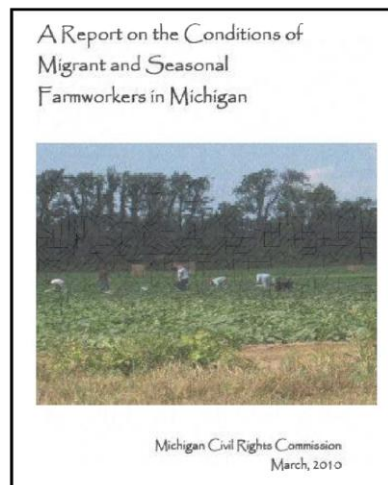
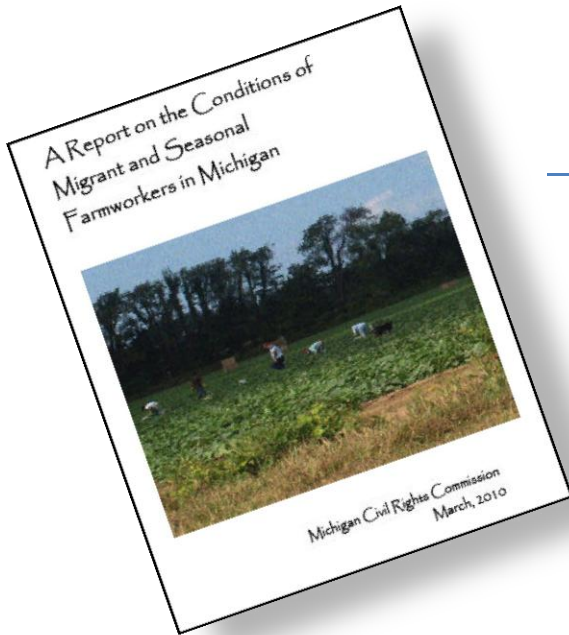


DIRECTORS' LEVEL MIGRANT AND SEASONAL FARMWORKERS (MSFW) WORKGROUP PROGRESS REPORT



PREPARED FOR THE MICHIGAN CIVIL RIGHTS COMMISSION
March 25, 2013

INTRODUCTION



This report is the final work product of the Directors' Level Migrant and Seasonal Farmworkers Workgroup (MSFW Workgroup), a direct result of the Michigan Civil Rights Commission's charge that key stakeholders meet, converse, and work diligently to implement and address the 15 Recommendations contained within the *Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan* it issued in March 2010.

On the third anniversary of the adoption of the Report and its Recommendations, the Michigan Department of Civil Rights, Michigan Department of Human Services' Interagency Migrant Services Committee (IMSC) and the MSFW Workgroup members offer this progress report. As the Michigan Civil Rights Commission acknowledged in its initial findings, the MSFW Workgroup's efforts have continued to demonstrate that there is no lack of need for progress on matters important to MSFWs and their families, employers, communities and advocates. To paraphrase the Commission's 2010 Report, this report may mark the conclusion of a project but it cannot be *the end of a process, it is a [new] beginning. It is not intended as an indictment, but as an assessment of [continuing] need. Most importantly, we hope that it will serve as a call to action.*

To capture the progress, setbacks, and the emergence of new challenges, the MSFW Workgroup adopted a four-part assessment for each Recommendation:

Achievements – actions, changes, or steps that the MSFW Workgroup stakeholders took that impact the Recommendation or its component focus area(s). Impact metrics are provided where reportable and appropriate.

Challenges – the deficiencies, hurdles, obstacles, unaddressed conditions, or other issues discovered, encountered, or raised that encumber swift resolution of the Recommendation's charge or implementation of its purpose. For economy of this Report, not all Challenges are addressed by matching Goal or Strategy statements.

Therefore, while MCRC recognizes that the budgetary restrictions faced by all State agencies make increasing the protections and support provided our seasonal migrant workforce difficult, we assert that it must be done. All of the State agencies involved must work more collaboratively, and they must work with federal and non-governmental organizations wherever possible, to ensure Michigan's migrant workforce is treated fairly in all respects. This report is not the end of a process, it is a beginning. It is not intended as an indictment, but as an assessment of need. Most importantly, we hope that it will serve as a call to action.

The Michigan Civil Rights Commission therefore directs that the Michigan Department of Civil Rights work intensely with the DHS Interagency Migrant Service Committee, other State departments and agencies, and appropriate non-governmental entities to:

Goals – the “will” statements pledged by MSFW Workgroup stakeholders toward fulfilling the Recommendation, continuing the Achievements, addressing the Challenges, and/or adopting or implementing the Strategies.

