Virginia Migrant and Seasonal Farmworkers Board

and

Interagency Migrant Worker Policy Committee

Biennial
Report

2006

VIRGINIA EMPLOYMENT COMMISSION
703 East Main Street
Richmond, Virginia 23219

TABLE OF CONTENTS

Letter to Governor Timothy M. Kaine 4

Virginia Migrant and Seasonal Farmworkers Board

Board Membership 6

Introduction 7

Responsibilities of the Board 7

Issues and Activities 8

Area Councils 11

Board Actions, Discussion, and Ongoing Projects 13

Miscellaneous 13

Interagency Migrant Worker Policy Committee

Committee Membership 14

Agency Services for Migrant Workers 16

Virginia Department of Agriculture and Consumer Services (VDACS) 16

Virginia Department of Environmental Quality (DEQ) 16

Virginia Department of Health (DOH) 17

Virginia Department of Rehabilitative Services (DRS) 18

Virginia Department of Alcoholic Beverage Control (DABC) 18

Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) 19

Virginia Department of Medical Assistance Services (DMAS) 19

Virginia Department of Social Services (DSS) 21

Virginia Workers' Compensation Commission (VWC) 22

Virginia Department of Housing and Community Development (DHCD) 22

Virginia Department of Labor and Industry (DOLI) 23

Virginia Employment Commission (VEC) 23

Virginia Department of Education (DOE) 24

Virginia Cooperative Extension Service (VCE) 25

Virginia Department of Motor Vehicles (DMV) 25

Virginia Department of Business Assistance (DBA) 26

Significant Activities 26

Conclusions and Recommendations 28

COMMONWEALTH of VIRGINIA

Virginia Employment Commission

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September 29, 2006

The Honorable Timothy M. Kaine
Governor of the Commonwealth of Virginia
The State Capitol
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Dear Governor Kaine:

On behalf of the Migrant and Seasonal Farmworkers Board and the Interagency Migrant Worker Policy Committee, we would like to say thank you and express our appreciation for the opportunity to serve the Commonwealth's migrant and seasonal farmworker population and the agricultural community in Virginia.

For the past two years, we have endeavored to address issues regarding migrant and seasonal farmworkers and the agricultural industry. We have sought resolution to problems in order to benefit the migrant and seasonal farmworker population and the agricultural community in Virginia.

The results of our efforts have been compiled and we are pleased to present them to you and to the Commonwealth as the combined 2004-2006 Biennial Report.

Throughout the history of Virginia, agriculture has remained a leading industry and today, the migrant and seasonal farmworkers are an integral part of its success. Each year in Virginia there are approximately 18,000 migrant and seasonal and H2A farmworkers who work in the fields to plant, cultivate, and harvest Virginia's labor intense crops, including fruits, vegetables and tobacco. Without the workers, many of the approximately 8,000 Virginia agricultural employers would not be able to produce some of the best agricultural commodities in the United States.

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Therefore, we are grateful that we have been tasked to assist the migrant and seasonal farmworker population by identifying and addressing problems and issues and, by means of cooperation among our state agencies and other interested parties, offering solutions which will benefit the workers, employers, and the Commonwealth.

In your capacity as Governor, you have appointed individuals to the Migrant and Seasonal Farmworkers Board and you oversee the Interagency Migrant Worker Policy Committee. As you are aware, the primary focus of these groups is to identify, evaluate and address the issues regarding the Commonwealth's migrant and seasonal farmworkers. Over the past two years, the Board, comprised of 15 Gubernatorial appointees, has met regularly. The Committee, made up of representatives of 16 state agencies, has also met periodically. On behalf of all the members, we would like to express our sincere gratitude to the Department of Labor and Industry (DOLI) and to its Commissioner, Ray Davenport for the efforts, contributions and achievements made by the Interagency Migrant Worker Policy Committee while under DOLI's guidance and commend the agency on a job well done. Effective July 1, 2004, the MSFW Board and the Interagency Migrant Worker Policy Committee were transferred to the Virginia Employment Commission. The VEC Commissioner, Dolores Esser, is committed to continuing the effectiveness in the administration of the Board and the Interagency Migrant Worker Policy Committee.

In the 2004-2006 Biennial Report you will find listings of Board and Committee members, descriptions of agency and other provider services, activities undertaken, issues discussed and our conclusions and recommendations regarding the migrant and seasonal farmworkers toiling in the fields of the Commonwealth.

Again, thank you for the rewarding opportunity to serve you and the Commonwealth's migrant and seasonal farmworker population and the agricultural community. If you have questions or need additional information, please feel free to contact us. We look forward to being able to assist in making the Commonwealth of Virginia a better place to work and live.

Sincerely,

Kenneth E. Annis

Kenneth Annis, Chairman
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INTRODUCTION

The Migrant and Seasonal Farmworkers Board was established by the Legislature in 1978 with staff support assigned to the Virginia Employment Commission. In 1987, the Legislature transferred staff support to the Department of Labor and Industry where it remained until July, 2004. Effective July 1, 2004, the Legislature returned staff support to the Virginia Employment Commission. The following report provides a summary of issues addressed and activities conducted by the Board for the biennium ending June 30, 2006.

The Board serves to advise the Governor and General Assembly on matters relating to the migrant and seasonal farmworker (MSFW) population and the agricultural community in Virginia. Furthermore, it provides a public forum for the sharing of information and concerns amongst those who employ and provide services to the farmworker population. Board members appointed by the Governor and approved by the General Assembly may include migrant and seasonal farmworkers and crewleaders, representatives from the grower community, public and private agencies and interest groups or citizens concerned with migrant and seasonal farmworkers.

