Helping H-2A Farmworkers Enroll

Part I: Overview of H-2A Worker Program and Affordable Care Act

March 20, 9:30 to 10:30 am

Part II: Practical Tips for Connecting with Workers and Helping them Enroll

March 26, 9:30 to 11:00 am



Who are NC's H2A workers & what can I do as an assister?

3/20/15 Presentation to assisters

Allison Lipscomb, Community Development & Special Populations Coordinator, NC Community Health Center Association

POLL!

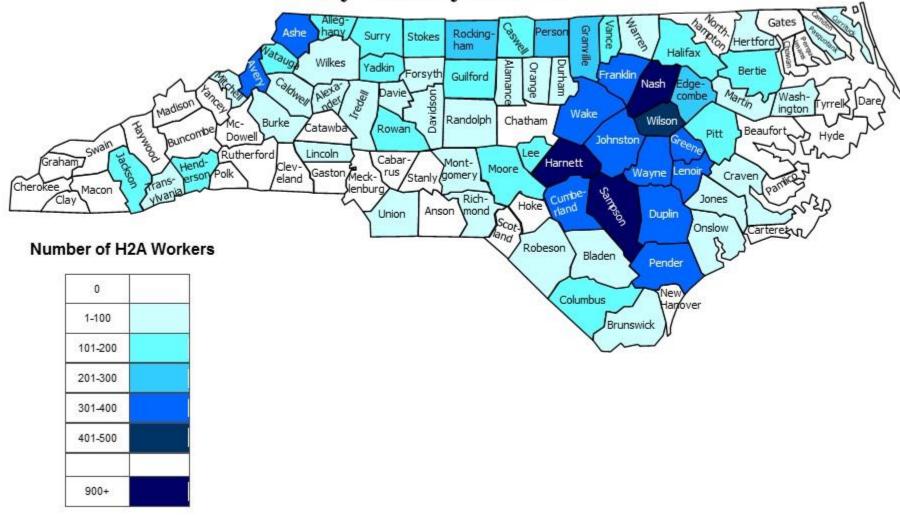
How much do you know about farmworkers in NC?

Farmworkers in NC

Estimated 85,000 migratory and seasonal farmworkers present in NC in 2014.

- Legal statuses:
 - Undocumented
 - ► LPR
 - Citizen
 - ► 14,000 are H2A temporary guestworkers & the number is growing

Density of H2A Workers in North Carolina by County in 2013



Who are H2A workers in NC?

- Come for temporary periods each year to work in agriculture.
- Many arrive in April through June, however, some come before and after this period. Most leave in the fall.
- Crops in NC: tobacco, Christmas trees, sweet potatoes, melons, tomatoes, berries, nurseries





Living Conditions

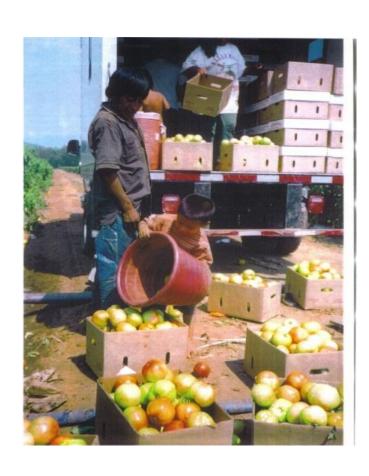
- Farmworkers often experience geographic and social isolation
- Live in trailers, houses, barracks, shacks, and sometimes cars and tents
- Mostly single males







Barriers to Health Care (& Enrollment)



- Language difference
- Unfamiliarity with health insurance
- Lack of transportation
- Limited or no access to phones, internet, or mail box
- Long working hours
- Temporary presence in US which starts after Open Enrollment
- Plus several technical barriers specific to the Enrollment System which will be covered in the second webinar of this series.