Strategies – these “should” statements, if pursued and implemented, would move the process forward, create meaningful change, and ameliorate the issues raised by the Recommendation. MSFW advocates and governmental experts view these proposed strategies as key components of ongoing and future solutions and acknowledge that some will require policy discussions and in some situations, legislative action. The proposed strategies include both statements by agencies acknowledging what they should do and requests by stakeholders that others take action. The importance of these strategies is not that they all represent full agreement on the specific approach to change or express individual commitments to do precisely defined things, but the indication of areas where we may yet achieve marked improvement through continued collaboration.

Additionally, some Recommendations are broken down into component focus areas for clarity, with each including a separate assessment of Achievements, Challenges, Goals, and Strategies. The assessments are not weighted or prioritized, and are intended to present a single overarching picture. Together the assessments represent a significant move toward an improved

Absent in this Report, however, are the voices and experiences of MSFW. At best, the voices of MSFW are only represented through the work performed by advocates and those with direct service-related contact with them during the MSFW season.

understanding of the problems presented and of where further responsibilities need to be met if conditions for MSFW are to improve.

One particularly striking outcome the MSFW Workgroup notes at the outset is the beneficial change that was created through the frequent contact, communication, and partnership between stakeholders. The level of trust and understanding that otherwise would not have been possible without the focus created by the Commission’s Recommendations is considerable, and the effects of that trust profound. Even before this cooperative process was developed the original Report was significant because several state

agencies openly accepted the recommendations as a direct call for action to better serve MSFW and their families and through their own initiative implemented changes, sought partnerships, and offered assistance to others.

Although the MSFW Workgroup notes considerable progress has been made on several of the Recommendations, others are in need of additional agency commitment. Fortunately, continued agency commitments to the IMSC, and an IMSC structure including one new and several existing subcommittees appear to ensure future leadership and unabated efforts.

Finally, although neither specifically covered in the 15 Recommendations nor specific to MSFWs, there is one additional consideration that merits mention in this report and consideration in the future. While a minority of Michigan's MSFW's are undocumented immigrants and a minority of undocumented immigrants work as seasonal farmworkers, the larger debate on immigration and the particular issue of the undocumented, are none-the-less inextricably intertwined with matters covered in this report. Anti-immigrant sentiments are certainly present in all 50 states, as are voices advocating for reform. At home, efforts to create

an image that Michigan is more welcoming of immigrants than are other states often share the spotlight with efforts to portray us as among the toughest on enforcement. Documented immigrants, and indeed US citizens of foreign decent, are frequently offended by and sometimes even directly face consequences as a result of anti-immigrant rhetoric and policy. At the very least, this rhetoric and policy negatively detract from our ability to appear genuinely welcoming to those we want to attract. Ultimately, we must recognize that we are only harming ourselves when we allow this rhetoric and our policies to negatively impact the lives of the MSFWs, on which much of this State's economy depends.

The MSFW Workgroup would like to thank all those who contributed greatly to this report and took time to provide their expertise, counsel, and leadership. In particular, the MSFW Workgroup acknowledges the contributions of Stephanie Little, Esq., who, while with Michigan Farmworker Legal Services, took it upon herself to facilitate and serve as chief architect for this report until her departure for California in January 2013. She will be sorely missed and always welcome here in the Great Lakes State.

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EXECUTIVE SUMMARY

Three years ago, the Michigan Department of Civil Rights (MDCR) created the Directors' Level MSFW Workgroup (MSFW Workgroup) in response to the 15 recommendations the Michigan Civil Rights Commission included at the conclusion of its report on the conditions faced by migrant and seasonal farmworkers (MSFW) in Michigan. Inspired by the Commission's findings, MSFW Workgroup members committed themselves to work together to address each of the recommendations to make immediate progress where possible, and assess what needed to be done over the longer term where, for whatever reason, implementing improvements would take longer. This Executive Summary, like the more detailed report that follows it, examines each of the recommendations independently.

Recommendation 1 is the first of many perennial issues. It encompasses four distinct components: maintaining capacity to conduct pre-season inspections of migrant labor housing camps that require licenses; developing capacity to conduct in-season occupancy inspections of Migrant Labor Housing Program (MLHP) licensed housing; improving the inspection process of MLHP licensed housing; and developing ways to promote inspection of all migrant labor housing. Program funding and staffing capacity were (and will be) the two fundamental issues with the greatest impact on moving this recommendation forward. Improvements are also noted in the procedures and processes used to address licensed housing.