The Board has the authority to request and receive information, assistance and cooperation from public or private agencies, boards or individuals, to distribute or publish information; to request, receive and enter into agreements associated with grants or funding to further its purposes; and to establish citizen panels.

RESPONSIBILITIES OF THE BOARD

In accordance with Section 2.2-2100 of the Code of Virginia, the four primary responsibilities of the Board shall be to:

1. Provide for the coordination and evaluation of state and federal services and, to the degree feasible, other governmental, public and private agency services to migrant and seasonal farmworkers within the Commonwealth;

2. Identify and evaluate the needs of migrant and seasonal farmworkers, and the needs of employers of such workers;

3. Study problems of the target population, provide background information, and recommend options for solutions along with impact projections of such recommendations, to the General Assembly, governmental, public and private agencies; and

4. Encourage and foster the development of area migrant and seasonal farmworker councils for the purpose of seeking problem resolution and communication at the local level.

In the performance of its duties, the Board held six meetings: July 2004, October 2004, December 2004, April 2005, November 2005, and February 2006.

This Biennial Report provides a summary of migrant and seasonal farm labor issues addressed and activities conducted by the Board during the aforementioned dates.

ISSUES AND ACTIVITIES

Presentations and Reports to the Board

An Outreach Coordinator for the DMV briefed the board on the issues surrounding legal presence and its effect on farmworkers and other immigrants. Legal Presence is proven by documents of the foreign born granting them legal status, and by documents of native born showing birth origin. Drivers licenses may be issued to persons lawfully present and who are Virginia residents. Subsequent clarification was provided by the Deputy Commissioner of the DMV.

The administrative organization of the VEC for serving agriculture was described to the board by agency staff. The VEC uses nine field offices, organized according to the nine Federally recognized Crop Reporting Areas in Virginia, to provide services to MSFWs, to H-2A workers, and to their employers. In July 2004 there were about 15,000 farmworkers and about 3,000 H-2A workers in Virginia.

The Governor's Latino Advisory Committee reported to the Board on its concerns which have been sent to the Governor in draft form. The six areas affecting Latinos are: business, education, health, identification, language access, and law enforcement.

One of the Board members with a strong interest in the State Migrant Education Program provided the following information in support of adequate funding: Since 1986, the General Assembly had designated $300,000 to equalize access to education for the migrant children in Virginia. In the Biennial Report of 2000 the MSFW Board recommended that an additional $150,000 were considered since the number of children and families served had doubled from the amount in 1986. However, in 2003 the state funds for Migrant Education Programs (MEP) were eliminated. During that FY the Commonwealth had an education budget increase from $9,552,865,699 to $9,958,084 for 2004. To ask that the children of migrant workers receive MEP services at the cost of $450,000 would have been to designate only **0.1% of the increase** or **0.004% of the education budget** in FY 2004.

On-site tours for Board members were conducted to the Kluge Vineyard and wine production facilities, and to Crown Orchards just outside of Charlottesville. The essential role played by MSFWs was evident during the visits to these labor-intensive agricultural work sites.

The Board was informed about the provisions of the State Conflict of Interest Act. Required training was provided to the Board by the Office of the Attorney General. At a subsequent Board meeting, the VEC Director of Human Resources discussed more fully the requirements of the Act and informed the Board that he would be sending them the appropriate financial disclosure statements.

A report from a recent meeting of the Governor's Latino Advisory Commission was made to the Board. Of major concern were issues relating to Spanish-English translations and interpretations. Examples included problems due to HIPPA legislation affecting health care, problems in the proper usage of state checks given to women and children on which the instructions are only in English, and adequate emergency protocols during and after criminal events, or in hospital emergency situations.

The newly appointed State Secretary of Agriculture and Forestry addressed the Board. He briefed the Board on the creation of his new office and described the role and organizational structure of the agencies in the secretariat: VDACS, Forestry, Virginia Agricultural Council, and the Virginia Marine Products Board.

The Director of the Richmond District of the Wage & Hour Division, USDOL, described the mission and priorities of his office as they related to agricultural activities in the state.

The managing attorney for the Virginia Justice Center for Farm and Immigrant Workers, with headquarters in Charlottesville, made a detailed presentation on the challenges facing migrant farmworkers in Virginia. Among his concerns were the difficulties faced by farmworkers in Virginia due to state policies, rather than due to policies at the federal level. He advocated an open acknowledgement of the dependency many agricultural employers have on the illegal workforce. Estimates from the PEW Hispanic Center indicate that there are approximately 200,000 to 250,000 illegal workers in Virginia, both in and out of agricultural employment. Lastly he presented an overview of state legislation affecting immigrant workers that passed, and that failed to pass.

A staff attorney for the Virginia Farmworker Legal Assistance Project of the Central Virginia Legal Aid Society gave a report on her organization and its role in assisting farmworkers in the state. She outlined some of the problems she has seen including noncompliance with federal worker protection standards, lack of transportation reimbursement on H-2A contracts and deplorable housing conditions. An official present from VDH requested that he be informed when such housing conditions are discovered.

The Regional Agricultural Coordinator for USDOL brought to the Board an extensive description of one part of their enforcement efforts: The Compliance Partnership Agreement. He announced the very recent signing of one of the Agreements with a large vegetable growers association. This is a joint effort between growers and the Wage & Hour Division to achieve voluntary conformity with the farmworker labor laws. Even further, when violations are found, there is an effort to mediate the violation and settle any monetary fines on a basis more favorable to the grower. Information was shared about recent compliance rates (50%), and about the types of violations that have been found.

