Blaney McMurtry LLP

PUBLICATION

Citizenship and Immigration Canada Announces Excessive Demand Cost Threshold for 2012

Date: January 25, 2012

Original Newsletter(s) this article was published in: Blaneys on Immigration: January 2012

INTRODUCTION

On December 30, 2011, Citizenship and Immigration Canada ("CIC") issued Operational Bulletin 373. Operational Bulletin 373 provides additional information relating to the Excessive Demand Cost Threshold (the "Demand Threshold") for 2012, which became effective on December 1, 2011.

The Demand Threshold is used to determine whether a foreign national should be barred from Canada based on health grounds. Although it may also be applied in the case of temporary residents (i.e. nonimmigrants), the Demand Threshold is most often applied when considering the admissibility of foreign nationals who are seeking permanent residence in Canada.

APPLICABLE LAW

According to Clause 38(1)(c) of the *Immigration and Refugee Protection Act* [1], a foreign national is inadmissible on health grounds if their health condition might reasonably be expected to cause excessive demand on health or social services. The term "excessive demand" is defined in Subsection 1(1) of the *Immigration and Refugee Protection Regulations* [2] ("IRPR") as:

a) A demand on health services or social services for which the anticipated costs would likely exceed average Canadian per capita health services and social services costs over a period of five consecutive years immediately following the most recent medical examination required by the IRPR, unless there is evidence that significant costs are likely to be incurred beyond that period, in which case the period is no more than ten consecutive years; or

b) A demand on health services or social services that would add to existing waiting lists and would increase the rate of mortality and morbidity in Canada as a result of an inability to provide timely services to Canadian citizens or permanent residents.

However, according to R38(2), the excessive demand ground of inadmissibility does not apply in the case of a foreign national who:

a) Is a member of the Family Class (a spouse, common-law partner or child of a sponsor who is seeking permanent residence);

b) Has applied for permanent residence as a Convention refugee or a person in similar circumstances; or

c) Is a protected person.

The above individuals may not be barred from Canada based on excessive demand. However, the Demand Threshold is relevant to all other foreign nationals seeking both temporary resident and permanent resident status.

Initially, the Canadian Institute for Health Information ("CIHI") aggregate that represented average Canadian per capita health expenditure was used as the Demand Threshold. However, CIC's Health Branch felt that the CIHI figure did not completely cover expenditures for certain social services. In January 2003, a supplementary amount was identified to account for the missing per capita expenditures, and this amount was combined with the CIHI figure to calculate the Demand Threshold.

APPLICATION

The 2012 Demand Threshold has been set at $6,141.00CAD per year, and is effective as of December 1, 2011. As the definition of excessive demand describes costs incurred over a period of five consecutive years, the annual figure is normally multiplied by five and then compared to the expected medical costs of the foreign national during that period. This results in a legislated 2012 Demand Threshold of $30,705.00CAD ($6,141.00CAD x 5) over five years.

---

[1] S.C. 2001, c. 27.
[2] SOR/2002-227.