



For more information please call our Hotline 1-800-968-4046
This flyer was created by Farmworker Legal Services and Michigan Immigrant Rights Center



The H-2A Program during Coronavirus

Protections for H-2A visa workers

Updated April 6, 2020

Important Notice: The state of Michigan is currently the third most affected state with coronavirus in the United States. The Michigan governor issued an executive order on March 23, 2020, asking residents of the state to stay home to prevent the spread of the virus unless it is an essential trip for buying food or going to the doctor or if they are workers in essential industries. She extended the order on April 9, 2020. People who work in agriculture are considered essential workers. Still, it is important that you take precautions to avoid contracting the virus.



What can I do if I think I have the virus?

If you suspect that you have symptoms related to the virus, let your employer know right away and stay home. Ask your employer to put you in contact with a clinic or doctor before you receive medical care. If your symptoms get worse or an emergency arises, ask your employer to take you to a doctor or hospital. For medical emergencies, you can call 911 – the emergency number – and ask for help in Spanish. For more information related to your health, you can check with the Department of Health and Human Services' Office of Migrant Affairs: 1-800-535-6136 from 8 a.m. to 5 p.m. Spanish speaking personnel available.

If I get sick and cannot work, am I eligible for lost wages or some other benefit?

Workers who are unable to work because they have been asked to self-quarantine (by law or by a doctor) or because they contracted the coronavirus are eligible for benefits. Benefits include pay for 80 hours of work (two weeks of work) if you work at least 40 hours per week. Access to these benefits is immediate beginning April 1, 2020 to December 31, 2020 and does not consider how long you have been employed. To use these benefits, talk to your employer and ask to get paid under the new Paid Sick Leave Act.



If you get injured on the job, you could be eligible for workers' compensation. This includes accident-related medical expenses and possibly specific missed wage payments depending on the severity of your injury and the time you are unable to work while recovering.

Can I leave my job and return to my home country?

Yes, but if you decide to leave your job and return to your home country before your employment contract ends you will lose (1) the 3/4 guarantee¹, (2) your employer's obligation to pay for your return trip, and (3) other medical benefits or lost wages. If you do not show up to work for 5 days without telling your employer, the employer may consider that you quit your job. Your employer could tell the Department of Homeland Security (DHS) that you abandoned your job. It is advisable to contact your employer about your intentions to return to your country. And if you decide to return to your country, return immediately to avoid problems entering the United States in the future.

If you make this decision, your employer cannot retaliate against you. Given travel restrictions and flight cancellations, it is advisable to contact your country's consulate before traveling to verify that you would be allowed to return. If you are a national from Mexico, you can contact the Mexican consulate in Detroit at **(248) 336-0320**.

¹ The 3/4 guarantee requires that your employer pay you for 3/4 of the earnings that you would have earned if you had worked all hours offered in your contract.

If you leave your job because you feel unsafe or your employer did not comply with the terms of your contract, it is advisable to report violations to the Department of Labor and the State Workforce Agency in Michigan before leaving the country. You can call our office if you would like assistance with this process.

My home country has closed its borders, what can I do?

Several countries have closed their borders to foreigners but are still allowing their citizens to return. Other countries have temporarily closed their airports. If you find yourself in this situation, it is advisable to contact your consulate. Save any proof of all the actions you have taken to return to your home country.

What happens if my employer cancels my contract?



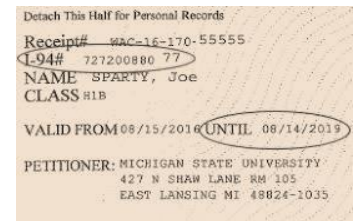
An H-2A employer may only terminate a contract for a fire, the weather, or an act of God and only with the permission of the Department of Labor. If you are already in the United States, your employer is required to pay you at least your return trip to your home country and the 3/4 guarantee for the hours of work offered since you started working and the date of termination of the contract.

Can I transfer to work with another company or employer?

The employers may only transfer workers to another company with the worker's consent and through a formal process by which the new employer names the worker in his application for H-2A Visas with DHS. If you consent to this change, your original employer will not be required to pay you the 3/4 guarantee but must pay your travel expenses to the new job site if your new employer does not pay the travel expenses. Your new employer would be responsible for the 3/4 guarantee once you start working. If your employer has mentioned a transfer to you and you are considering it, ask your employer to show you evidence of the formal filing procedure to ensure that you are not in violation of your visa terms.

Before you accept work with a new employer, you have the right to know the terms and conditions employment. It is advisable to ask the new employer about the prevalence of coronavirus in the area where you will go to work. If you have questions about your new contract, you can contact the Michigan State Workforce Agency at **517-335-5858**.

Before you start working for a new employer you must receive proof of the following: (1) Form I-94 stating that your extension has been approved or (2) proof that your application was processed along with evidence showing that your employer is participating in the E-verify program. If you start working without one of these documents, you may be in violation of your visa which would harm your ability to return to the United States in the future.



(I-94 picture as sample)

Remember that you have 30 days from the date your original visa expires to leave the country. If you do not receive proof that the new contract has been approved, you should leave the country before those 30 days to avoid violating the terms of your visa.

Other Important Notes:



You have the right not to be evicted from your migrant housing camp indiscriminately. You do not have to live in the same home with a person who has contracted the virus unless you are also quarantined for contracting the virus and the accommodation complies with certain recommendations of the Center for Disease Control and Prevention (CDC).

Your contract must include the number of hours of work per week promised by your employer. Normally your employer can offer you additional work hours beyond what is on the contract, but it would be optional if you choose to work additional hours. It is advisable to write down the number of hours worked per day and keep your notes in a safe place. Keeping a complete and accurate record of your hours worked is the best way to ensure that you are paid correctly.

Si tiene preguntas o dudas sobre su empleo o por la situación del coronavirus por favor llámenos al **1-800-968-4046**. La consulta es gratuita y confidencial. Hablamos español y podemos conseguir interpretes para otros idiomas.