A long-term, very active member of the Board announced his impending departure from the state. As a gesture towards Board continuity, he offered his recommendations for Board concerns during future meetings. They include: threats from heat stroke, the lack of appropriate

language services by some state agencies, the existence of unlicensed motor vehicle operators, and the exclusion of farmworkers from federal minimum wage coverage. A certificate of appreciation was presented to the departing Board member.

The VEC Commissioner described the bleak financial outlook for the agency, the need to close field offices and curtail certain other services, and the reasons for the current situation.

The Director of the Division of Food & Environmental Services at VDH announced to the Board that the long awaited regulations governing migrant labor camps had been posted to the Virginia Register, effective January 1, 2006.

The Virginia State Monitor Advocate from the VEC made a presentation on the current status of pending federal legislation affecting MSFWs. Five different bills were described and the complex and conflicting political realities were discussed. The Virginia congressional delegation has not express support for any of the listed legislation. At the end of the discussion on the legislation, a board member made a motion which was seconded and passed for the VEC to draft a letter to the Virginia congressional delegation in support of "AgJobs".

The Managing Attorney for the Virginia Justice Center for Farm and Immigrant Workers spoke to the Board about the status of proposed state legislation. The legislation described applied to all immigrant workers, and not just farmworkers. At the end of this presentation, a member of the Board made a motion that the Board write in support of the federal I-9 employee verification process, to the exclusion of certain proposed state legislative initiatives.

A motion was made, seconded and passed, that the Board draft a letter in opposition to proposed state legislation that would allow the Virginia State Police to enter into an agreement with ICE to allow VSP to enforce federal civil immigration laws.

The Chairman of the MSFW Board expressed his concern for the condition of farmworker housing. His concern originates from the reduction in funding to VDH for housing inspections. Absent good, reliable housing inspections, the conditions in labor camps often deteriorate very rapidly. This leads to the potential for large civil money penalties by the Wage & Hour Division of USDOL, despite the Partnership Compliance Agreements.

The State Director of Telamon Corporation, a Board member herself, announced that the straw bale based migrant labor camp construction was on schedule.

AREA COUNCILS

There are seven migrant and seasonal farmworker area councils in the Commonwealth: the Albemarle Regional Migrant Advisory Council, the Eastern Shore Migrant Farmworkers Service Council, the Harrisonburg Area Hispanic Services Council (Migrant Subcommittee), the Migrant Health Network (Southwest Virginia), the Nelson County Summit, the Rappahannock Migrant and Seasonal Workers Council, and the Winchester Migrant Services Council.

The area farmworker councils meet on a regular basis to share information, coordinate activities and projects, discuss and resolve local problems, and serve as a valuable link between the Board and farmworkers, agricultural employers and service agencies throughout the Commonwealth.

Below is contact information for the seven area councils:

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Board Actions, Discussions, and Ongoing Projects

Farmworker housing has been a long-standing concern for the Board, and was so noted by the Chairman. In support of that concern, the State Director of Telamon Corporation told the Board about her trip to Maryland to investigate the building of farmworker housing based on straw bale construction techniques. This effort uses sustainable designs, environmental conservation, and high-energy efficiencies.

The VEC Commissioner welcomed the Board and described the reasons for the transition of Board support from DOLI to the VEC.

Farmworker health care has been an on-going, long-standing concern of the Board. Language issues such as English only instructions, Medicaid reciprocity, HIPPA confidentially requirements, and overall state agency responses to translation and interpreter requirements were discussed by the Board. The suggestion was made that all language issues be forwarded to the State Latino Advisory Commission for consideration, and that health issues be sent to VDH.

The issue of "Virginia Grown" was revisited at the request of Board members. After a brief historical review, including an explanation of the requirement that state purchasing be price based, not origin based, the issue was deferred indefinitely.

A Board led discussion was initiated regarding the status of both Federal and State immigration related legislation. One of the main focus was on the Federal AgJOBS Bill. There has been significant difficulty in bringing this bill to a final vote, despite wide bi-partisan support. This is due in part to the bill's association with other enforcement legislation such as the Real ID bill. The issue was tabled pending further developments.

The Board requested two letters which were drafted and sent: The first to the State Latino Advisory Committee expressing support for adequate translation and interpreter services among the state agencies, and the second letter to USDOL in support of Telamon Corporation's efforts to secure adequate funding to continue its highly rated services to MSFWs.

A request was made by a Board member to develop information on the number or percentage of foreign-workers that work in agriculture, without regard to legal presence status.

MISCELLANEOUS

Opportunities for public comment were provided at each Board meeting and public interest in the Board's actions remained steady.

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AGENCY SERVICES FOR MIGRANT AND SEASONAL FARMWORKERS

Virginia Department of Agriculture and Consumer Services (VDACS)

The mission of VDACS is to promote the economic growth and development of Virginia agriculture, encourage environmental stewardship and provide consumer protection.

To protect farmworkers from pesticides, VDACS's Office of Pesticide Services is charged with ensuring that agricultural workplaces comply with the federal Worker Protection Standard. This federal regulation provides MSFWs and other agricultural workers with safeguards against pesticide exposure by requiring agricultural employers to provide workers with pesticide safety training, information about pesticide applications, decontamination supplies, and personal protective equipment. VDACS also helps the agricultural industry to comply with the federal Worker Protection Standard by working with Virginia Cooperative Extension, grower associations, and others to provide compliance information and educational materials to producers and pesticide applicators. In this way, migrant workers are protected by VDACS from unnecessary exposure to pesticides.

