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Health Justice Tuesdays

Health and Refugee/Immigration Law

May 14, 2019

Dr. Vanessa Redditt and Jennifer Stone



Health Justice Tuesdays – *Supported by:*

Legal Aid Ontario (Program Funding)

St. Michael's Family Health Team and Hospital

(In Kind Support)

AFHTO Bright Lights Award

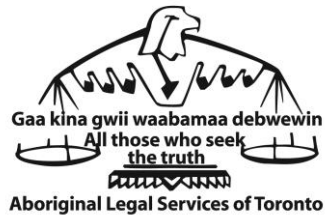
Nasmith Award (DFCM)

Organized by Education Subcommittee:

Gary Bloch, Emily Hill, J. Stone, R. Shoucri



HEALTH JUSTICE PROGRAM



St. Michael's
Inspired Care.
Inspiring Science.

Academic Family
Health Team

Presenters

Dr. Vanessa Redditt
Family Physician,
Crossroads Refugee Clinic
Women's College Hospital



Jennifer Stone
Onsite Lawyer,
Health Justice Program





Presenter Disclosure

Faculty: Vanessa Redditt

Relationships with commercial interests:

- **Grants/Research Support:**
None
- **Speakers Bureau/Honoraria:**
None
- **Consulting Fees:**
None
- **Other:** Staff physician at Women's College Hospital

Faculty: Jennie Stone

Relationships with commercial interests:

- **Grants/Research Support:**
None
- **Speakers Bureau/Honoraria:**
None
- **Consulting Fees:** None
- **Other:** Employee of Neighbourhood Legal Services



Disclosing Commercial Support

This program has not received financial support nor in-kind support from any commercial interests

Potential for conflict(s) of interest:

- *None*



Mitigating Potential Bias

- *Not applicable*



Agenda & Objectives

1. Share a broad understanding of common migratory trajectories;
2. Recognize how accessing justice in immigration matters can impact health across the migratory/post-migratory trajectory;
3. Acquire skills in enhancing clinical documentation to support patients with immigration-related issues, and understanding appropriate referrals



Changing Legal Aid Landscape

30% cut to Legal Aid this year, further 10% next year
Includes April 15, 2019 announcement that Province will no longer fund immigration & refugee matters

- Feds provide approx. \$16 million
- Provincial legal aid for refugees approx. \$34 million
= SIGNIFICANT SHORTFALL

Currently: Only 7-hour certificates for Basis of Claim forms currently funded. **Medical reports no longer funded.** Refugee Law Offices remain open but triaging for most vulnerable, and focusing on appeals.



Case Scenario

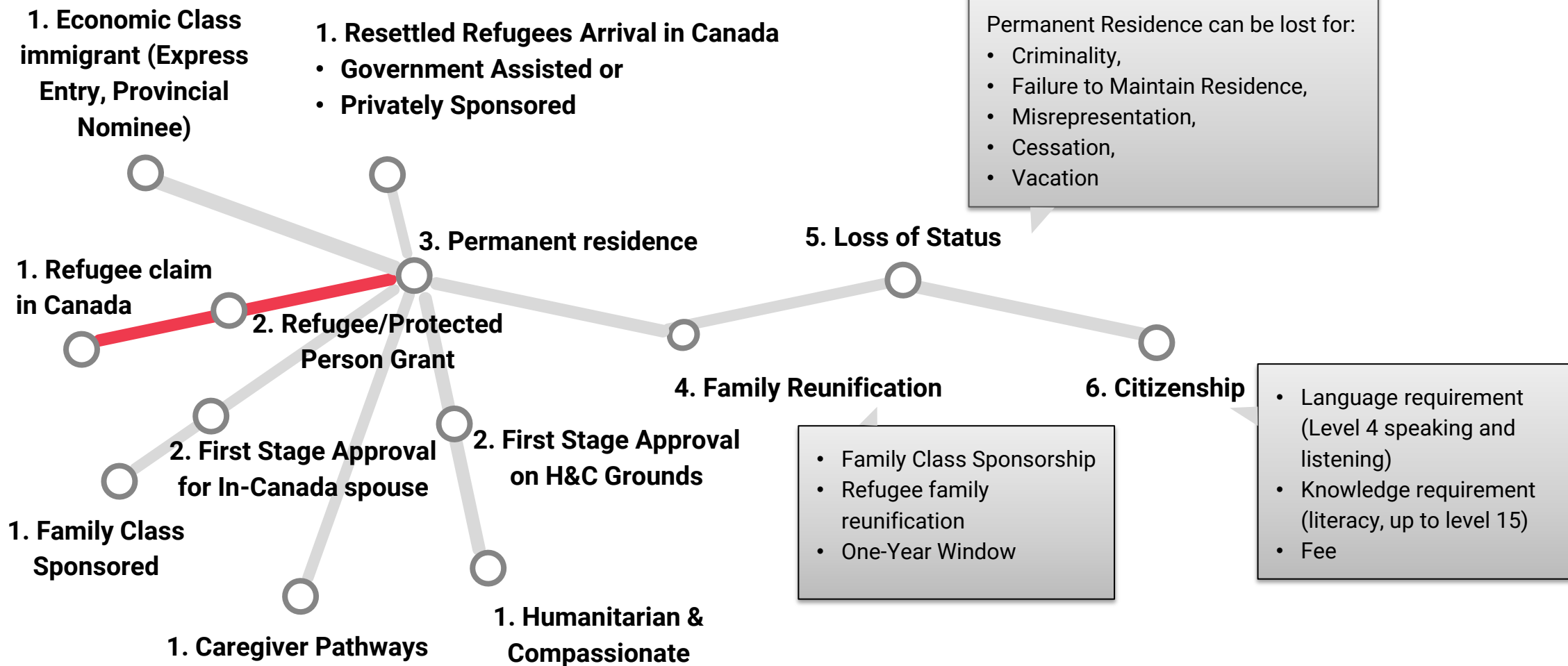
- Ms. T is 38yo woman who arrived as a refugee claimant from Ethiopia eight months ago.
- She had to leave behind her 3 children, who remain with her mother. She is awaiting her refugee hearing and has no date.
- She lives in a small basement apartment, which she shares with 4 other women. She works at a factory and goes to English classes in the evening.
- Her sleep is disrupted by nightmares, her mood is low, and she experiences frequent flashbacks related to past trauma.