Clínicas de Salud para Trabajadores del Campo en Carolina del Norte ~ NC Farmworker Health Clinics

1 Vecinos Inc.

Ciudad/Town: Sylva Condado/County: Jackson, Swain, Macon, Transylvania Amy Schmidt (828) 399-0898

2 Blue Ridge Health Services

Ciudad/Town: Hendersonville Condado/County: Henderson Daniel Benavides (828) 691-1747

3 Toe River Health District

Ciudad/Town: Spruce Pine Rica Condado/County: Yancey, Madison, Mitchell, McDowell Silvia Peterson (828) 208-0215

4 Good Samaritan Clinic

Ciudad/Town: Morganton
Condado/County: Burke,
Cleveland, Lincoln, Catawba
Christian Ramazzini
(828) 448-9057
Office: (828) 212-4176

5 High Country Community Health

Ciudad/Town: Boone Condado/County: Watauga, Avery, Caldwell Nicole Forrisi (828) 406-1856

6 Farmworker Health Program of Ashe & Alleghany Counties

Ciudad/Town: Sparta Condado/County: Ashe, Alleghany Debra Trulock (336) 372-1704

7 Surry County Health & Nutrition Center

Ciudad/Town: Dobson Condado/County: Surry, Stokes, Yadkin, Davie, Wilkes Kate Furgurson (336) 401-0399

8 Piedmont Health Services

Ciudad/Town: Prospect Hill & 8(a) Moncure

Condado/County: Caswell, Alamance, Chatham, Person, Orange, Randolph, Lee, Moore. Harnett

Moore, Harnett Guillermo Noguera (910) 207-6440 (Whiteville) Patricia Morales (336) 562-3311 x1810, 1809 (Prospect Hill) or (919) 542-4991 x2281 (Moncure)

9 Rural Health Group

Ciudad/Town: Henderson, NC Condado/County: Vance, Granville, Warren, Franklin, Halifax, Northampton

14 Pender County Health Dept.

13 Robeson Health Care Corp.

Ciudad/Town: Pembroke & 13(a) Whiteville

Condado/County: Robeson, Hoke, Scotland,

Bladen, Richmond, Columbus, Brunswick

Jose Miranda (910) 521-2816 (Pembroke)

Ciudad/Town: Burgaw Condado/County: Pender,Sampson,Bladen,Duplin Natalie Hyatt (336) 257-6337

18 Greene County Health Care

Ciudad/Town: Snow Hill, 18(a) Greenville &

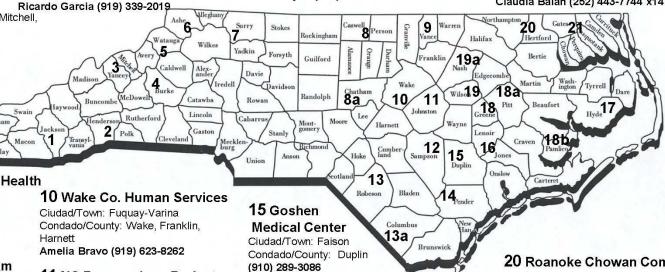
18(b) Alliance

Condado/County: Greene, Pitt, Wayne, Lenoir, Edgecombe, Pamlico, Martin, Craven, Beaufort, Carteret, Duplin, Wilson, Nash

Steve Davis (252) 747-4078

19 Carolina Family Health Centers, Inc.

Ciudad/Town: Wilson & **19(a)** Elm City Condado/County: Nash, Wilson, Edgecombe Claudia Balan (252) 443-7744 x147



11 NC Farmworkers Project Ciudad/Town: Benson 16 Kinston Community Health

Condado/County: Johnston, Harnett, Sampson, Center

Duplin Ciudad/Town: Kinston

Janeth Tapia (919) 915-2220 Condado/County: Lenoir, Jones, Duplin,

Maria Mejia (919) 915-9991 Wayne, Greene, Pitt, Craven

12 Commwell Health Center Inc.

Ciudad/Town: Newton Grove
Condado/County: Sampson, Harnett, Johnston,
Bladen, Pender
Robert Daniel (910) 990-4925