Recommendation 2 requires that state agencies charged with enforcing MSFW protective laws (1) end their overly exclusive reliance on complaint-based enforcement by conducting programmed inspections and, (2) consistently levy appropriate fines for violations. To achieve industry-wide compliance, proactive enforcement strategies by these agencies should emphasize programmed inspections, site visits and investigations, and the levying of fines sufficient to deter severe, repetitive, and systemic abuses, and eliminate habitual offenders. Increased outreach to MSFWs through bilingual and bicultural staff will also improve discovery of deficiencies and hazards requiring corrective action and help lessen obstacles to reporting violations that MSFW encounter in their daily lives. As with other Recommendations, staff capacity to fulfill the established need remains a challenge.

Recommendation 3 calls for aggressive investigation, enforcement, and outreach conducted by agencies responsible for enforcement of state and federal minimum wage laws (LARA Wage and Hour and USDOL WHD respectively). As detailed in the original Report, complaint-based enforcement is ineffective in gaining agricultural employers' compliance with state and federal statutes.

Recommendation 4 restates the call for the Interagency Migrant Services Committee (IMSC) to remain proactive and continue to work collaboratively to actively identify and rectify gaps in services, duplication of services, and other issues of concern for MSFWs. The MSFW Workgroup sees the IMSC as a vehicle to maintain the achievements, address the challenges, hold stakeholders accountable for their stated goals, and move the proposed strategies forward.

Recommendation 5 asserts that the purpose of the IMSC is assessment and resolution of issues associated with the delivery of services to migrants, and the provision of recommendations to the Governor and other state and local policymakers regarding migrant programs. In addition, the IMSC's diverse membership provides both extensive experience in service delivery to MSFWs

and knowledge of the agricultural industry. Due to the unique perspective and extensive experience of its members, the IMSC is an ideal forum a candid dialogue on the successes and failures in providing efficient and effective services to MSFWs. To implement this Recommendation, the IMSC requires the continuing priority commitment of each of its members, who must continue an open dialogue on the appropriate placement of specific functions across state agencies. Such dialogue will help overcome resistance to change.

Recommendation 6 works toward efficiency and involves improvements to the interagency referral process, as well as cross-training employees to assist in identifying violations outside their area of expertise. A rigorous schedule of available, recommended, and required training for off-season professional development should be implemented across MSFW-responsible agencies.

Recommendation 7 focuses directly on the daily activities of the MSFW and demonstrates the importance of an informed and well-educated workforce. Improvements in access to drinking water and sanitation, along with proper food handling processes, not only improve the lives of MSFWs, but will directly impact heightened national concern over food safety.

Recommendation 8 requires extensive cooperation with the Michigan State Police in presenting necessary trainings and/or joint publications of educational materials for Michigan law enforcement. Without the MSP's participation, service providers face continued piecemeal contacts with law enforcement and inconsistent interpretations and enforcement by different agencies. Law enforcement must work through collaborative efforts, trainings, and careful tracking and analysis of alleged violations to ensure proper and consistent use of police powers, and to identify and eliminate incidents of racial and/or ethnic profiling.

Recommendation 9 recognizes that the necessary broad understanding of issues affecting MSFWs was possible only because the MSFW Workgroup sought input from agencies and organizations with expertise in MSFW issues who have traditionally collaborated through the IMSC. Their presence helped facilitate dialogue about agency policies and procedures by providing governmental representatives with an audience that was eager to understand the scope of programs. The participation of these stakeholders in the MSFW Workgroup also proved invaluable through their unique perspective on how agency practices and laws directly affect MSFWs in their work, homes, and daily lives. Without ties to state agencies, these stakeholders could offer suggestions on legislation and administrative rules without concerns of creating conflict with internal agency politics and pressures. Because the objective of Recommendation 9 was to identify possible legislative changes that would advance the goals of the other 14 recommendations, the **MSFW Workgroup lists the identified prospective legislative amendments as Achievements, though because they remain un-enacted they must also be recognized as forward looking Strategies.**

Recommendation 10 was successfully accomplished, as funding was secured, data collected, and an updated Enumeration Report is expected to be released in 2013. However, as this is also an ongoing concern, the IMSC will need to continue to seek funding to conduct future enumeration studies, expand them to include dairy workers and other "non-traditional" MSFWs, and develop a method to enumerate the MSFW population on a regular basis.

