

Operational Bulletin 232 - August 20, 2010

Live-in Caregiver Program: Revised In-Canada Medical Examination Procedures

Issue

This Operational Bulletin (OB) is to inform officers of revised instructions regarding requests for medical examinations for live-in caregivers applying for permanent residence from within Canada under the Live-in Caregiver Program (LCP), as originally outlined in [OB 192](#).

These revised instructions apply only to the live-in caregiver/principal applicant. Medical examination procedures for family members remain unchanged; in all cases, family members must complete medical examinations as part of a live-in caregiver's application for permanent residence.

Instructions with respect to the assessment of medical examinations completed overseas to qualify for the initial work permit/temporary residence as a live-in caregiver as described in [OB 192](#) remain unchanged.

Background

A number of regulatory changes to the LCP came into force on April 1, 2010.

These regulatory changes included amending Section 30 of the *Immigration and Refugee Protection Regulations* by adding the following after subsection (2):

Exception

(2.1) A foreign national who has applied for permanent resident status and is a member of the live-in caregiver class is not required to submit to a medical examination under subsection (1).

Under this Regulation, the mandatory requirement for all live-in caregivers to complete a standard medical examination as part of an application for permanent residence under the LCP was eliminated. Family members of live-in caregivers, whether in Canada or abroad, must always complete and pass a medical examination as part of a live-in caregiver's application for permanent residence.

Interim instructions in [OB 192](#) noted that under this regulatory amendment officers retained the discretion to request a medical examination for live-in caregivers at the application for permanent residence stage and encouraged officers to do so in cases where the initial medical examination undertaken overseas resulted in an M2 or M3 assessment.

Furthermore, [OB 192](#) noted that, instructions regarding the basis for requesting medical examinations at the permanent residence stage over the longer term would follow and that

these instructions would be designed to ensure that such requests would be rare and the exception to the rule.

Revised procedures with respect to requests for medical examinations for live-in caregivers applying for permanent residence from within Canada under the LCP are outlined below.

Revised Procedures: In-Canada Medical Examinations for Live-in Caregivers at the Application for Permanent Residence Stage

The following revised procedures supersede the interim in-Canada medical examination instructions outlined in [OB 192](#) and pertain to applications for permanent residence under the LCP for which:

- the applicant has been determined to be a member of the live-in caregiver class, and
- medical examination instructions have not yet been issued to the applicant.

Effective immediately, officers should only consider requesting that a live-in caregiver complete a medical examination as part of their application for permanent residence under the LCP should the officer have reason to believe that the live-in caregiver has a health condition that is likely to endanger public health or safety, such as active infectious tuberculosis, at the time of their application for permanent residence.

Should an officer have reason to believe that a live-in caregiver applying for permanent residence under the LCP has a health condition that is likely to be a danger to public health or safety under paragraphs 38(1)(a) or (b) of the *Immigration and Refugee Protection Act* (IRPA), they are to consult with National Headquarters/Case Management Branch (NHQ/CMB) on the details of the case in question for consideration on whether an exemption may be warranted **prior** to requesting that the applicant complete a medical examination.

This approach will serve to ensure that requests for medical examinations for live-in caregivers applying for permanent residence under the LCP are rare and the exception to the rule, while continuing to protect the health and safety of Canadians.

If...	Then...
the officer does not have reason to believe that the applicant has a health condition that is likely to be a danger to public health or safety...	the officer should not request that the applicant complete a medical examination as part of their application for permanent residence and will record the medical requirement as “passed” in the Case Processing Centre (CPC) system. Note: In cases where the date of the initial overseas medical assessment is older than 5 years at the application for permanent residence stage, the CPC system will not allow the officer to proceed with a new application. In such cases,

	<p>officers are to:</p> <ul style="list-style-type: none"> manually modify the validity date in order to extend the validity of the initial medical assessment and allow the application for permanent residence to progress in the CPC system; and record this manual change in the CPC system notes to ensure that the file narrative reflects the modification to the validity date of the initial medical assessment.
<p>the officer does have reason to believe that the applicant has a health condition that is likely to be a danger to public health or safety...</p>	<p>the officer will refer the relevant case details to NHQ/CMB for consideration as to whether an exemption may be warranted on humanitarian and compassionate/public policy grounds prior to requesting that the applicant complete a medical examination as part of their application for permanent residence.</p> <p>the officer will proceed accordingly following consultation with NHQ/CMB and either request that the applicant complete a medical examination or exempt the applicant and record the medical requirement as “passed” in the CPC system.</p> <p>Note: In cases where an officer requests that an applicant complete a medical examination as part of their application for permanent residence following consultation with NHQ/CMB, the officer should record the request in the CPC system notes.</p>

In cases where a live-in caregiver has already completed a medical examination as part of their application for permanent residence, and is currently in the stages of procedural fairness correspondence based on a medical notification indicating inadmissibility due to excessive demand under paragraph 38(1)(c) of the IRPA, the officer should consider whether an exemption of the inadmissibility may be warranted on humanitarian and compassionate/public policy grounds in consultation with NHQ/CMB.

Should NHQ/CMB indicate that a live-in caregiver should complete a medical examination as part of their application for permanent residence, and the caregiver is subsequently found to be inadmissible on health grounds under paragraphs 38(1)(a) or (b) of the IRPA, the applicant may choose to request consideration on humanitarian and compassionate/public policy grounds. Further consultation with NHQ/CMB should be undertaken prior to refusal of any such requests for consideration under humanitarian and compassionate/public policy provisions.