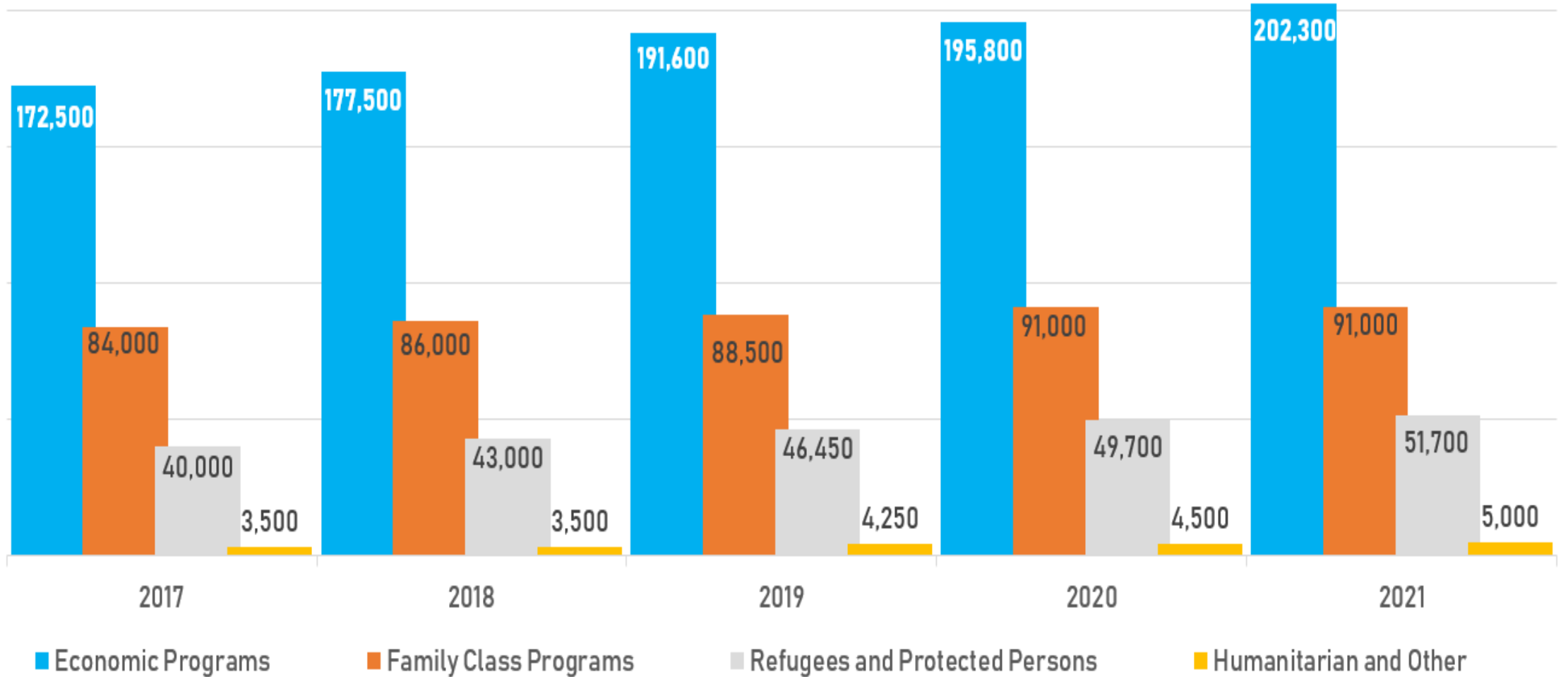
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Health Justice Tuesdays