The agency's Office of Consumer Affairs is available to all Virginia consumers, including MSFWs, to provide protection against fraudulent, deceptive and illegal practices. Any worker needing assistance or advice concerning a consumer purchase can contact the Office of Consumer Affairs using the consumer hotline at 1-800-552-9963.

Each year the agency's Office of Commodity Services, which administers the distribution of USDA donated foods, distributes USDA donated commodities to eligible summer feeding programs in Virginia, including those that feed children of migrant and seasonal farmworkers. During the summer of 2004, donated commodities were used in providing approximately 54,130 meals for 912 children of migrant workers in Accomack County.

Virginia Department of Environmental Quality (DEQ)

The Department of Environmental Quality does not provide services to migrant and seasonal farmworkers directly, although it does have an indirect impact on MSFW living and work environments.

DEQ and its regulatory boards establish water quality standards and air quality standards to protect human health and the environment. The agency also issues permits to and inspects wastewater treatment plant, factories, and other operations to ensure these standards are met.

Virginia Department of Health (DOH)

The Virginia Department of Health is in charge of controlling public health threats to all of Virginia. Regulating migrant labor camps is an important part of this responsibility. Since an outbreak at a camp potentially affects the public health of the entire state, it falls within DOH's domain to ensure healthy living conditions for workers and their families while they are employed and living in Virginia.

Essential to this are safe and adequate drinking water and the proper disposal of sewage. The Occupational Safety and Health Administration and the State Board of Health have set standards for hazardous material storage, building and structure construction, and the handling of solid waste, in addition to regulating water supplies and sewage disposal. In pursuing compliance with these standards, state law requires camp operators to apply for a permit to operate a migrant labor camp. Application should be made to the local health department in the area where the camp is located.

Once a permit application has been received, an environmental health specialist performs a preoccupancy inspection of living quarters, kitchen and dining areas, water and sewage facilities, and the surrounding environment.

Growers found to be in compliance are issued a permit, although they continue to be monitored. These growers are subject to unannounced health inspections while camps are occupied. Growers with serious violations are ordered to take immediate action; those with less severe infractions are given more time.

In addition to regulating the health aspects of migrant labor camps, local health departments provide other health services to the migrant population. Specifically, Virginia's local health departments identify diseases early. They spot trends and introduce preventive strategies to reduce the occurrence of infections and chronic disease. Individuals and groups receive education and services promoting good nutrition, prevention of unintended pregnancies, child safety techniques, and immunizations. When a migrant becomes ill or injured, an emergency medical system and high quality health care facilities are available. Many migrants receive some type of medical care directly from health departments. For example, prenatal services, dental services or treatment for AIDS or tuberculosis (TB) are provided.

Virginia Department of Rehabilitative Services (DRS)

It is the goal of the Department of Rehabilitative Services to improve the lives of the disabled (including MSFWs) by helping them to gain full inclusion into society. This means maximizing their independence, which involves helping to make it possible for them to be employable. "Rehabilitation" means to restore to useful life through education and therapy. In other words, it means to teach people to be productive despite serious obstacles, in this case, disabilities. The agency also seeks to adapt the environment to be more user-friendly to such individuals.

Every Virginia locality, urban and rural, is covered by DRS's four divisions: Central Office, Consumer Services, Disability Determination Services, and the Woodrow Wilson Rehabilitation Center. A farmworker who becomes disabled while temporarily residing in Virginia is an example of a person who could be serviced by the DRS.

First, this person would be eligible for a physical and/or psychological examination to determine the extent of the disability, and the potential for improvement. If necessary, medical, surgical or hospital care would be provided.

Once this person is in a position to deal with the business of becoming re-employed, a vocational evaluation would identify his/her skills. Next, job counseling would be made available, followed by vocational training. Then, perhaps maintenance and transportation during the training would be offered and, finally, job placement services, which might include follow-up to make sure there is a good adjustment to the new job.

Beyond medical and vocational support, special services are also offered to make life a little easier during this difficult transition time. For example, interpreting and note taking for the deaf is available, as well as the providing of occupational licenses and tools.

Virginia Department of Alcoholic Beverage Control (DABC)

The Department of Alcoholic Beverage Control does not serve MSFWs in a direct way. However, there can be some circumstances, such as the illegal sale or handling of alcoholic beverages, which would fall under the purview of this department.

The DABC is a regulatory agency which controls the sale of alcoholic beverages through licenses and allows the manufacture, bottling, sales, advertising and transportation of alcoholic beverages. The department also operates state stores for the sale of beverages other than beer to consumers and licensees.

Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS)

The Department of Mental Health, Mental Retardation and Substance Abuse Services operates 15 state mental health and mental retardation facilities and also administers public community mental health, mental retardation, and substance abuse services provided by community services boards (CSBs), behavioral health authorities, or local government departments with policy-advisory CSBs. These community-based organizations function as the single points of entry into the public mental health, mental retardation, and substance abuse services system, including access to needed state mental health and mental retardation facility services. CSBs also perform as service providers; advocates for consumers and individuals in need of services; community educators, organizers, and planners; advisors to the local governments that established them; and the primary focus of programmatic and financial accountability.

CSBs are not part of the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services. The Department funds, monitors, licenses, regulates, and provides consultation to CSBs which are key operational partners with the Department and its state facilities in Virginia's system of public mental health, mental retardation, and substance abuse services.

