

Many people living with HIV are no longer medically inadmissible to Canada

On June 1, 2018, Immigration, Refugees, and Citizenship Canada (IRCC), announced major positive changes to the excessive demand medical inadmissibility regime. **Many people living with HIV are no longer medically inadmissible to Canada.**

Currently under the *Immigration and Refugee Protection Act*, foreign nationals are medically inadmissible as permanent residents to Canada if their health condition might reasonably be expected to cause an “excessive demand” on health or social services, or if their application to immigrate includes a family member in this situation. “Excessive demand” is defined in part by a cost threshold that results in many people living with HIV and other disabilities being considered medically inadmissible if they apply for temporary or permanent residence in Canada. Due to the high cost of antiretroviral medications, most people living with HIV were generally deemed medically inadmissible.

In April 2018, **Ahmed Hussen**, the Minister of Immigration, Refugees, and Citizenship announced that changes would be made to the excessive demand rules. On June 1, 2018, IRCC announced a *Temporary Public Policy Regarding Excessive Demand on Health and Social Services* (the “Policy”) that tripled the current cost threshold for excessive demand from \$6,604 per year to \$19,812 per year.

Under the Policy, officers can grant exemptions from excessive demand medical inadmissibility for temporary or permanent resident applications:

- that were received on or after April 16, 2018 or that were pending on this date; and
- where the cost of health and social services is less than \$19,812 per year for the next five years.

The Policy means that people who are eligible for this exemption will no longer be medically inadmissible when they apply for temporary or permanent residence in Canada. Since many anti-retroviral medications cost less than \$19,812 per year, this Policy means that many people living with HIV will no longer be medically inadmissible.

Despite the new Policy, many people with disabilities, including some people living with HIV will continue to be medically inadmissible (e.g., if their medication cost is more than \$19,812 per year). This is unacceptable and discriminatory.

Minister Hussen has previously committed to work towards full repeal of the excessive demand regime (www.canada.ca/en/immigration-refugees-citizenship/news/2018/04/government-of-canada-brings-medical-inadmissibility-policy-in-line-with-inclusivity-for-persons-with-disabilities.html).

We call on the federal government to immediately fulfill its commitment to a full repeal of the excessive demand medical inadmissibility regime. HALCO will continue to work with our allies toward this goal.

People living with HIV in Ontario can contact HALCO for free legal advice about how the new Policy affects them. Lawyers can also contact us for more information about how the Policy will affect their clients living with HIV. For more information about contacting HALCO, please visit our website: www.halco.org/contact-us.

For further information on why the excessive demand medical inadmissibility regime is problematic, please read the joint HALCO and Canadian HIV/AIDS Legal Network submission to the Standing Committee on Citizenship and Immigration (2017 November): www.halco.org/2018/news/medical-inadmissibility-of-immigrants-halco-and-legal-network-make-submissions-to-support-repeal.

The Government of Canada website provides more information about the Policy:

- www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/excessive-demand-june-2018.html.
- www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/standard-requirements/medical-requirements/refusals-inadmissibility/excessive-demand-on-health-social-services.html.

Anyone living with HIV in Ontario can call us for free legal advice about any legal issue. Our intake hours for new inquiries are Monday, Wednesday and Friday from 9 a.m. to 5 p.m. For new immigration/refugee inquiries, people can contact our office to request an appointment. Some of our staff speak French, and we can access interpreters. For more information about getting legal advice from HALCO, please visit our website: www.halco.org/contact-us.

HALCO staff provide workshops across Ontario on topics of interest to people with HIV as well as HIV legal issues for the community in general. I would be happy to work with you to arrange a workshop for your community about immigration law or other legal topics.

This information is also available on our website: www.halco.org/2018/news/excessive-demand-update.