1. Migration pathways 101

Migration pathways in Canada

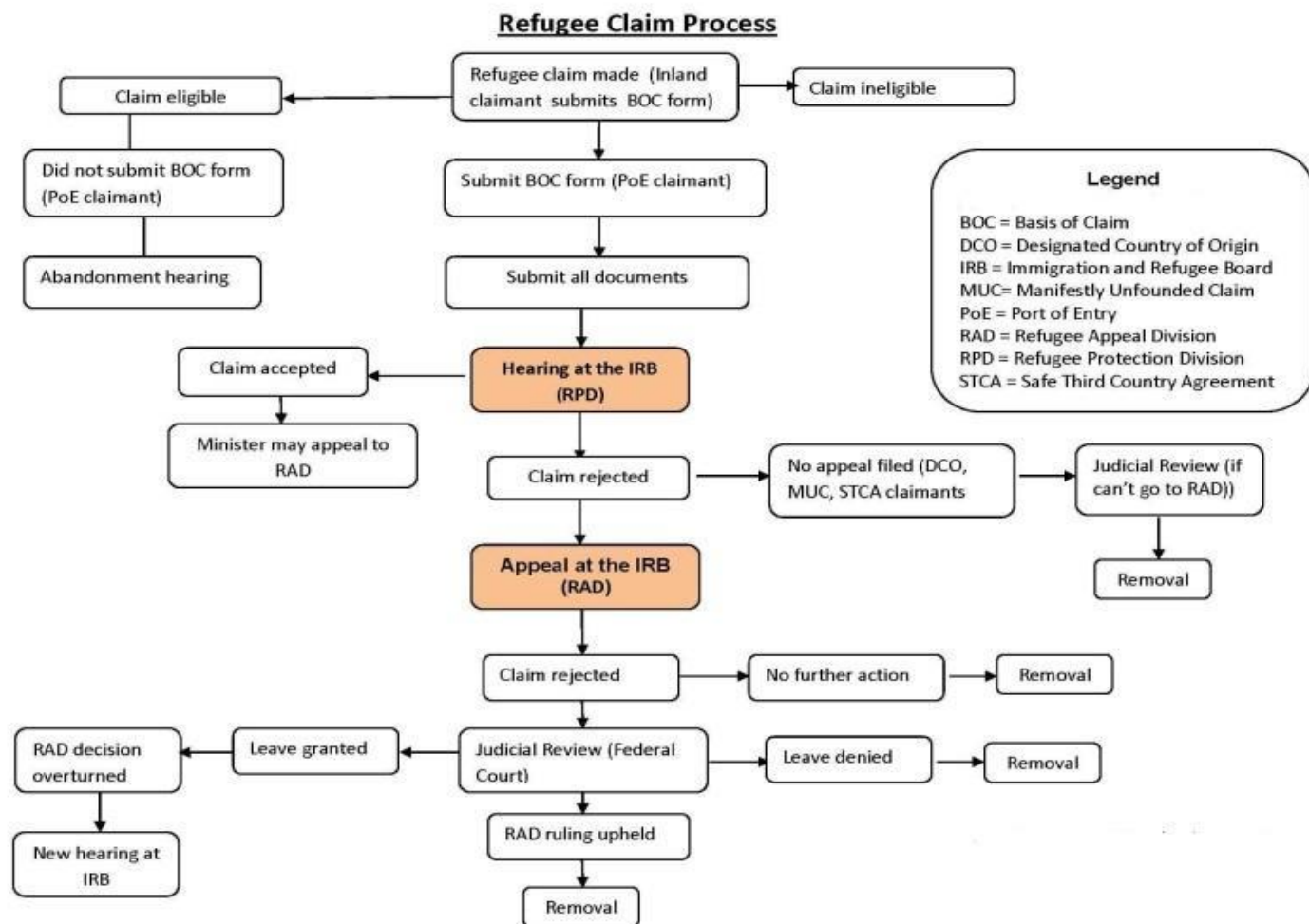


Canada Immigration Levels (2017-2021)



Refugee Claim Process

Q. When to refer for legal help? A. ALWAYS

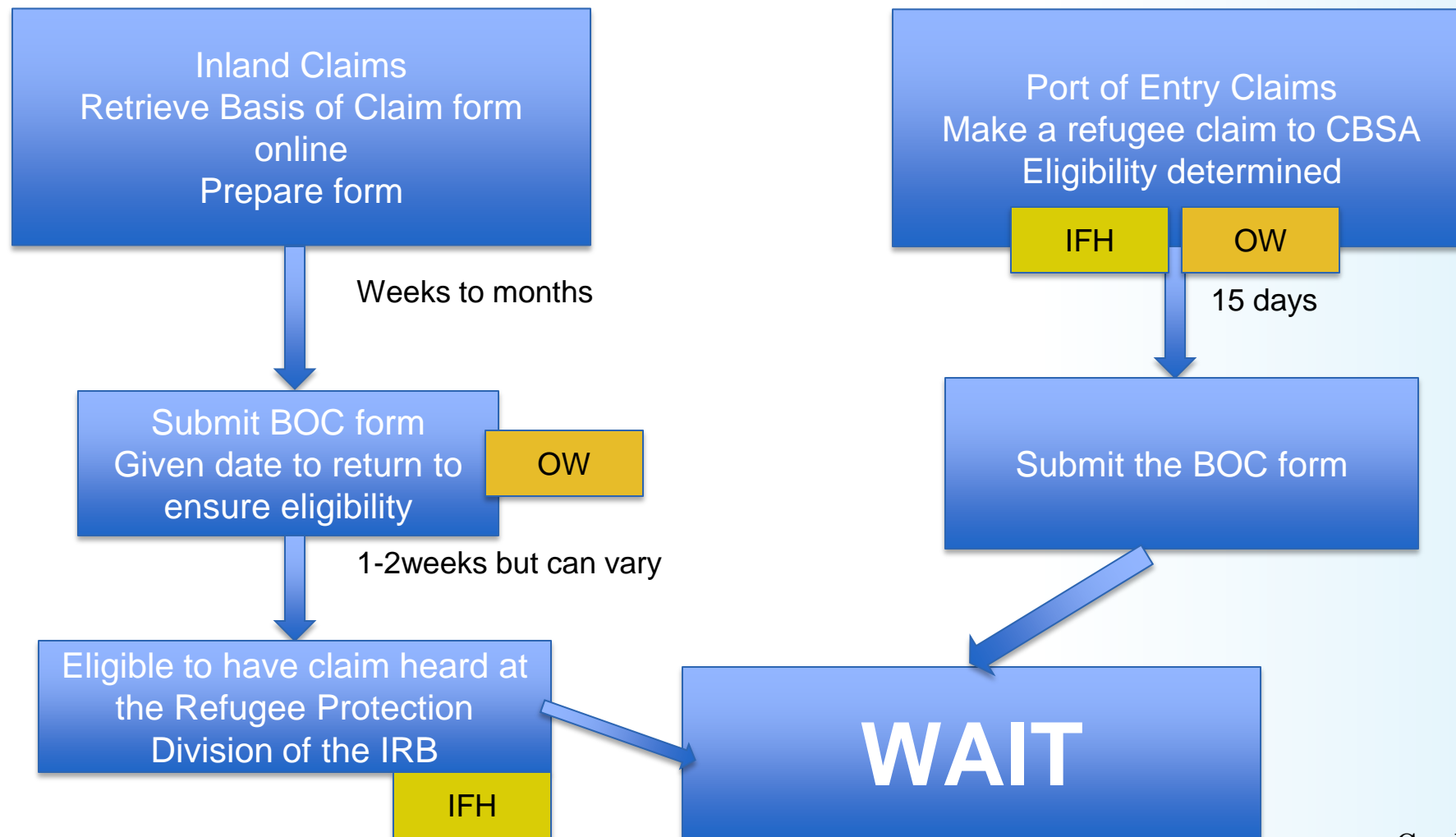


Claimants 275% more likely to be granted refugee protection when represented by a lawyer than unrepresented.