Currently, 40 CSBs provide services to residents of all 134 cities or counties in Virginia. CSBs exist to provide individualized, effective, flexible, and efficient treatment, rehabilitation, and prevention services in the most accessible and integrated yet least restrictive settings possible to improve the quality of life for people with mental illnesses, mental retardation, or alcohol or other drug addiction (dependence) or abuse. CSBs draw upon all available community resources and support systems, such as family, friends, co-workers or school mates, to ameliorate the effects of mental disabilities and substance addiction or abuse problems; to encourage growth and development; to support recovery; and to assist in attaining full potentials.

Community services are provided through a diverse network of CSBs and their directly operated and contractual services. Community services boards offer varying combinations of six core services: emergency, local inpatient, outpatient and case management, day support, residential, and prevention and early intervention. Core services are defined in the Core Services Taxonomy 6, available on the Department's Web site, www.dmhmrsas.state.va.us.

Virginia Department of Medical Assistance Services (DMAS)

The Department of Medical Assistance Services (DMAS) administers the Medicaid program in Virginia. Medicaid is a medical assistance program available to U.S. citizens or legal aliens under Title XIX of the Social Security Act. Eligibility is available to low-income persons who are aged, blind, or disabled, as well as children and adults with children. Aliens who do not qualify for full Medicaid benefits due to their alien status may be eligible for Medicaid coverage of emergency services if they meet all other Medicaid eligibility requirements. The Virginia Medicaid program also covers "grandfathered" groups with state-only funds: (1) aliens who were

receiving Medicaid and residing in long-term care medical facilities or receiving Medicaid home and community based waiver services on June 30, 1997, who were eligible for full Medicaid benefits on June 30, 1997 and who continue to be eligible for full benefits; and (2) aliens under the age of 19 years who would be eligible for full Medicaid benefits if the alien requirements prior to July 1, 1997, were still in effect. In eligibility determination, residency is currently considered for non-institutionalized adults as the State where the individual is living with the intent to remain permanently or indefinitely or living and entered for employment, whether employed or not.

DMAS also administers Virginia's Title XXI program, Family Access to Medical Security Insurance (FAMIS). This program provides health insurance coverage for children under the age of 19 whose family income does not exceed 200% of poverty. The FAMIS citizenship/alienage requirements are different from the Medicaid requirements. Qualified aliens who entered the country before August 22, 1996 meet the alien requirements and are not subject to time limitations. Unqualified aliens, including illegal and non-immigrant aliens do not meet alien requirements for FAMIS. Some Qualified Aliens, such as refugees, asylees, veterans or active duty military, deportees whose deportation is withheld and victims of a severe form of trafficking, who enter the United States on or after August 22, 1996, meet alien requirements and may be eligible for FAMIS benefits without regard to time limitations. Other Qualified Aliens, such as lawful permanent residents, conditional entrants, parolees, and battered aliens, who enter the United States on or after August 22, 1996, meet alien requirements after five years of residence in the United States and may be eligible for FAMIS benefits at the end of that five year period.

DMAS currently offers two managed care programs. Medallion II is a capitated managed care program and serves the majority of persons enrolled with DMAS. Medallion II was created for the purposes of further improving access to care, promoting disease prevention, ensuring quality care, and reducing Medicaid expenditures. The program requires mandatory enrollment into a contracted Managed Care Organization (MCO) for certain groups of Medicaid and FAMIS recipients. It has provided the Commonwealth with high quality health care and provides an integrated, comprehensive delivery system of care for Medicaid and FAMIS enrollees. The second program is MEDALLION, which is a primary care case management program. Each recipient has a primary care physician who provides services to the recipient and coordinates care.

Under federal law, migrant and seasonal farmworkers who are enrolled in the Medicaid program are entitled to medical coverage. DMAS provides reimbursement for a broad range of medical services. The coverage for the enrollees includes; inpatient and outpatient hospital services, emergency room services; nursing facility services, physician services, hospice services, laboratory and x-ray services, transportation, mental health and mental retardation services, podiatry services, physical therapy and related services, prescribed drugs, and case management services. FAMIS enrollees have a similar coverage package.

Virginia Department of Social Services (DSS)

The Virginia Department of Social Services (DSS), local departments of social services, and Community Action Agencies form a social services system that helps people overcome poverty, achieve self-sufficiency and shape strong futures for themselves, their families and communities.

Local offices of the Department of Social Services make a range of services available to those deemed eligible, including migrant and seasonal farmworkers. Such services comprise Temporary Assistance to Needy Families (TANF), food stamps, Medicaid, State and Local Hospitalization (SLH), and General Relief. Eligibility for all services is determined through local DSS offices.

TANF provides direct financial help to needy families with children. Assistance is provided to income-eligible citizens or legal aliens for single parent and two-parent families in which both parents are unemployed, or if the principal wage earner is underemployed according to federal guidelines.

Food stamps are provided to income-eligible persons and families for the direct purchase of food and related nutritional products. Most migrant workers meeting income criteria are eligible for expedited food stamps. This means that the 30-day lead-in time is waived, and applications are processed immediately upon receipt.

SLH provides the payment of in-patient and outpatient hospitalization fees, ambulatory surgery and Health Department clinic visits for income-eligible persons. On the Eastern Shore, limited funds are available to migrant workers for the payment of tolls on the Chesapeake Bay Bridge-Tunnel. These funds are made available by the Chesapeake Bay Bridge-Tunnel Authority for those requiring medical assistance across the Bay. The funds are administered through Eastern Shore Rural Health Centers (main telephone number (757) 414-0400).

