

**MINUTES  
MIGRANT AND SEASONAL FARMWORKERS BOARD MEETING**

**August 23, 2006**

The Migrant and Seasonal Farmworkers Board Meeting was held at the Ingleside Winery in Oak Grove, Virginia.

The following Board Members were present: Kenneth Annis, Chairman; Mario Moreno, Vice-Chairman; Elisia Almendarez-Moore; Veronica Donahue; Sharon Saldarriaga; Christian Schweiger; J. M. Scott; Peter Von der Lippe; Hart Hudson; Richard Hall, and Kelly Robinson. The following Board Members were absent: Thomas Kellum, Adrian Reddington, Dannah Card, and Tupper Dorsey. Staff in attendance from the Virginia Employment Commission were: Dolores Esser, Nicholas Kessler, Don Ward, Will Jacobs, Joyce Fogg, Jack Turner, Michelle Abraham, and Evelyn Lewis. The following guests and speakers were present: Tim Freilich, Virginia Justice Center for Farm and Immigrant Workers; Barbara Cornicello, Parent Educational Advocacy Training Center; Marcelo Cornicello, La Voz Hispana Magazine; Astrid Pleitez, Telamon Corporation; Maria Roe, The Journal; and Christianne Queirez, CULAS.

**Call to Order**

Chairman Kenneth Annis called the meeting to order at 10:08 a.m.

**Welcome and Introduction**

He thanked Dolores Esser, VEC Commissioner, for setting up the meeting. Commissioner Esser extended accolades to Joyce Fogg, Public Relations Manager, for handling the arrangements. Chairman Annis extended greetings to the guests, board members, and all those present.

**Approval of Agenda**

Chairman Annis moved that the agenda be approved. It was approved by unanimous vote.

**Approval of Minutes**

Chairman Annis moved that the minutes of the February 15, 2006 meeting be approved. The minutes were approved by a unanimous vote.

**Rappahannock Migrant and Seasonal Worker Council**

Will Jacobs of the Rappahannock Migrant and Seasonal Worker Council introduced some of the members of that Council and gave an overview of the Council and the policy initiatives they are working on. There are 5-15 individuals who attend the monthly meetings usually held in Montross. They consist of Pam Johnson, Extension Agent for Westmoreland County; Tanya Creasy, Northern Neck Adult Education; Maria Roe, Journal Newspaper; Kathleen Watson, Rappahannock Health Education Center; Victor Gomez, Virginia Council of Churches; Gladys

Bratton, Mary Washington Mental Health Clinic; Jane Nielson, Essex County Public Schools; Tina McKensey, Westmoreland County Department of Health; and Dean Price who works with pregnant women in the area.

Some of the current projects include the development of grants for bilingual assistance; a career day for mothers located in Colonial Beach; there have been four graduates in dental assistance training; bilingual translators needed for the Guadalupe Health Clinic; the Rappahannock Community College conducting an employer survey; and a quick course Spanish program offered by the Rappahannock Community College to professionals such as the police and those in health care to bring them up to speed with the Spanish language. Mr. Victor Gomez with the Virginia Council of Churches is working on the Migrant Head Start Program for Northern Neck. Presently, he is in search of a site.

### **Health Care for Migrant and Seasonal Farmworkers**

Mr. Tom Steinhauser with the Department of Social Services reported that Virginia is unique in a couple of ways in the administration of the public assistance program:

- 1) It is one of 12 states that provide locally administered social services in the nation.
- 2) The Department of Medical Assistance Services is the single state agency that is responsible for the Medicaid Program.

The medical assistance programs offered through the Virginia Department of Social Services are Medicaid, FAMIS and FAMIS MOMS, and State and Local Hospitalization (SLD).

Medicaid is state and federal-funded; called FAMIS Plus for children under age 19; income limits vary by a covered group, but are highest for children and pregnant women; resources (cash on hand, savings, and automobiles) are not evaluated for family and children's covered groups.

The Family Access to Medical Insurance Security Plan (FAMIS) is state and federally funded. For FAMIS, children with countable income, it is greater than 133% of the Federal Poverty Level (FPL) and less than or equal to 200% of the FPL. For FAMIS MOMS, pregnant women with countable income, it is greater than 133% of the FPL and less than or equal to 150% of the FPL, which will be increasing to 166% effective September 1, 2006. There are no resource limits.

State and Local Hospitalization (SLH) is funded by the state and localities. It is for individuals who are not eligible for or receiving Medicaid. It covers only inpatient and outpatient hospital services, not prescriptions and routine doctor visits. It is countable income less than or equal to 100% of the FPL and it has resource limits.

Medicaid non-financial eligibility requirements include covered group, legal presence, citizenship or alien status, Virginia residency, social security number, assignment of rights to third-party medical support and pursuit of support from absent parent, application for other benefits to which person is entitled, and institutional status.