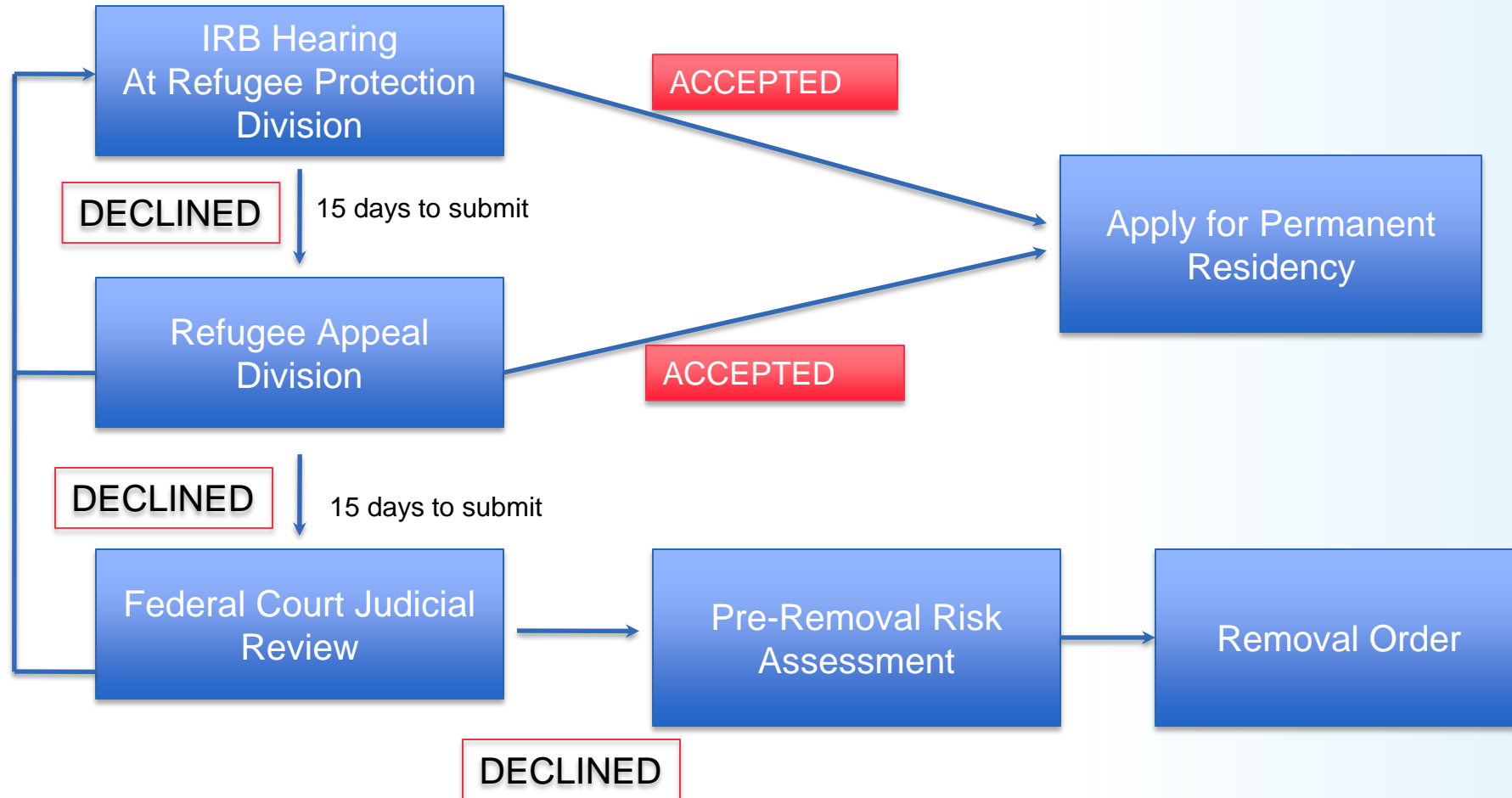
- Sean Rehaag, "The Role of Counsel in Canada's Refugee Determinations System: An Empirical Assessment", *Osgoode Hall Law Journal*, (2011) Vol. 49, No. 1.

<https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1073&context=ohj>

The Refugee Claim Process for healthcare providers



Refugee Claim Process for healthcare providers





To learn more about strategies in the face of legal aid cuts:

- **Recent changes to federal legislation and legal aid access: a 101 for health care providers**

May 30, 12 – 1:30 pm

Li Ka Shing, Room 240, 209 Victoria

Please RSVP to centrelist@smh.ca

Immigration/Refugee lawyer Maureen Silcoff

- **Refugee/Immigration Report Writing & Addictions**

June 4th, 2019, 5:30-8pm

33 Russell Street, Room 2029,

Please **RSVP** by registering:

<https://forms.gle/EgVNLosAdPcdGhFm7> **COST:** \$5 to cover snacks

Alex Caudarella, MD, Addictions Specialist and Family Physician; Shane Martinez, Criminal Defence Lawyer; Tony Navaneelan, Refugee Lawyer



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2. A2J in immigration matters
impacting health across the
migratory trajectory

