

PROMOTING ECONOMIC SELF-SUFFICIENCY

OUR WORK CREATES QUALITY JOBS
AND NEW WAYS OF WORKING WITH INDUSTRY



JOB, INCOME AND ASSETS



PROMOTING ECONOMIC SELF-SUFFICIENCY

2003 HEARTLAND
PROFESSIONAL
DEVELOPMENT SYMPOSIUM

Presented by
Tse Ming Tam



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

1. **Child Health and Disability Prevent Program**

- Streamline eligible children into Medi-Cal and Healthy Families.
- Administration instructed DHS to preserve existing CHDP program.
- Design an internet-based enrollment system to be implemented by Spring 2003.

➤ **Healthy Families Program**

- Allow uninsured parents of children to be covered by Healthy Families or Medi-Cal program.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

➤ **CHDP Issues**

- Healthy Families and Medi-Cal is covered under the TANF bill which excludes immigrants who entered the U.S. from 1996 for any public assistance.
- Many immigrants are placed in low-wage, dead-end jobs who really needs the work support assistance such as CHDP in order to remain in the workplace.
- For immigrants who are eligible, will they be able to access the internet, feel comfortable in using the internet, and will it be provided in multiple languages?



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

2. **Language Access: SB 987 (Escutia)**

- Ensure Proper implementation and enforcement of the 1973 Dymally-Alatorre Bilingual Services Act.
- Requires state and local agencies to offer services in languages other than English when there is a significant need.

➤ **Issues**

- Many of the “hardest-to-serve” case loads in – N.Y., Calif., Florida, Texas, Illinois and D.C. are limited–English-speaking immigrants, but yet are not provided with language assistance services to help them transition into the workplace.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

3. Temporary Assistance to Needy Families (TANF)

- Current legislation prohibits all immigrants who entered the U.S. after 1996 from receiving public assistance in food stamps, health care, childcare, SSI, transportation and job training assistance.
- **Issues**
 - These are immigrant taxpayers who contribute to paying the cost of education, roads, defense and other public benefits, yet are denied access to a public safety net.
 - Immigrants are more likely to hold jobs in low-wage sectors that are sensitive to fluctuations in the economy but are denied training to move into jobs with higher pay or greater stability.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

➤ TANF Issues

- Since TANF already includes mandatory work requirements and time limit which applies regardless of immigration status, additional restrictions that apply specifically for immigrants serves no useful purpose.
- Current TANF legislation allows certain work-related activities be counted towards work participation rates. However, programs to increase English proficiency such as ESL, Vocational ESL are not listed explicitly as one of these activities.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

4. Workforce Investment Act (WIA)

– Current legislation conforms to the Immigration Reform Control Act (IRCA) of 1986, requiring proof of legal residency prior to accessing employment training services.

➤ Issues

- Places monitoring burden on employment training providers.
- Employment training providers may not be familiar with all the different residency status.
- To deny immigrant access to training services poses an internal conflict against their organizational philosophy and mission statement
- Places employment training providers in a tenuous position that if they wrongfully deny an immigrant access to training services for possible law suit.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

5. Immigration Reform Control Act (IRCA) 1986

- IRCA was signed into law on November 6, 1986 as a way to curb unlawful immigration and to “close the borders” to those seeking to enter illegally.
- IRCA states that employers who knowingly hire undocumented workers are subject to penalties ranging from \$250 - \$10,000 per unauthorized worker.
- Employers who fail to properly complete the I-9 form can be fined up to \$1,000 per employee – even if the employee is authorize to work.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

- **Employers not required to collect work documentations**
 - Casual hires – who provides sporadic irregular or intermittent basis are not considered “employees” under IRCA. However, if a domestic worker comes to the house on a regular basis, e.g. once a week, verification must be completed. (Day labor, catering, sporadic landscaping services.)
 - Independent Contractors – hired by an entity are not considered “employees” for purposes of IRCA. (Consultants)



PROMOTING ECONOMIC SELF-SUFFICIENCY

Public Policies

➤ Eligible Immigration Status to Work

- U.S. Citizenship – gained by birth in U.S. or abroad to U.S. parents.
- Lawful Permanent Residents – “green card holders” persons allowed to gain lawful permanent resident status.
- Non-immigrant (Temporary) – includes visitors, students, exchange visitors, etc. – work authorization is determined by categories (seasonal migrant farm workers, H-1B visas, etc.)
- Political Asylees and Refugees – well-founded fear a person is being persecuted based on race, religion, national origin, political opinion, or membership in a social group.
- Other work authorization – given at the discretion of the INS



PROMOTING ECONOMIC SELF-SUFFICIENCY

Legal Protections

6. Legal Protections for illegal immigrants

- Immigration status and its related consequences, however, can affect a plaintiff's decision whether to pursue legal action to protect his or her rights and can impact what remedies are available.
- Depending on the immigration status and types of employment violations, undocumented workers may be entitled – reinstatement, back pay, recover wages, injunctive relief, compensatory damages, and punitive damages.
- Despite violation of employment laws, there is no assurance that deportation process will be canceled.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Legal Protections

- Legal Protections for illegal immigrants
 - The following are some laws which protects illegal immigrants from discrimination, sexual harassment and retaliations:
 - ✓ Title VII – Civil Rights Act of 1964 prohibits discrimination in hiring, firing and other conditions of employment.
 - ✓ Section 7 of the National Labor Relations Act (NLRA) – threatening deportation retaliation for a worker asserting his/her rights under the NLRA could constitute an unfair labor practice.
 - ✓ Fair Labor Standards Act (FLSA) – entitles undocumented workers to recover wages for work done.



PROMOTING ECONOMIC SELF-SUFFICIENCY

Legal Protections

➤ Federal and State Agencies

– During the passage of IRCA, the House Education and Labor Committee noted: the committee does not intend that any provisions of this Act would limit the powers of State or Federal agencies....

- Occupation Safety and Health Administration (OSHA)
- Wage and Hour Division of Department of Labor (DOL)
- Equal Employment Opportunity Commission (EEOC)
- National Labor Relations Board (NLRB)



PROMOTING ECONOMIC SELF-SUFFICIENCY

Immigrant Workers Rights Sources

7. Sources of Information includes

- Local Bar Associations
- The American Immigration Lawyers Association
- The National Immigration Project of the National Lawyers Guild.
- The National Employment Law Project – Immigrant Employment Rights
- The National Immigration Law Center
- Mexican American Legal Defense and Educational Fund



PROMOTING ECONOMIC SELF-SUFFICIENCY

FOR MORE INFORMATION ABOUT
NEDLC AND OUR PROGRAMS,
PLEASE VISIT OUR WEB SITE:

WWW.NEDLC.ORG