The potential impacts on migrant and seasonal workers are as follows. For a covered group, the child must be under 19, parent of a dependent child in home, pregnant, age 65 or older, blind, disabled according to Social Security Administration definition, or a child under 21 in foster care or institutional place. For legal presence for non-citizens, verification must be provided if legally present. Documentation of U. S. citizenship and identity must be provided. For Virginia residency, the migrant and seasonal worker must be a citizen or permanent legal entrant with intentions to remain in Virginia. The children follow the residency of their parents. The Non-immigrant/temporary workers from outside the U. S. usually do not meet the Virginia residency requirement.

For legal presence, it is a state requirement in addition to federal citizenship and alien status requirement. It applies to Medicaid applicants and recipients age 19 and over. Non-citizens applying for Medicaid payment for emergency services only are not subject to legal presence requirement.

Documentation of citizenship and identity is required by the Deficit Reduction Act of 2005. It applies to Medicaid applicants and recipients of all ages except the Supplemental Security Income (SSI) recipients and Medicare beneficiaries. The types of documentation of citizenship that are acceptable documents include a birth certificate or certificate of naturalization. The local Department of Social Services may be able to obtain birth record verification from the Virginia Department of Health. If no other form of documentation is available, affidavit of citizenship may be used. Identification is also required with citizenship documentation unless the document also proves identity, e.g. U. S. passport. There must be an acceptable form of ID containing the same information as the driver's license. For children under age 16 only, the school record may be used. An affidavit of identity may be used unless the affidavit of citizenship was used for a child.

Qualified aliens are eligible for Medicaid if all other eligibility requirements are met. Qualified aliens include lawful permanent residents who entered the U. S. on or after August 22, 1996 who have been in the U. S. for more than five years and who have at least 40 qualifying quarters of work coverage as defined by the Social Security Administration. Other qualified aliens include qualified aliens who entered the U. S. before August 22, 1996, qualified aliens who are veterans or on active military duty, and their dependents, qualified alien refugees, asylees, deportees, Amerasians, Cuban or Haitian entrants, and victims of severe form of trafficking who entered the U. S. on or after August 22, 1996, but only for the first seven years of residence in the U. S.

Undocumented/illegal and unqualified aliens are eligible for Medicaid payment for emergency services only. They must meet all other eligibility requirements, except SSN and legal presence for undocumented aliens. Non-immigrant/temporary workers from outside the U. S. usually do not meet the Virginia residency requirement.

Pregnancy-related labor and delivery are considered an emergency service and may be certified by the local department of social services. Other emergency services must be certified by the Department of Medical Assistance Services. Dialysis is considered an emergency service.

FAMIS and FAMIS MOMS have the same Virginia residency requirement as Medicaid. They have similar citizenship and alien status requirement except there are no limitations for refugees,

asylees, deportees, and victims of severe trafficking. There is no requirement for 40 work quarters for lawful permanent residents. They must be in the U. S. for at least five years. FAMIS does not pay for emergency services for unqualified aliens with income in the range for FAMIS, that is, too high for Medicaid.

As for State and Local Hospitalization (SLH), funding is allocated to each locality and subject to availability. Each person must be a citizen or lawful alien and be a resident of the locality to which he is applying for SLH. Migrant and seasonal workers in most areas of the state do not meet the residency requirements for SLH. This is because of a provision put into the state Code. The exception is that migrant and seasonal workers working in Accomack and Northampton Counties on the Eastern Shore may be eligible for SLH. Funding must be available and other SLH requirements must be met.

Other health care resources available are the local health departments, the Virginia Association of Free Health Clinics, and federally qualified health centers/Virginia Primary Care Association.

After review of the handout, there was a discussion with a series of questions by the Board members.

### **Update on State Legislation**

Tim Freilich, Managing Attorney with the Virginia Justice Center for Farm and Immigrant Workers, based out of Charlottesville, gave an update on state legislation. Of the ten bills that he reported on at the last MSFW Board meeting, nine did not become law. One of the bills that did become law was a bill that gave certain juvenile intake officers, if they discover that individuals in their custody are here undocumented and are accused of a violent crime, the ability to refer them to Immigrations and Customs Enforcement (ICE). There are two bills that are beneficial for migrant and seasonal farmworkers in Virginia: 1) a bill that regards the unlawful sale of drivers licenses, particularly the international drivers permit, it makes it a class-1 misdemeanor for any persons other than the Department of Motor Vehicles to sell/distribute or attempt to sell/any valid drivers document in the state of Virginia. The issue has been a lot of travel agencies selling international drivers permits claiming this gives the migrants the right to drive legally in Virginia. A lot of migrant seasonal farmworkers have been paying significant amounts of money for these with the belief that it is legal for them to drive in Virginia, when in fact it is not legal. This bill went into effect on July 1, 2006. 2) a bill that deals with human trafficking that could have a dramatic impact on situations where workers or other immigrants are being subjected to trafficking. The bill states it is illegal and a Class-5 felony to extort money, property, or benefits from a person by threatening to deport him or her by being illegally present in the United States.