17 Engelhard Medic
Ciudad/ Town: Engelhard
Condado/ County: Hyde
Erica Monzon (252) 928-

Wayne, Greene, Pitt, Craven Brian Thomas (252) 522-4350 x106 21 G

17 Engelhard Medical Center
Ciudad/ Town: Engelhard
Condado/ County: Hyde
Ciudad/ Town: Elizabeth City
Condado/ County: Pasquotank, Camden,
Perquimans, Chowan, Currituck, Gates
Jaymanel Hurtado (252) 384-2651

20 Roanoke Chowan Community Health Center

Ciudad/Town: Ahoskie Condado/County: Hertford, Gates, Northampton, Bertie Hector Justiniani (252) 287-8781

21 Gateway Community Health Centers, Inc.

North Carolina Farmworker Health Program (919) 527-6440 & North Carolina Community Health Center Association (297-0066)

updated 2/3/2015

What are Migrant Health Centers and farmworker health voucher sites?

Migrant Health Centers

- Are funded directly by the HRSA Bureau of Primary Health Care to provide comprehensive primary care and enabling services to farmworkers.
- There are 11 migrant health centers in NC which are part of larger community health centers.
- Most have an active farmworker health outreach program.
- NCCHCA provides TA to these sites.

Farmworker voucher sites

- The NC Farmworker Health Program (NCFHP) out of the NC Office of Rural Health and Community Care receives the BPHC grant directly and distributes to 11 voucher sites around the state.
- Voucher sites are based out of health departments, hospitals, CBO, and community health centers.
- NCFHP provides extensive training and TA.
- They have a very strong outreach program.

What is farmworker health outreach?

Outreach workers visit farmworkers where they are at and address barriers to accessing healthcare. They:

- Identify farmworkers
- Share clinic information
- Conduct health assessments
- Provide health education
- Provide case management
- Link farmworker families with medical, dental, specialty and/or and social need services
- Provide medical assessments and services (if clinical personnel)

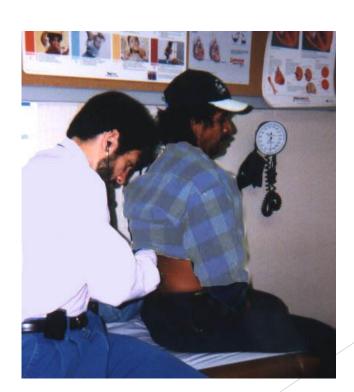


Reasons H2A workers need health insurance

SIX GOOD REASONS:

- Emergency room visits related to injuries NOT covered by workers comp.
- 2. Expensive medications.
- 3. Expensive medical supplies.
- 4. Hospitalization and/or surgery.
- 5. Specialty care.
- 6. Ambulance/ emergency transportation

Stories from the field . . .



What next?

- ► We will send out contact information to all NC farmworker health sites after the call.
- ► Meet with your local farmworker health outreach team!
- ► H2A workers are arriving now. Set a date to go on evening outreach with them to learn more about the workers and their needs during enrollment.
- ► Work with the health outreach team to determine how services may be coordinated to facilitate H2A worker enrollment in the coming months.

Thank you!