Recommendation 11 identifies two areas of vital concern for farmworkers – driving and marriage – and calls for effective dialogue between MSFW advocates and public officials to reverse a trend toward the further legal isolation of MSFW. From one perspective,

Recommendation 11 inaptly conflates two very distinct and unconnected issues. Implementing Recommendation 11 requires engaging separate and distinct elected officials and administrative staff. To complicate matters, debate, policy, and legislative mandates at the federal level were, have been, and continue to be an ongoing force and continue to interact on state policies in unpredictable ways. To reconcile these complexities, Recommendation 11 should address issues related to a MSFW choosing to make Michigan his or her residence by applying for a driver's license or state ID and how MDOS could provide better service and information to the community seeking these state-issued documents. Although a very public question at the time the report was written, marriage licenses, while important, are processed by the elected 83 county clerks, and should not be tied either directly or indirectly to the Secretary of State or MDOS. These issues are therefore addressed separately.

Recommendation 12 recognizes that Michigan is unique among other “receiving” states in the migrant stream, in the number of entire families, as opposed to single workers, who regularly travel to Michigan for the harvest season. In October 2009, before release of the Report, the issue of illegal child labor in agriculture garnered some media attention including an *ABC News* investigation of illegal child labor in Michigan's blueberry fields; ABC's *Nightline* subsequently aired a full report on its program. Other local and national news outlets followed up on the story.

As discussed in the Report, the (un)lawful use of child labor in agriculture is extremely complex. Children as young as 12 are lawfully allowed to perform certain non-hazardous agricultural work, provided that a parent work for the same employer. Anecdotal evidence suggests that due to the low wages paid to MSFWs, the entire family often must work together to earn enough to meet basic necessities (food, shelter, clothing, and costs of migrating). MSFW parents are less likely to conscript their children to work if the parents receive a living wage and services such as childcare and educational programming are readily available. The successful implementation of this Recommendation thus hinges largely on the increased enforcement of child labor laws and access to appropriate childcare and education.

Recommendation 13 recognizes that pursuant to Title VI of the Civil Rights Act of 1964, recipients of federal financial assistance must ensure that language barriers do not exclude Limited English Proficiency (LEP) persons from meaningful access to the recipient's benefits and services. The Report outlined numerous instances in which LEP MSFWs were denied meaningful access to public services, especially in communities that receive a large influx of Spanish-speaking MSFWs during the harvest season. To fulfill this Recommendation, agencies must offer LEP MSFWs meaningful access to services. State agencies can achieve this through any number of mechanisms such as by hiring and retaining sufficient bilingual employees, developing and following language assistance plans (LAP) incorporating LEP protocols, using assistive technology, and offering materials to enhance communication with LEP individuals.

Recommendation 14 gave rise to the cooperative spirit that enabled so much progress to be made during the past three years. Immediately following the release of the 2010 Commission Report, directors from various state agencies began meeting monthly to discuss the Report and the implementation of the Recommendations. Over time, agency directors delegated attendance at monthly meetings to agency employees with expertise in programs and priorities of the agency. Agency representatives from MDCR, DHS, MDARD, WDA/SOM, SOS, MDE and MIOSHA continue to meet monthly, with occasional attendance by the directors. Non-governmental representatives from the IMSC, including Farmworker Legal Services, Michigan Farm Bureau, Telamon Head Start and Michigan Primary Care Association (MPCA) were also

invited to the MSFW Workgroup meetings and continue to attend monthly. Implementation of this recommendation requires maintenance of current collaborative levels through continued monthly meetings, active participation by agency directors or their designees, and continued involvement and feedback by IMSC members.

Recommendation 15 was the first to be fully accomplished, and yet is arguably the most important to regularly revisit to assure the progress initiated by the Commission's 2010 report and is not allowed to regress. It represents the Commission's mandate that the Department of Civil Rights commit resources to addressing the conditions facing MSFWs. The ultimate objective of this Recommendation is to maintain focus on the conditions of MSFWs, institutionalize collaboration in implementing the Recommendations and to ensure continued progress. In addition to the 2010 Commission Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan, between 1965 and 2010 numerous reports regarding conditions of MSFWs in Michigan were issued. As noted in the 2010 Report, despite the abundance of reports, recommendations, and reviews issued during this 45-year period, little real improvement could be identified, and in some cases the conditions had deteriorated. Essential to ensuring that the 2010 Report and Recommendations succeeds in positively impacting the conditions of MSFWs in Michigan is the institutionalization of continued monitoring, reporting and collaboration between state agencies and MSFW service providers via the IMSC.

RECOMMENDATIONS REPORT



Recommendation 1: Identify ways to improve migrant labor housing inspections. This includes both ensuring that present inspection levels are maintained and finding ways to inspect housing after occupancy to ensure that it is not allowed to fall below minimum legal requirements while in use, ensuring enforcement of maximum occupancy limits for individual units, preventing minors from living in a unit with unrelated adults, or any other changes that can be identified to better protect the occupants of such housing. The percentage of total seasonal migrant labor housing that is inspected must be maintained, or even better, increased.