MIGRATION AND THE SOCIAL DETERMINANTS OF HEALTH

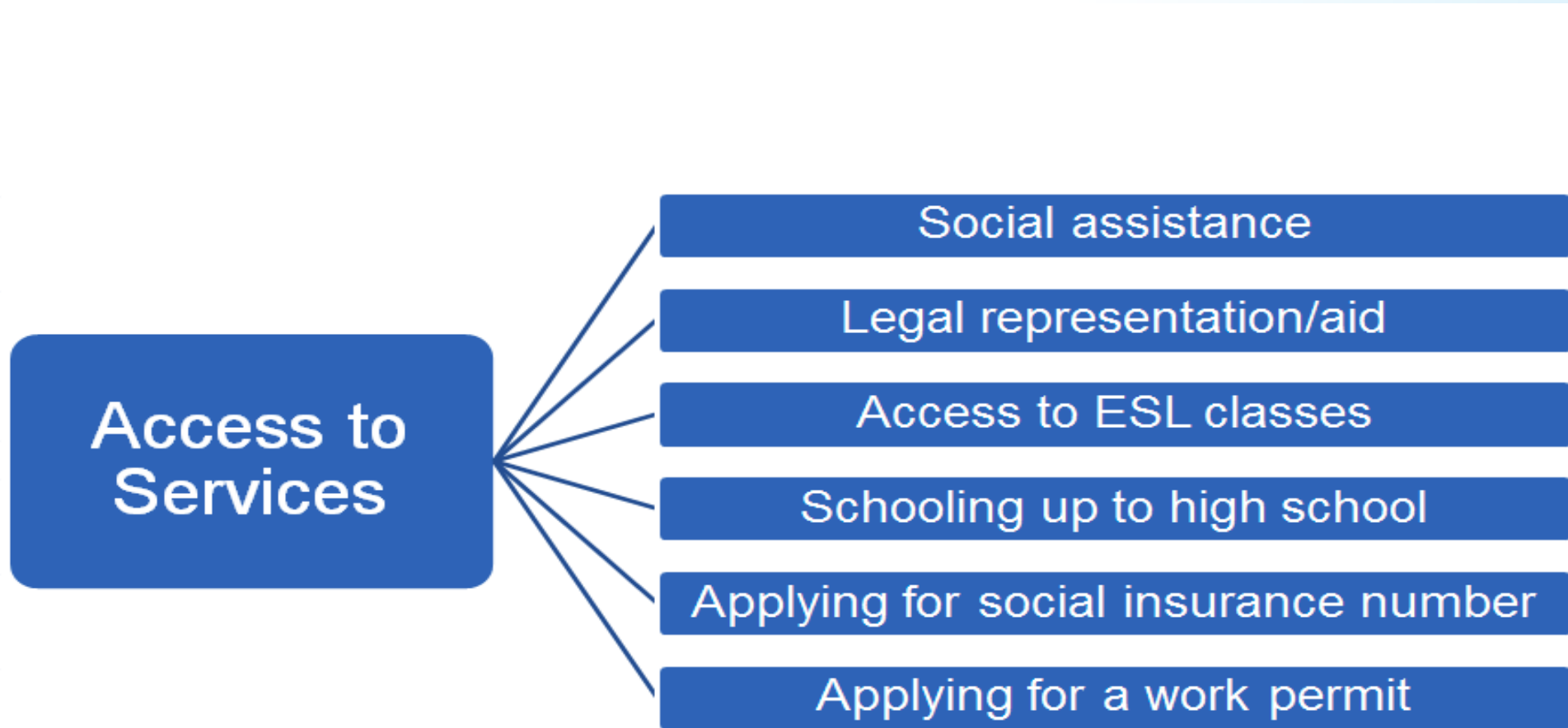
Conditions surrounding migration often fuel health inequities and may expose migrants to increased health risks and negative health outcomes.



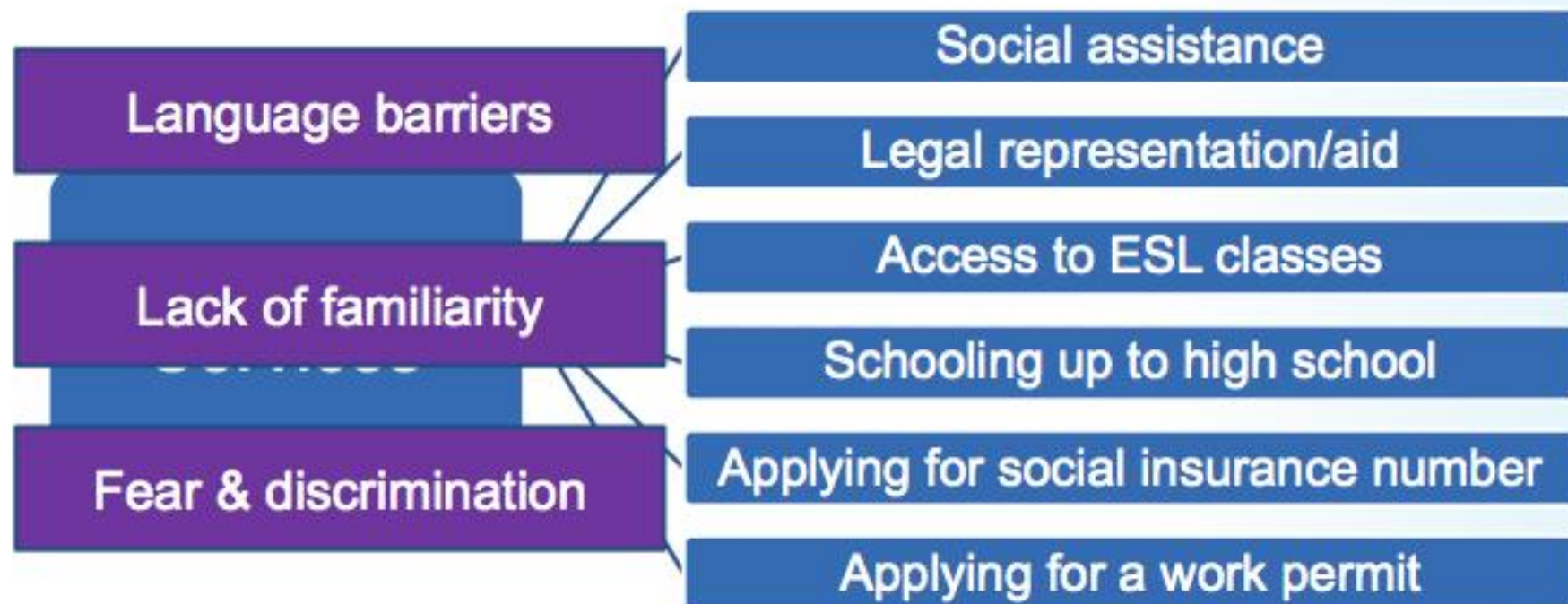
Source: Adaptation of an infographic found in a World Health Organization (WHO)'s Commission on Social Determinants of Health (CDSH) report (2008:43).

