cost of the coverage. If the premiums for lowest cost bronze plan were more than \$1,219.50 (8.13% of \$15,000) for the months he was in the U.S., he would be eligible for the Affordability Exemption. The lowest cost Bronze plan for 2015 can be found using this tool: <https://www.healthcare.gov/tax-tool/>. The cost for 2016 can be found using this tool: [healthcare.gov/see-plans](https://www.healthcare.gov/see-plans).

**Q: When can Miguel enroll in coverage?**

Miguel will have 60 days from the date he entered the U.S. to enroll in coverage. He would have to enroll by May 14.

Consumers are eligible for the premium tax credit if they meet the following requirements:

- ✓ Enrolled in Marketplace plan
- ✓ Meet income requirements (for H-2A workers, have income between 0-400% FPL)
- ✓ File taxes for year receive PTC
- ✓ Do not file a Married Filing Separately tax return
- ✓ Ineligible for other Minimum Essential Coverage

## Evens

Evens is a 40-year-old H-2A worker from Haiti. He will be in the US from February 1, 2016 to November 30, 2016. He is not married and has no children. He will make \$18,000 in 2016. He first worked with a nursery in Eastern NC and then went to the Western part of NC in September. He did not enroll in health coverage while he was in Eastern NC because he didn't know anything about the ACA. Once he arrives in Western NC, your program meets with him to talk about his options. He has no offer of employer coverage.

### **Q: What are Evens' options?**

Because of a new Marketplace policy that took effect in July 2016, Evens will not qualify for a Special Enrollment Period to enroll in coverage once he moves to Western NC. This new rule specifies that consumers who want to access a SEP due to a permanent move would have needed to have coverage for at least one day in the 60 days prior to the move. This does not apply to people moving from foreign countries, but because his second move is a move within the U.S, it would apply to Evens' situation. Evens would have qualified for a SEP when he first came to the U.S., but he will not qualify upon his move from Eastern to Western NC.

The individual mandate does apply to Evens' situation, so he will pay the penalty for any months he is in the US and uninsured, unless he

qualifies for another exemption.

Evens is not likely to qualify for the Affordability Exemption, since he qualifies for PTC. He will also not qualify for the Medicaid Gap exemption, since his income is above 138% FPL. One exemption Evens could explore is the Hardship Exemption for a non-specified hardship. To claim this, Evens needs to complete a hardship exemption application and explain why he believes he should receive this exemption. Evens should include information about all of the reasons that it was difficult for him to enroll in health coverage. If the exemption is granted, he will be issued an Exemption Certificate Number that he can use when he files his taxes.

# Appendix B: Resources

## Information for Advocates & Enrollment Assisters

Note: Many of the below listed resources are not specific to H-2A workers.

- Farmworker Justice Issue Brief, [The Affordable Care Act and H-2A Agricultural Workers](#)
- NC Community Health Center Association, Helping H-2A Farmworkers Enroll Webinar Presentation (Presentations from NCCHCA, Farmworker Justice, and NC Justice Center)
  - [Recording](#) (password: outreach)
  - [Slides](#)
- Farmworker Justice, [ACA and Farmworkers: A curriculum for promotores de salud and community advocates](#)
- NC Justice Center: [ACA, H-2A Workers, and Taxes](#)
- Legal Aid of North Carolina [Farmworker Unit](#)
- NC [Farmworker Health Program](#)
- Center on Budget and Policy Priorities, [Key Facts: Immigrant Eligibility for Health Insurance Affordability Programs](#)
- Center on Budget and Policy Priorities, [Key Facts: Helping Families That Include Immigrants Apply for Health Coverage](#)
- Center on Budget and Policy Priorities, [Overview of Immigrant Eligibility Policies and Application Processes for Health Insurance Affordability Programs](#)
- National Immigration Law Center, [ACA Resources](#)
- Marketplace [Exemption Applications](#)
- Marketplace [Appeal Forms](#)

## Tools for Outreach and Enrollment Programs

There are several resources that can assist enrollment workers during the education and enrollment process.

### Outreach & Education Resources

Fliers from Farmworker Justice (<http://www.farmworkerjustice.org/content/access-healthcare-0>)

- [A Guide for Lawfully Present Workers and their Families](#) (English)
  - [Una guía para los trabajadores agrícolas y sus familias que están presentes legalmente en los Estados Unidos](#) (Spanish)
- [A Guide to the Health Insurance Requirement](#) (English)
  - [Una guía sobre el seguro médico obligatorio](#) (Spanish)
- [The Affordable Care Act and You: A Guide for H-2A Workers](#) (English)

- [La Ley de Cuidado de Salud Asequible y Usted: Una Guía para los Trabajadores H-2A \(Spanish\)](#)
- [A Guide on Employer-Provided Health Insurance \(English\)](#)
  - [Una guía sobre el seguro médico que provee el empleador](#)
- [What Questions Should I Ask About My Health Insurance?](#)
  - [¿Qué Preguntas Debería Hacer Sobre mi Seguro Médico?](#)

#### Fliers and Presentation from Legal Aid of North Carolina

(<http://www.farmworkerlanc.org/es/publicaciones/ley-del-cuidado-de-la-salud>)