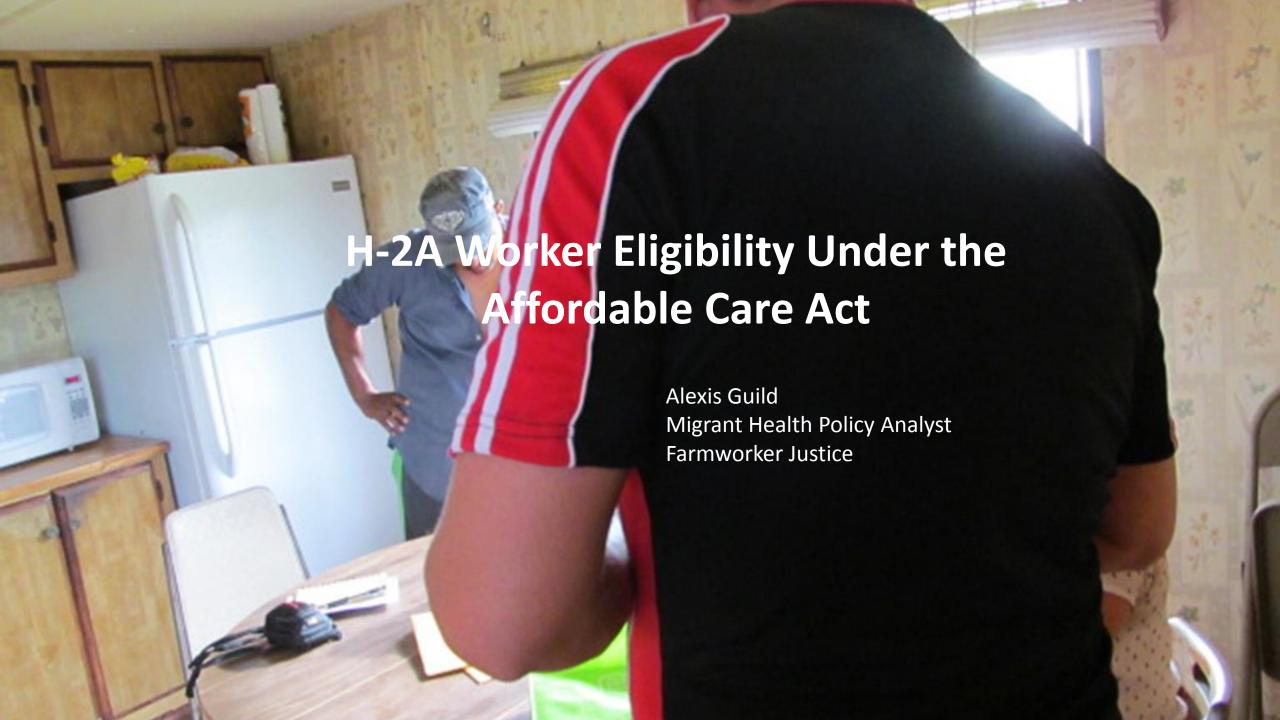
My information

- Allison Lipscomb
- ▶ lipscomba@ncchca.org



Special recognition

- Some of these slides were borrowed from the NC Farmworker Health Program.
- Also, two other groups doing outreach to H2A farmworker camps in NC are:
 - ► Legal Aid of NC Farmworker Unit
 - ► FLOC



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

Eligible for health insurance through the ACA health insurance marketplaces

- The "individual mandate" applies must have comprehensive health insurance during their time in the U.S. or may be subject to the tax penalty
 - Tax penalty for 2015 \$325/person or 2% of household income above the tax filing threshold

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

- Eligible for financial assistance to lower the cost of health insurance
 - H-2A workers are <u>not</u> eligible for Medicaid
 - H-2A workers <u>are</u> eligible for tax credits below 100% FPL
- → When applying for health insurance through the call center or healthcare.gov, H-2A workers may be incorrectly denied tax credits because of their income.



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Workers' Compensation vs. Comprehensive Health Insurance

 Employers must provide workers' compensation to H-2A workers, BUT...



Workers' Compensation ≠ Minimum Essential Coverage

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

Special Considerations

- Many H-2A workers arrive outside of open enrollment
 - Eligible for 60 day Special Enrollment Period that begins the day they enter the U.S.
 - Triggering event "gaining lawful status"
- Workers must disenroll from health insurance before they leave the U.S.
- Enrolling in health insurance should not affect a worker's ability to renew his visa
- Some H-2A workers may be offered employer-provided health insurance under the employer mandate
 - H-2A workers are included in an employer's count of full-time employees to determine large employer status
 - More likely in 2016 than 2015
 - For 2015, the employer mandate is only in effect for employers with more than 100 full-time employees

FJ resources

- ACA and H-2A Agricultural Workers: **Frequently Asked Questions**
- Guide to the Health Insurance Requirement (English) (Spanish)
- Guide for H-2A Workers (English) (Spanish)
- H-2A Fact Sheet





H2A visas." These "H2A workers" are "lawfully present" in the U.S. and are therefore subject to certain rights and responsibilities under the Affordable Care Act (ACA). The following Frequently Asked Questions address one of the major provisions of the law that relate to H-2A workers

What are the obligations of H-2A workers under the ACA?