General Relief is a one-time payment financial assistance program available to persons who confront emergencies or unexpected hardships. The program is available on the Eastern Shore, although it is optional and therefore not available at every location.

Community Action Agencies (CAAs) are nonprofit private and public organizations established under the Economic Opportunity Act of 1964 to fight America's War on Poverty. Core funding for CAAs is provided by the Department of Social Services through the Community Services Block Grant (CSBG). In Virginia there are 26 local agencies and three statewide programs that offer assistance to more than 110,000 poor and low-income Virginians annually. Community Action Agencies offer a variety of programs and services. These services may include emergency rental assistance, food pantries, childcare, and cars to work programs, credit counseling, parenting classes or elder care services.

The Department of Social Services also promotes the development of healthy families and protects the Commonwealth's children from abuse and neglect with programs such as Child Protective Services, Domestic Violence Prevention and Child Support Enforcement.

Additionally, local departments of social services often partner with community and faith-based organizations to deliver services to meet specific needs of migrant and seasonal farmworkers

Virginia Workers' Compensation Commission (VWC)

The Workers' Compensation Commission administers the Virginia Workers' Compensation Act. Workers' compensation is a no-fault system providing medical and wage indemnity benefits to eligible employees whose injury or occupational disease "arises out of and in the course of employment." Other benefits available include vocational rehabilitation, indemnity for the loss of use of a scheduled body member, and death benefits paid to dependents.

Generally, farm or horticultural laborers are covered when the farm regularly employs more than two full-time employees. Migrant workers, whether lawfully or unlawfully employed, can be eligible for workers' compensation benefits. However, once medically released to return to work, an illegal alien may not be eligible for wage indemnity benefits or vocational rehabilitation services if the injured employee is not eligible for lawful employment.

When claims for benefits are disputed, the VWC conducts hearings at one of its seven statewide offices, or at other hearing locations throughout the Commonwealth. Upon request, the Commission provides interpreters at its expense for non-English speaking parties and witnesses in the evidentiary hearing setting.

The Ombudsman's office provides assistance to employees and employers, ranging from answering questions about claims to providing informal dispute resolution and mediation services. In addition, the VWC has an informative and helpful website that includes guides and forms for employees and employers. The Workers' Compensation Notice (Form VWC1) advising workers of their rights under the Virginia Workers' Compensation Act, and required to be posted by employers under the Act, is published in Spanish and is available by request from the Commission or through the agency's website (http://www.cicf.state.va.us).

The VWC also administers the Criminal Injuries Compensation Fund (CICF), which could provide benefits to migrant workers who are victims of violent crimes. Additional information about CICF and benefits available under the Compensating Victims of Crime Act are available through the agency's Web site.

Virginia Department of Housing and Community Development (DHCD)

Unlike most other contemporary employers, Virginia growers provide worker housing. With limited capital and uneven cash flows, many find this difficult. In the past, the Virginia Housing Partnership Fund at DHCD provided a potential source of funding. However, since the sale of the Partnership's Funds assets in 2003 as part of the effort to close the state's budget gap, this source is no longer available. At present, DHCD continues to administer federally funded Community Development Block Grants that help primarily rural communities address facility

and service needs that may be related to the housing needs of MSFWs. Because certain types of farm operations need worker housing, the availability of a funding source for housing and related needs remains a critical concern for growers hoping to sustain or expand their operations.

DHCD had been virtually the only source of low-cost funds that could be used to improve or construct housing. In November 2004, DHCD signed an agreement with Telamon Corporation of Richmond to provide leverage and matching funds for a grant from the U.S. Department of Housing and Urban Development's Rural Housing and Economic Development program targeted towards providing MSFW housing. DHCD set aside $300,000 in HOME money to match the grant funds. The Northern Neck Growers Association members are providing the land as part of this partnership, and construction is scheduled to start in February 2004 on a series of MSFW housing units on the Northern Neck of Virginia.

Virginia Department of Labor and Industry (DOLI)

The Virginia Department of Labor and Industry has a central office in Richmond and four regional offices throughout the state. This department enforces compliance with Virginia Occupational Safety and Health (VOSH) laws, which provide job safety and health protection for workers, including MSFWs. Within VOSH, the Virginia Safety and Health Codes Board promotes and adopts job safety and health standards that employers and their employees are expected to follow.

Compliance staff ensure field sanitation requirements are met and, through an agreement with the Virginia Department of Health, assure that farm labor camps are maintained in compliance with standards. This is done through random inspection of farm camps and the processing and investigation of valid complaints regarding camp safety and health conditions. Local environmental health specialists in various geographical areas make bi-weekly inspections of occupied camps both prior to and during occupancy. All camp residents of any county are eligible for services.

In addition to obtaining information through random inspections, the DOLI handles job safety and health complaints that are under VOSH jurisdiction. Written complaints are preferred; however, telephoned complaints are also accepted and investigated. Both types of complaints should be made by the employee or his/her representative.

The Labor and Employment Law Division administers the state's labor laws, including minimum wage, payment of wages, child labor and right to work, among others.

Virginia Employment Commission (VEC)

The Virginia Employment Commission is one of the main nexus for both migrant and seasonal farmworkers (MSFWs) and for agricultural employers seeking labor. Its primary responsibility lies in making employment-related matches between those who offer jobs, and those seeking work in agriculture and in non-agricultural employment. The VEC also assists qualified crew leaders to register with the US Department of Labor under the provisions of the Migrant and

Seasonal Agricultural Worker Protection Act.