Mr. Freilich distributed four articles that he thought would be of interest to the Board Members. After perusal of the articles, he stated that he would urge the Board to continue to write letters stating clearly the Board's position in making recommendations to the Governor and educating the community, the growers, and the workers regarding the threat of enforcement-only legislation regarding the growers ability to find the workers they need, and the workers ability to find employment.

For the upcoming General Assembly Session, we can expect to see bills regarding the illegal immigration issue, recommendations to be made regarding increased funding for the Department of Health to inspect facilities that are being used as migrant housing, and minimum wage law. On the federal level, the MSFW Board should continue to push for the support of the Ag Jobs bill, and also supporting the push for comprehensive immigration reform.

### **Federal Definition of Migrant and Seasonal Farmworker**

Jack Turner gave a report on the federal definition of the migrant and seasonal farmworker. He distributed a handout and stated that in June the U. S. Department of Labor decided to slightly modify the criteria by which it defines the definition. The key point is how it defines agriculture. The Department of Labor changed the scheme for classifying agriculture. The Standard Industrial Classification (SIC) was used, and now the North American Industry Classification System (NAICS) is being used. Using this code is consistent from Canada to the United States to Mexico.

There are three basic agricultural codes in nature: 111, 112, and 115. The key to the change in agriculture matters is that migrant farmworkers are agriculture workers who work in agriculture. Farmwork means work performed for wages in agricultural production or agricultural services. Agricultural worker means a worker, whose primary work experience has been in farmwork in industries with a North American Industry Classification System. Seasonal farmworker is a person who during the preceding 12 months worked at least an aggregate of 25 or more days or parts of days in which some work was performed in farmwork, earned at least half of his or her earned income from farmwork, and was not employed in farmwork year round by the same employer. For the purpose of this definition only, a farm labor contractor is not considered an employer. Non-migrant individuals who are full-time students are excluded.

### **Telamon Farmworker Housing Projects**

Chairman Annis stated that he is very impressed with Telamon's work and he commended their improvement.

Greg Miller, Architect with Telamon, stated that the MSFW Board members would be touring a Telamon Farmworker Strawbail Housing Project that is under construction; however, before the tour he gave an update with building the strawhouses. There are three significant areas regarding the strawhouses: 1) the need for decent housing; 2) it is designed by an architect; and 3) the housing is sustainable because it is strawbail. Strawbail is great insulation. It is cooler in the summer and warmer in the winter. Strawbail is a waste product and is environmentally sound. The plaster used is earth plaster on the inside and lime plaster on the outside. The plaster is very strong and dries very hard.

### **Old Business**

Richard Hall did not attend the previous two MSFW meetings; therefore, he inquired about letters that were to be written regarding legislation. Dolores Esser replied the letters had been carried over for the upcoming 2007 General Assembly Session. The recommendations from the Board were included in a package to the Governor who would be speaking to the Congressional

Delegation about federal legislation impacting the state. After discussion, the Board agreed to support the Ag Jobs bill and would like this conveyed to the Congressional Delegation.

### **New Business**

There was a lengthy discussion regarding a viable agriculture workforce and how the absence of the illegal aliens will affect the growers. Some of the aliens are very well documented; however, they are illegal. There are some states developing their own immigration laws. A committee was formed to review/discuss this issue. The committee consisted of Hart Hudson, Rick Hall, Kelly Robinson, and Mario Moreno. Commissioner Esser will talk with the Secretary of Agriculture who deals with the Growers' Association and report on her discussion at the MSFW Board meeting in October.

### **Items of Interest**

Commissioner Esser reported that the MSFW Board is responsible for doing the biennial report. It is due October 1. It will be sent to the Board in draft format prior to the due date for an opportunity for them to comment.

The MSFW Policy Committee has not met because of staff turnover. However, some of the new committee members have been appointed; therefore, a meeting may be held prior to the next Board meeting in October.

The Secretary of the Commonwealth has requested a list of the Board members' meeting attendance at Board meetings on an ongoing basis. There have been some members who have been lax in meeting attendance.

The next meeting will be held October 18 in Charlottesville at the Doubletree Hotel.

### **Items of Interest from the Board Members**

There was an inquiry on how the Board members will receive the biennial report for review/comment and return it back to the Virginia Employment Commission. Commissioner Esser stated that it would be sent via e-mail and/or hardcopy.

### **Public Comments**

None to report.

### **Adjournment**

There being no further business, a motion was made by Chairman Annis to adjourn. It was seconded, and passed unanimously. The meeting adjourned at 12:45 p.m.

Upon adjournment, the MSFW Board proceeded on a tour of the Ingleside Winery and the Telamon Farmworker Strawbail Housing Project.