Thouse they are lackly present for the proposes of the ACA H-3A workers are skilped to the minimum essential consegue provision also become as the red-double medicals of NA workers who do not have health insurance white in the United States and also do not qualify for one of a number of statistry exemptions may be assessed as the presidy when they the their bedeer income to sections. In 3CA and begind.

Are H-2A workers eligible for Medicaid?



Contact Information

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202-800-2534

www.farmworkerjustice.org



H-2A FARMWORKERS, TAXES AND THE ACA

KATE WOOMER-DETERS
NC JUSTICE CENTER

WHEN ARE H-2A WORKERS REQUIRED TO FILE TAXES?

- Only H-2A workers who are considered "resident aliens" are required to file taxes
- Resident aliens are any immigration who is either:
 - a legal permanent resident (not applicable to H-2A), or
 - meets the "substantial presence test"
- If an H-2A worker meets the "substantial presence test", he is required to file taxes

Resources: IRS Publication 519, available at: http://www.irs.gov/pub/irs-pdf/p519.pdf

"Substantial Presence Test"

Legal Aid of North Carolina Farmworker Unit provides this helpful formula to figure out if an H-2A worker (or any person 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 Number of Days =	Number of Days/3 =	
The Year Before the Previous Year Number of Days =	Number of Days/6 =	
	TOTAL =	

^ If your total is <u>183 days or more</u> 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.

Nonresident aliens

- If H-2A worker has not been in the U.S. enough days to meet the substantial presence test, he is considered a "nonresident alien"
- If he is a nonresident alien:
 - He is not required to file taxes
 - He is not required to enroll in health insurance under the ACA
 - He may enroll in health insurance under the ACA if he wishes to do so
 - If he wishes to claim an ACA tax credit, he will have to file taxes using form 1040NR

Resident aliens

- All resident aliens are <u>required to file taxes</u>
 - Even though H-2A workers (by a quirk of law) are not required to do withholdings of federal income tax, if the workers are resident aliens, they are required to pay taxes
- Resident aliens are also <u>required to enroll in health insurance under the ACA</u> (unless you qualify for another exemption)
- But, note: The tax filing threshold for a single person is \$10,150 (\$20,300 married) If a farmworker earns less than that amount:
 - He is not required to file taxes
 - Nor is he required to obtain health insurance under the ACA (even if he is a resident alien).
- If an H-2A worker claims an ACA tax credit, he will have to file taxes, even if he earns less than the tax filing threshold

Resource: IRS Publication, "Foreign Agricultural Workers," available at: http://www.irs.gov/Individuals/International-Taxpayers/Foreign-Agricultural-Workers

Tax Filing Status for H-2A Workers: Single or Not Legally Married

- A single H-2A Worker or One Who Is Not Legally Married has two tax filing options available:
 - "Single"
 - "Head of Household"
 - You paid more than half the cost of keeping up a home for the year
 - Note: can include a home in Mexico
 - A "qualifying child" or other dependent (including parents) lived with you in the home for more than half the year
 - If H-2A worker did not live in the home with his qualifying relatives part of the year because he was in the U.S. on his H-2A visa, he can still likely file as "head of household" because it will likely be considered an allowable "temporary absence"
- NOTE: Nonresident aliens CANNOT file using "head of household" status.
 - Resources: IRS Publication 501; 26 USC 2(b); 26 CFR 1.2-2(b) and (c); 26 USC 2(b)(3)(A)

Tax Filing Status and for H-2A Workers: Married Workers

A married H-2A worker (wife is a nonresident alien and lives abroad with children) has three filing options:

- Married filing jointly
 - Must report on all worldwide income of the H-2A worker and his spouse
 - Must obtain ITIN number for his wife or other dependents in home country
- Married Filing Separately
- Head of Household
 - Two Ways a married worker can qualify as "Head of household":
 - 1) If he and his spouse are living apart, and the H-2A worker's spouse is not a member of the household where his qualifying children/relatives live for last 6 months of year, OR
 - If the H-2A worker's spouse is a nonresident alien (regardless of whether they actually live together in the same household or not)
- HOWEVER, NOT ALL THESE TAX FILING STATUSES WILL ALLOW A PERSON TO CLAIM THE ACA TAX CREDIT!