- [“¡Cuida tu Salud y tu Bolsillo!” Manual for Trainers](#) (In Spanish):  
This manual helps service providers learn how to explain the following issues to H-2A workers:
  - What is the Affordable Care Act
  - Why is it important to have health insurance?
  - How does health insurance work in the U.S. in general?
  - How does an H2A worker know if s/he has to enroll?
  - How to enroll and get a tax credit
- Derechos laborales para los trabajadores contratados con el programa H-2A en Carolina del Norte
  - [http://www.farmworkerlanc.org/es/wp-content/uploads/2009/10/H2A\\_Booklet\\_2015\\_Spanish1.pdf](http://www.farmworkerlanc.org/es/wp-content/uploads/2009/10/H2A_Booklet_2015_Spanish1.pdf)
- Ley Del Cuidado de la Salud
  - [El vocabulario que debes aprender cuando tienes un seguro médico](#)
  - [Información general acerca de la Ley del Cuidado de la Salud](#)
- “¡A MI TAMBIÉN ME HA PASADO!” Un juego para aprender a usar un seguro médico
- Gráfica informativa acerca de los trabajadores agrícolas y la Ley del Cuidado de la Salud
  - [Gráfica completa](#)
  - [Gráfica parte 1](#)
  - [Gráfica parte 2](#)

#### Farmworker Health Insurance Team (FHIT) Video

Innovative educational video for H2A farmworkers on the Affordable Care Act. This Short, Spanish-language, dramatized parody of the popular Mexican soap opera, Dos mujeres, un camino can be accessed on YouTube or by DVD.

- For people outside of North Carolina: [http://bit.ly/dosopciones\\_video](http://bit.ly/dosopciones_video)
- For people in North Carolina: [http://bit.ly/dosopciones\\_video\\_NC\\_ONLY](http://bit.ly/dosopciones_video_NC_ONLY) (includes phone number for workers to call to connect with enrollment assistance)

## Application and Enrollment Resources

### [Sheet to Collect H-2A Worker Information Needed for Application](#)

This sheet is used to collect the information needed from each worker for an application. This is especially useful if the application will be done over the phone. It can also be used for reference later on. After utilizing for application, the consumer should either keep this form or shred it. The Assister Organization should not retain this information.

### [Handout for H-2A Workers Post Enrollment](#)

The step by step instructions sheet from Greene County Healthcare has all the information the H2A worker may need after enrollment. It has basic information about their plan (start date, premium, etc.) it also has an example on how to fill out a money order, where to send it, documents they might need to send to the marketplace and the address for that as well, and where to call and what to do before they leave the U.S. The information in this sheet may need to be adapted based on service area and needs.

### [Greene County Healthcare Plan Review Tool](#)

This tool includes all plans available to consumers in the service area. Greene County Healthcare has used this tool for their area when people complete the application on the phone from start to finish. If a consumer doesn't have the option of using a computer this is a visual tool that has proven to be very helpful when explaining and selecting health insurance.

### [Farmworker Project Post Enrollment Instructions Booklet](#)

This booklet, produced by the NC Farmworker Project, provides easy-to-understand instructions for H-2A workers to follow after enrollment. It includes spaces to fill in all of their application and plan details, as well as tax forms they may need and reminders about next steps.

## 2016 Note on ITIN Renewals

### Some Taxpayers Need to Renew ITINs

Some taxpayers to renew their ITINs beginning in October 2016. There are two key groups of ITIN holders who may need to renew an ITIN so it will be in effect for returns filed in 2017:

- **Unused ITINs.** ITINs not used on a federal income tax return in the last three years (covering 2013, 2014, or 2015) will no longer be valid to use on a tax return as of Jan. 1, 2017. ITIN holders in this group who need to file a tax return next year will need to renew their ITINs. The renewal period began Oct. 1, 2016.
- **Expiring ITINs.** ITINs issued before 2013 will begin expiring this year, and taxpayers will need to renew them on a rolling basis. The first ITINs that will expire under this schedule are those with middle digits of 78 and 79 (Example: 9XX-78-XXXX). The renewal period for these ITINs began Oct. 1, 2016.

If taxpayers have an expired ITIN and don't renew before filing a tax return next year, they could face a refund delay and may be ineligible for certain tax credits, such as the Child Tax Credit and the American Opportunity Tax Credit, until the ITIN is renewed.

For instructions on how to renew an ITIN, visit this [IRS page](#). The IRS has also prepared a variety of informational materials, including flyers and fact sheets, [available in several languages](#).

#### **What is an ITIN?**

An [Individual Taxpayer Identification Number \(ITIN\)](#) is a tax processing number issued by the Internal Revenue Service. It is a nine-digit number that always begins with the number 9. The IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who are not eligible to obtain a Social Security Number (SSN).

#### **So, what does it have to do with health insurance?**

If a consumer receives premium tax credits for themselves or a member of their tax household, they must file taxes for the year they receive PTC. Some consumers who aren't eligible for a SSN will need an ITIN to meet their tax filing obligations.

Why would an assister be working with a consumer who has an ITIN?

- There may be some consumers who are eligible to shop on the Marketplace with PTC based on immigration status but who are not eligible for a SSN. They don't need a SSN to apply for coverage and should not provide an ITIN in place of a SSN on the application. However, they will need to get an ITIN to file taxes.
- There may be consumers who file taxes with an ITIN who are applying for PTC on behalf of other eligible family members (for example, a parent applying for children). If not eligible for a Social Security number (SSN), these consumers may file a tax return using an ITIN.
- A consumer applying for coverage may have a SSN themselves, but may have members of their tax household who need an ITIN to be listed on the tax return.

While consumers with ITINs may be able to apply for Marketplace insurance and tax credits for themselves or a family member, ITINs **should not** be provided in response to a request for an SSN on the Marketplace application.