© IOM's GMDAC 2017
www.migrationdataportal.org

Immigration status as foundational, a right to have rights



Immigration status as foundational, a right to have rights





Case scenario

What would Ms. T be entitled to:

- *While waiting to hear if she's eligible to make a refugee claim?*
- *Once eligible to claim?*
- *Once claim is granted?*
- *As permanent resident?*
- *As citizen?*

Alternatively:

- *If claim is refused?*

SEE HANDOUT ON ENTITLEMENTS PER STATUS



Interim Federal Health Program (IFHP)

- *Temporary health care coverage for refugees*
- *Basic coverage: MDs&NPs/Diagnostics/Laboratory tests (similar to OHIP coverage)*
- *Supplemental services*
 - *Medications: similar to ODB formulary*
 - *Emergency dental*
 - *Vision*
 - *Physical therapy, allied health, medical devices, etc*
- *Coverage for one year for PSRs/GARs (some exceptions) and until passed refugee hearing for claimants*
- <https://www.medaviebc.ca/en/health-professionals/resources>

Accessing Services through IFHP

- *Show Interim Federal Health Program Certificate*
- *Health professionals must be registered with IFHP Medavie Blue Cross*



INTERIM FEDERAL HEALTH CERTIFICATE OF ELIGIBILITY

Family name: _____
Given name(s): _____
Date of birth: _____
Sex: _____ UCI: _____
Citizenship: _____ Application no.: _____

*****NOT VALID FOR TRAVEL***
DOES NOT CONFER STATUS**

The above named individual is eligible for the following coverage:

Coverage:	Effective Date:	Valid Until:

This coverage may cease or be modified without notice if the individual's immigration status changes.

This certificate must be presented to participating health care providers, along with government issued photo ID, before receiving services. If an individual pays for services covered by the Interim Federal Health Program (IFHP), the individual cannot be reimbursed.


I, the undersigned:

- declare that I require coverage under the IFHP, I will notify CIC immediately of any changes to my immigration status, or if I become eligible for or receive other health insurance;
- understand that it is my responsibility to renew this coverage before _____ and annually thereafter, as required;
- understand that my medical and personal information will be shared with CIC, IFHP claims administration and other appropriate third-parties for the administration of the IFHP and that personal information may be shared with other government institutions and other third-parties in accordance with the Privacy Act and the Department of Citizenship and Immigration Act.

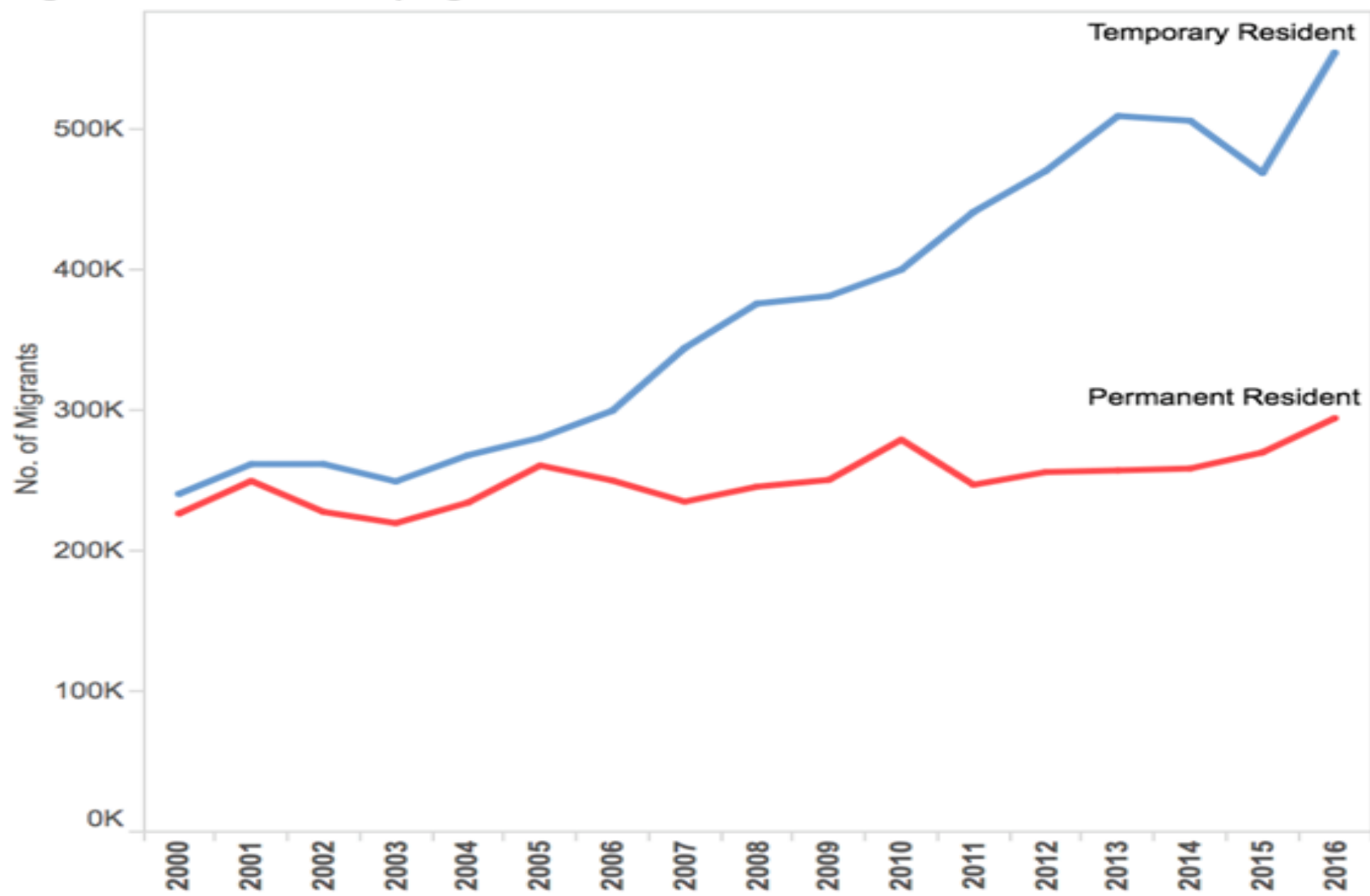
SIGNED at _____ on _____

For the health care provider, you **MUST** verify the eligibility of the individual with the IFHP administrator **BEFORE** providing services, via web <https://provider.medavie.bluecross.ca> phone 1-866-614-1660 or fax 506-967-3824.