Resources: 26 USC 2(b); 26 USC 2(b)(2)(B); 26 USC 7703(b)

Tax Filing Status and the ACA Tax Credit

		Is the H-2A Worker Legally Married?	Can H-2A Worker Claim ACA Tax Credit?
	Single	Single	
	Head of Household	No, but maintains household for qualifying children or relatives	Yes
	Head of Household	Yes, but claiming Head of Household based solely on spouse being a nonresident alien (and H-2A worker maintains household with qualifying children/relatives)	No
	Head of Household	Yes, but spouses live apart and spouse has not lived in the household for last 6 months of year (and H-2A worker maintains household with qualifying children/relatives)	Yes
	Married Filing Separately	Yes	No* *Exceptions for spousal abuse or abandonment
	Married Filing Jointly	Yes	Yes

Resources: 26 USC 36B(2)(c)(1)(C); 26 USC 7703; Diaz v. T.C. Memo. 2004-145 (2004).

Who Can An H-2A Worker Claim As a Dependent?

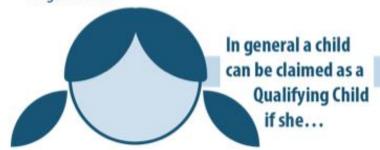
- A Dependent can be either a "qualifying child," or a "qualifying relative."
- Can only claim someone as a dependent if they are a U.S. citizen, resident or national, or a resident of Canada, Mexico, and in certain cases India and South Korea.
- If your qualifying children or relatives live in other countries, they cannot be claimed as dependents.
 - Note that someone can be a "qualifying child," but not eligible to be claimed as a dependent. This mostly occurs for people whose families are in counties *other* than Canada, Mexico, India, or South Korea.

Determining Tax Dependents

Who Can Be Claimed as a Qualifying Child?

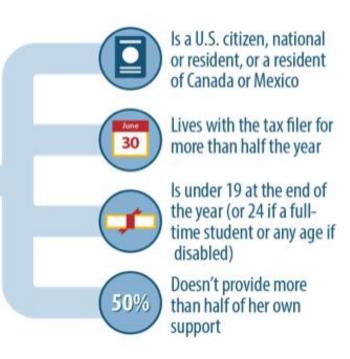
Children

A child can include the tax filer's child, step child, adopted child, foster child, brother, sister, niece, nephew or grandchild



Notes:

- You cannot claim a dependent if you or your spouse are or could be a dependent
- There are special rules for a married person who may be claimed as a dependent and for adopted children





Determining Tax Dependents

Who Can Be Claimed as a Qualifying Relative?



Other individuals can include a relative or a full-time member of the tax filer's household who is not a relative



In general a person can be claimed as a Qualifying Relative if he...

Notes:

- You cannot claim a dependent if you or your spouse are or could be a dependent
- There are special rules for a married person who may be claimed as a dependent and for adopted children



Cannot be claimed as a Qualifying Child by anyone



Is a U.S. citizen, national or resident, or a resident of Canada or Mexico



Receives more than 50% of his support from the tax filer



Is related to the tax filer or lives in the tax filer's home all year



Gross income less than \$3,950 (in 2014) Generally doesn't include Social Security



Dependents and ACA Application

- Note that 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
- For example, if the H-2A worker has family in Guatemala, he should not list his children in Guatemala as dependents on his ACA application, because he will not be able to claim an exemption for them in the following year when tax time comes (Because they are not residents of U.S., Canada, Mexico, India, or South Korea).

ACA Exemptions

- Everyone is required to have health insurance coverage, unless otherwise exempt.
- Some people can indicate on their tax return that they are exempt from the requirement:
 - Not lawfully present, including DACA
 - Non-residents (although some nonresident temporary visa holders do qualify for the tax credit)
 - Income below the tax-filing threshold (\$10,150 Single, \$20,300 Married Filing Jointly in 2014)
 - They were uninsured for less than 3 months of the year
 - The lowest price coverage available to you would cost more than 8% of your household income
 - And others

Resources: Some material courtesy of Tara Straw, Center for Budget and Policy Priorities.