Under the Workforce Investment Act of 1998 (WIA), the VEC has joined other WIA partners to build a statewide system of One-Stop Centers. Through these centers, most of which have VEC staff and services available, and through other stand-alone VEC field offices, the Virginia Employment Commission maintains an extensive program to provide appropriate employment-related services to MSFWs. Statewide coverage for farmworkers is provided through, and managed by, nine field offices staffed by eleven Farm Placement Specialists. Two field offices, one located at Winchester and one on the Eastern Shore at Onley, are federally designated as "MSFW Significant Field Offices" due to the especially large number of MSFWs they could potentially serve. The Onley Field Office registered and served 3,057 farmworkers for the program year ending June 2006.

Services are available in most offices in Spanish, both from VEC farm placement staff and through the agency's computerized job search system. Real-time interpreter and the professional translation services of "LanguageLine Services" (http://www.languageline.com/) are available electronically in all field offices and most operating units of the VEC. Improvements are continuously being made to serve jobseekers with limited English proficiency.

For the program year ending June 2006, of the approximately 15,000 MSFWs in Virginia (excluding H-2A workers) 3,216 were registered with the VEC for service, 2,921 were referred to a job, and 2,581 found jobs through its program.

Virginia Department of Education (DOE)

Virginia's educational reform consists of four major elements: high academic standards; measuring student achievement; ensuring the accountability of schools for increasing student achievement; and communicating with parents and the community at large. The purpose of the Migrant Education Program (MEP) is to design and support high-quality, comprehensive educational programs that provide migratory children with the same opportunity to meet the challenging state academic content and student achievement standards that are expected of all children. Federal funding is dependent upon timely identification of eligible migratory students within the state.

Services are provided to approximately 2,400 migratory students around the state through 10 local and regional programs (see chart). Priority for services goes to migratory children who are failing, or most at risk of failing, to meet the Virginia Standards of Learning (SOL), and whose education has been interrupted during the regular school year. Strategies for providing services vary to match the needs of the population, availability of other programs and services, and fiscal resources of the MEP. Depending upon the seasonal changes and the number of migratory students in school divisions, programs are offered year-round and during the regular or summer term sessions. Supplemental services may include but are not limited to: ESL instruction, computer literacy classes, family literacy, GED preparation, and outreach to increase the quality of educational, nutritional, health and dental care. Tutorial services are provided in migrant programs based upon the needs of the children and the resources available to the school division.

Migrant programs supplement services provided through the school division to help ensure migrant children are successful in school.

The Virginia Migrant Education program is designed to: 1) identify, enroll, and serve eligible migratory students in the Commonwealth; 2) support high-quality, comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves; 3) ensure that migratory children who move among the states are not penalized in any manner by disparities among academic content and student academic achievement standards; 4) ensure that migratory children are provided with appropriate educational services, including support services, that address their special needs in a coordinated and efficient manner; 5) ensure that migratory children receive full and appropriate opportunities to meet the same challenging state academic content and student academic achievement standards that all children are expected to meet; 6) design programs to help migratory children overcome educational disruptions, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit their ability to do well in school, and to prepare them to make a successful transition to postsecondary education or employment; and 7) ensure that migratory children benefit from state and local systemic reforms.

Virginia Cooperative Extension Service (VCE)

The aim of the VCE is to help solve agriculture-related problems and promote educational programs to foster more productive lives, families, farms and forests, as well as a better environment. These efforts are directed to both businesses and private individuals. Agricultural Extension Agents located in 107 offices throughout the state provide useful information, guidance and assistance to all citizens, including growers and consumers.

Virginia Department of Motor Vehicles (DMV)

The goal of the Virginia Department of Motor Vehicles is to accommodate all customers as efficiently and pleasantly as possible. Toward this goal, the DMV makes special efforts for the needs of foreign-born customers, including MSFWs.

For example, many DMV offices in Northern Virginia, Richmond and Tidewater have bilingual customer service representatives (English/Spanish). These employees provide free, in-person translation services when needed. Spanish-speaking employees are also available on the telephone (in the Customer Contact Center).

In addition to bilingual service representatives, special options are available for the Driver's License Knowledge Test. This test can be administered using either a computer or telephone on a system known as KATS (Knowledge Automated Test System). If the applicant chooses to take an oral test, the telephone is used in the preferred language (English or Spanish); if the computer is chosen, questions are displayed on the screen and answered on a touch screen.

In the event that the KATS is not a viable option, DMV has a printed version of the test in both English and Spanish. Migrant and seasonal farmworkers may bring in translators to assist with

other languages. DMV translates a half-dozen publications, including the Virginia Driver's Manual.

Virginia Department Of Business Assistance

The Virginia Department of Business Assistance (DBA) is the state agency devoted to the growth and success of the Commonwealth's business community. DBA provides financing assistance and incentives for workforce training and recruiting for eligible businesses. DBA supports migrant workers indirectly through programs designed to assist firms employing this transient workforce. Each of the agency's three divisions is charged with unique responsibilities directed at benefiting businesses of all sizes.
For example:

Workforce Services Division-This division offers a Train-the-Trainer Program that equips full-time employees to administer custom-designed training programs that often benefit migrant workers. Apple processing operations in the Winchester area have been among the beneficiaries of the program.