Client ID #: _____
Family name: _____
Given name(s): _____
Date of birth: _____

HM 8882 (11-2015)E 

Migration dynamics in Canada



Source: Canadian International Development Platform, 2018. <https://cidpnsi.ca/migration-flows/>

Undocumented Migrants



- *Estimated 500,000 in Canada¹*
- Clinics serving uninsured migrants:
 - FCJ Refugee Centre
 - Community Health Centres
 - *E.g. Access Alliance: no catchment area*
 - Canadian Centre for Immigrant and Refugee Health
 - Muslim Welfare Centre of Toronto
 - Toronto Public Health: sexual health, vaccines, TB
 - Planned Parenthood
 - Midwifery care

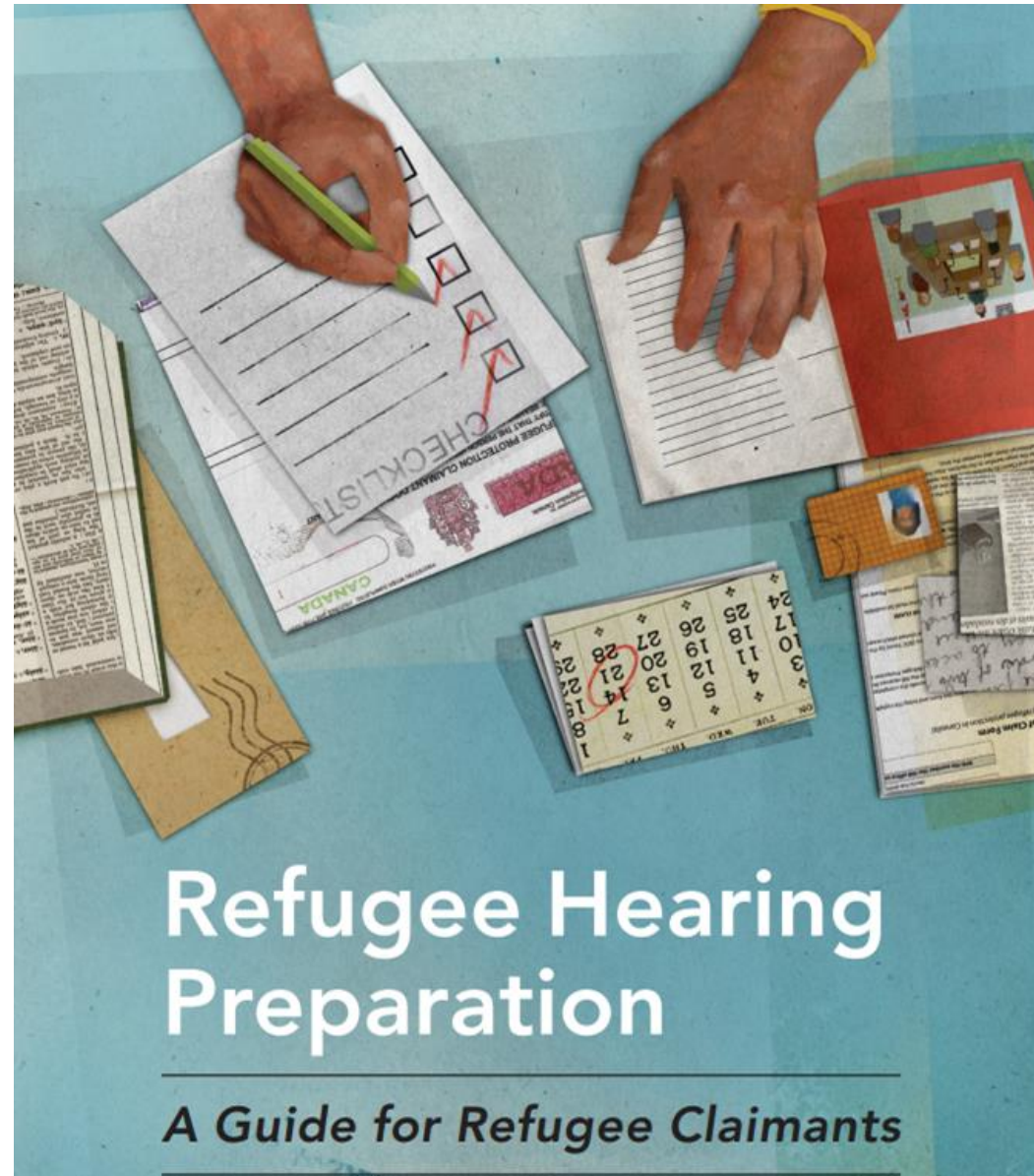
¹Magalhaes L, Carrasco C, Gastaldo D. Undocumented Migrants in Canada: A scope literature review on health, access to services, and work conditions. J Immigr Minor Health. 2010;12(1):132-151



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3. Appropriate referrals and documentation for patients with immigration issues

“Get a report from a doctor or psychologist in Canada which documents your health problems”



Refugee Hearing Preparation

A Guide for Refugee Claimants

“A letter from your doctor in Canada confirming scars or injuries”



Legal relevance of medical documentation for refugee claims and appeals

- **To support a vulnerable person application at the Refugee Protection Division re need for special accommodations**
- **To assist decision maker in understanding barriers to giving testimony**
- **Viability of Internal Flight Alternative**
- **To identify mental health impacts of past trauma**
- **To document scars/injuries**



General Documentation Tips

- **Introduction**
 - **Writer's background/credentials**
 - **Duration of clinician-patient relationship, frequency of visits**
- **Description of symptoms at multiple visits**
- **Description of exam findings, including mental status exam**
- **Summary of diagnosis/findings and treatment plan**
- ***If applicable, request for accommodations***



General Documentation Tips, Cont'd

- Focus on an objective account of reported symptoms, examination findings, and treatment plans/recommendations.
- Use neutral, professional language.
- Avoid commenting on the patient's credibility.
- Avoid a lengthy summary of the patient's history.
- Avoid statements that may be perceived as advocacy for the patient.