How to Claim an Exemption

- Fill out IRS Form 8965 indicating which exemption you are claiming:
 - For undocumented or DACA immigrants, they should claim Exemption "C": Not a U.S. citizen, not a U.S. national, and not an individual lawfully present in the U.S.
 - Affordability Exemption: Exemption A
 - Short Coverage Gap Exemption: Exemption B
- Most exemptions are claimed on your tax return by using Form 8965, but certain exemptions (such as the hardship exemption), you must claim by applying to DHHS

Resources: IRS Form 8965, Instructions; IRS Publication, "Individual Shared Responsibility Provision: Exemptions - Claiming or Reporting" available at: http://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Exemptions

Social Security Number

- H-2A workers are eligible for a Social Security number and must apply for one (and not an ITIN) in order to file taxes
- Apply for a Social Security Number by filling out form SS-5
- Form can be sent in by mail, or you can bring it in or fill it out at local SSA office
- 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
- H-2A workers do not need a SSN to fill out the initial application for health insurance through the Marketplace, but they will need one by the time they file their taxes in the following year

Tax Penalty and Beware of Tax Preparer Fraud

Immigrants can be taken advantage of at tax time!

- The maximum penalty in 2014 is the higher of: \$95/adult (\$47.50/child) or 1% of income above filing threshold
- Any penalty is always assessed on the tax return never pay a "penalty" to a tax preparer directly
- Exemptions may apply

Affordable Care Act Consumer Alert: Choose Your Tax Preparer Wisely

http://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/Affordable-Care-Act-Consumer-Alert-Choose-Your-Tax-Preparer-Wisely

Alerta al Consumidor de la Ley de Cuidado de Salud: Elija a Su Preparador

Cuidadosamente

http://www.irs.gov/Spanish/Alerta-al-Consumidor-de-la-Ley-de-Cuidado-de-Salud-Elija-a-Su-Preparador-Cuidadosamente

Resources: Slide Courtesy of Tara Straw, Center for Budget and Policy Priorities

Resources

North Carolina Justice Center: "Questions and Answers: H-2A Workers, Taxes, and the Affordable Care Act," available at: http://www.ncjustice.org/?q=immigrants-and-refugees/resources-factsheets-and-materials □ Legal Aid of North Carolina – Farmworker Unit has lots of practical tax-filing tips and information for H-2A workers, in Spanish, found in their H-2A Booklet, available at: http://www.farmworkerlanc.org ☐ Several IRS Publications contain relevant information: □ Publication 5144: Federal Income Tax and FICA Withholding for Foreign Workers with an H-2A Visa ☐ Publication 851: Resident and Nonresident Aliens ☐ Publication 857: Individual Taxpayer Identification Numbers (ITIN) — Form W-7 ☐ Publication 519: U.S. Tax Guide for Aliens ☐ The National Immigration Law Center: "Frequently Asked Questions: Immigrants, Taxes, and the Affordable Care Act," November 2014, available at: http://www.nilc.org/ACAfacts.html ☐ Farmworker Justice: "The Affordable Care Act and H-2A Workers: Frequently Asked Questions," and "The Affordable Care Act and You: A Guide for H-2A Workers," available at: http://www.farmworkerjustice.org/content/health-initiatives-resources □ North Carolina Justice Center: "Immigrants in North Carolina and the Affordable Care Act," available at: http://www.ncjustice.org/sites/default/files/IMMIGRANTS%20IN%20NORTH%20CAROLINA%20AND%20THE%20AFFORDABLE%20CA RE%20ACT%20-%20revised%20again%20October%202014.pdf

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Thank you also to Tara Straw from the Center for Budget and Policy Priorities for allowing use of several of her slides on tax topics.

Thank you!

Part II: Practical Tips for Connecting with Workers and Helping them Enroll March 26, 9:30 to 11:00 am