Financial Services Division- This division provides financing assistance through several financing programs for qualifying small businesses which are creating or saving jobs in Virginia. Marketing materials and applications for the programs are written in English, Spanish and Korean, and are available in electronic form through DBA's website at www.dba.state.va.us or by calling the Virginia Business Information Center at 1-866-248-8814.

Existing Business Services Division- This division offers several programs that address the needs of both the English as a Second Language (ESL) and Limited English Proficiency (LEP) Virginians who are either entrepreneurs or who are members of the Commonwealth's workforce. Members of the migrant community have been among those benefiting from these services.

Virginia Business Information Center (VBIC)- This is a one-top resource for business information and problem solving. VBIC representatives can be reached via email or toll-free telephone—multilingual assistance is available.

Multilingual Services – DBA contracts with a translation service offering 133 languages to assist non-English-speaking customers with DBA services. This program is designed to assist the entire agency with its outreach to the ESL community. Services include development of multilingual materials on DBA's website, as well as in printed form and in a CD.

Outreach Program- Agency economic development professionals work with different regions of the state to provide information, facilitate the use of available resources and generally promote the success of Virginia businesses.

SIGNIFICANT ACTIVITIES

The Interagency Migrant Worker Policy Committee held two meetings during the biennium

ending June 30, 2006. The activities undertaken by the Committee include the following:

The Virginia Department of Social Services representative requested that the agencies that serve on the Policy Committee promote public awareness of the Earned Income Tax Credit. She continued and described the formation of local coalitions to assist low-income earners file their tax returns. Members of these coalitions will be trained by the IRS and will be able to provide their services to the LEP populations in Virginia.

The Director of the Division of Food & Environmental Services of VDH discussed recent changes in the state regulations governing migrant farmworker temporary housing. Two former requirements have been eliminated: the bi-weekly labor camp inspection, and the use of provisional camp permits.

The Policy Committee discussed the issue of Legal Presence, and how it would be implemented by the DMV for both drivers permits and for the ID badges it may issue.

The Board discussed the nature and scope of grower-worker pay issues. Certain illegal practices were described in the history of the program, but were not thought to be currently existent in Virginia agriculture. No actions or recommendations were offered.

An inquiry was made concerning the availability of a "snapshot" or profile of the growers in the state. VEC staff explained the privacy issues and the need for total anonymity in conducting the agency prevailing wage and prevailing practice surveys. The conclusion was offered that due to those constraints, specific grower information was not available.

The representative of the Migrant Education Program of the state Department of Education informed the Committee of the creation, in conjunction with Telamon Corporation, of an English-Spanish referral form. She continued by announcing to the Board that a member of the Board would soon be delivering a report to the Governor requesting support for more ESL classes and for a restoration of funding for Migrant Education classes.

The VEC Commissioner presented information, being discussed in the state legislature, about a proposed requirement for all drivers to speak English. It was announced that this initiative did not gain legislative approval. She then led a further discussion about the documents that would be necessary to present in order to qualify for a Virginia drivers permit. This discussion developed into a group discussion of the legality of foreign agricultural workers driving using valid licenses from their home country. This practice is legal for a period of six months.

A discussion began regarding the buying of USA agricultural products only. Such bills that have been introduced have recently been killed.

Further discussion ensued concerning the failure to pay employees when work had been done. The DOLI Commissioner, responsible for wage collections in Virginia, acknowledged that recent legislation had passed that increased the penalty for the non-payment of wages.

The Policy Committee discussed the status of federal legislation relating to farmworkers and agricultural jobs. Also discussed was the program for bringing in unskilled, temporary non-agricultural workers: the H-2B program.

CONCLUSIONS AND RECOMMENDATIONS

Again for the recently ended period of this report, the Board and the Interagency Migrant Worker Policy Committee have been increasingly challenged to handle the wide range of issues relative to farmworkers. There are continued, growing similarities in the needs and concerns of migrant and seasonal farmworkers, H-2A farmworkers, and H-2B (non-agricultural, although may be agricultural-related) workers. Immigration-related issues such as program access, translation/interpretation services, safety, health, welfare, housing, employment, transportation and education transcend farmworkers and continue to expand, as does Virginia's immigrant population.

The Board and the Policy Committee wish to thank the numerous state, federal and private agencies for their assistance, cooperation and dedication in identifying problems and addressing the needs of the Commonwealth's migrant and seasonal farmworkers. Through continued coordination and communication, it is the Board and the Policy Committee's ongoing objective to contribute to the enhancement of the Commonwealth's agricultural economy.

Based on their ongoing meetings, site visits, public comments, and area council reports, the Board and Policy Committee make the following recommendations to the Governor and General Assembly:

The Board continues to strongly recommend that migrant education programs be adequately funded. The category "Migrant" has the highest drop out rate of all similar students according to the Virginia Consolidated Report presented to US DOE in April 2006.

The need for adequate and affordable farmworker housing, as noted in previous Board communications, constitutes a crucial factor in the ability of employers to recruit and retain the agricultural workers they need. The Board still recommends that the Virginia Department of Housing and Community Development include in its annual plan a section that identifies farmworkers as a special needs population and that an annual set-aside of funds for the development of farmworker housing be provided.

The number of immigrant workers required to meet the needs of agricultural employers continues to expand. These workers increasingly are not lawfully within the U.S. This places them and their employers in a very untenable position. It is recommended that the Governor and the General Assembly actively support appropriate Guest Worker legislation, such as (but not limited to) the Agricultural Jobs Opportunity, Benefits, and Security Act (AgJOBS), which has strong support among agricultural employers, farmworkers, and advocacy organizations.

18 SEP 06