Role of primary care

- **Facilitate referrals to psychiatry, relevant medical specialists**
- **Practical reality: mental health care often falls within scope of primary care**

<http://incomesecurity.org/publications/social-assistance-general/Understanding-the-complexity-of-treatment-of-mental-illness-and-addictions-in-Ontario-w-2-headers-updated-May-2018- 2.pdf>



Other Resources

Refugee and other immigration claims:

<https://refugeeclaims.wordpress.com/>

Refugee Claim process:

<https://refugee.cleo.on.ca/en/refugee-protection-hearing>

For claimants: <https://refugeehearing.cleo.on.ca/>



Other Proceedings that can require supporting medical documentation

- Humanitarian & Compassionate (H&C) applications
- Pre-Removal Risk Assessments (PRRAs)
- Detention reviews
- Deportation appeals at the Immigration Appeal Division (IAD)
- Danger Opinions
- Requests to Canada Border Services Agency (CBSA) to defer removal
- Motions to Federal Court to stay removal
- Family reunification (ineligible family, expediting)
- Seeking waiver from some citizenship requirements



Legal relevance of medical documentation for other proceedings

- To identify potential mental health impact of deportation of vulnerable person
- To contextualize past criminal or dangerous behaviour
- To assist decision maker in understanding current or past barriers to giving testimony
- To identify mental health impacts of past trauma
- To prompt the positive exercise of humanitarian and compassionate discretion



Role of documentation for H&C Discretion

...“those facts, established by the evidence, which would excite in a reasonable man [sic] in a civilized community a desire to relieve the misfortunes of another — so long as these misfortunes ‘warrant the granting of special relief’ from the effect of the provisions of the *Immigration Act*.”

Chirwa v. Canada (Minister of Citizenship and Immigration) (1970) 4 I.A.C. 338



Medical evidence for H&C Discretion

- Letter from doctor/hospital explaining diagnosis and medical care required
- Hospital records
- Prescriptions for medications
- Connection to psychiatrist, psychologist or therapist, would conduct assessment and provide diagnosis and care required
- Letter from medical professional in country of nationality or expert on unavailability of care

<https://www.cleo.on.ca/en/publications/handc>

<http://schliferclinic.com/wp-content/uploads/2018/05/HC-Toolkit-2018-Update.pdf>

<https://refugeeclaims.files.wordpress.com/2017/08/hc-assessment-or-support-letter-checklist.pdf>



Appropriate Legal Aid Referrals

- *Legal Aid Certificate Program - for Basis of Claims only*
- *Refugee Law Office - some appeals*
- *Community or Specialty Legal Aid clinics*

Search by postal code:

<https://www.legalaid.on.ca/en/contact/contact.asp?type=cl>



Case scenario: health care support

- Ms. T waited 4 years for her refugee hearing. During that time she had difficulty accessing health care although she was covered by IFH. **VULNERABLE PERSONS/EXPEDITED**
- After her claim was accepted, she waited another 3 years for her children to arrive. **IMPACT OF FAMILY SEPARATION**
- She had precarious work and was required to apply for a work permit every 6 months during those years until she became a PR, coupled with a temporary SIN. She was injured at her factory job and was let go. **SUPPORT THROUGH WSIB ETC CLAIM**
- She's had limited time for ESL, as she's been working multiple jobs and sending money back home. She's unable to pass the citizenship due to her limited English. **WAIVER LETTER**



Summary of Best Practices

- Be alert & alive to migration history
- Ask if connected: to lawyer, shelter worker, social worker, settlement worker
- Communicate with advocate early if there is one
- Sign onto an open letter asking the Provincial government to reverse the legal aid cuts!

link: <https://forms.gle/4kPJSHsKmMZ1Vsmh8>

OR email healthprovidersagainstLAOCuts@gmail.com



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Feb. 12, 2019	Health and Housing Law - Dr. Andrew Bond and Benjamin Ries
March 19, 2019	Health and Family Law - Dr. Kathleen Doukas and Ishbel Ogilvie
April 9, 2019	Health and Income Security Law - Dr. Gary Bloch and Anu Bakshi
May 14, 2019	Health and Immigration Law - Dr. Vanessa Redditt and Jennifer Stone
May 28, 2019	Legal Issues affecting people living w HIV/AIDS - Dr. Gordon Arbess and Ryan Peck
June 18, 2019	Health, Law and Indigenous Peoples - Melissa Stevenson , Dr. Fatima Uddin and Emily Hill
Sept. 10, 2019*	Health and Capacity, Decision-Making, and Advanced Care planning - Dr. Bill Sullivan and Mercedes Perez
Sept. 24, 2019	Health and Employment Law - Dr. Andrew Pinto and Nabila Qureshi
Oct. 8, 2019	Health and Criminal Justice System - Flora Matheson and Promise Holmes Skinner
Nov. 19, 2019	Health and Human Rights Law - Dr. Laurie Green and Kerri Joffe



Contact

Jennifer Stone, Onsite Lawyer

Health Centre at 80 Bond, Room 1-102

Toronto, ON M5B 1X2

Tel: 416-864-3005

stonej@lao.on.ca