This recommendation encompasses four distinct components: maintaining capacity to conduct pre-season inspections of migrant labor housing camps that require licenses; developing capacity to conduct in-season occupancy inspections of Migrant Labor Housing Program (MLHP) licensed housing; improving the inspection process of MLHP licensed housing; and developing ways to promote inspection of all migrant labor housing. Program funding and staffing capacity were (and will be) the two fundamental issues with the greatest impact on moving this recommendation forward. Improvements are also noted in the procedures and processes used to address licensed housing.

Maintain Pre-Season Licensing Inspection Capacity

- Achievements
 - Agricultural producers and migrant labor advocates were successful in instituting a MLHP license application fee in Fiscal Year (FY) 2010 and restoring general fund revenue for FY 2011 and FY 2012. This allowed MDARD to continue operation with five inspectors and borrow management and administrative support for migrant labor housing inspections.
 - MLHP has updated its pre-season licensing inspection procedure manuals and is using the updated material to train inspection staff for the 2013 licensing year.
- Challenges
 - Throughout FY 2010 and FY 2011, the MLHP struggled to manage the workload of one inspector that was on extended medical leave and a second inspector who was working out of class as the MLHP manager.
- Goals
 - MDARD will continue to work with the administration, Legislature, and partner organizations to maintain funding sufficient to conduct pre-season migrant labor housing inspections.

- MDARD will conduct pre-season licensing inspections at all of the approximately 850 commonly licensed housing locations in Michigan.
- Strategies
 - The MSFW Workgroup has not identified any additional strategies at this time.

Develop Capacity for Programmed In-Season Occupancy Inspections

- Achievements
 - Agricultural producers and migrant labor advocates supported a current services baseline adjustment in the MLHP FY13 budget. MDARD has hired and is training four new staff members for the 2013 season. With seven inspectors in the field, the MLHP will be able to return to conducting in-season occupancy inspections during the 2013 licensing year.
- Challenges
 - As MDARD has not conducted programmed in-season occupancy inspections for over a decade, extensive preparation and training is necessary to ensure efficient and effective in-season inspections are conducted.
- Goals
 - MLHP will draft written procedures for in-season occupancy inspections and train field staff to follow the new procedures.
 - MLHP plans to conduct at least 200 (25%) in-season inspections during 2013. MLHP will use these inspections to resolve occupancy problems and test and improve occupancy inspection procedures.
 - MLHP plans to conduct occupancy inspections at all licensed camps during 2014 and will evaluate if risk-based approaches to in-season inspection could improve overall compliance in future years.
- Strategies
 - The MSFW Workgroup has not identified any additional strategies at this time.



Improve Migrant Labor Housing Inspection Process

• Achievements

- Increasing the number of MDARD inspectors to seven has dramatically reduced assigned service areas. Time previously spent by inspectors driving over large portions of the state will now be spent in camps working with housing providers to improve operations and living conditions.
- MDARD is now using the Imaging Repository for Michigan Agencies (IRMA) to archive MLHP license applications, inspection reports, water sample results, and camp infrastructure records. Documents are imaged and indexed electronically rather than maintained in paper files. These process improvements have reduced inspectors’ administrative workload, thereby allowing them more time in the field.
- The Department of Environmental Quality (DEQ) water laboratory now sends water sample kits directly to housing providers and conducts a standard set of water quality tests. The DEQ lab sends the results of the analysis via email directly to MLHP staff. These process changes have improved staffing efficiency and licensing response time.
- MLHP is working with USDOL WHD and MIOSHA to review state Agricultural Labor Camp Rules (R. 325.3601 et seq.) along with Part 511 Temporary Labor Camp requirements to identify both technical and interpretative differences between the requirements and agencies.
- MLHP convened the “Rule 3 Advisory Board” (established pursuant to R. 325.3603), which last met on April 30, 2010. The Structure/Budget Sub-Committee met and issued recommendations on September 6, 2011. MDARD has implemented a majority of the recommendations of this Sub-Committee.
- MLHP has updated its bilingual Rules and Guidelines for Camp Operators and Residents, sent copies to all migrant labor housing providers as part of the 2013 licensing application package, and posted the document on its licensing website for easy access.
- MLHP program is now issuing inspector business cards in English on one side and Spanish on the other side to facilitate the receipt of complaints and referrals from non-English speaking workers or their families. MDARD bilingual staff are available to facilitate discussion when needed.
- MLHP is updating procedures for calculating camp and living unit capacity and associated living unit naming conventions in an effort to eliminate the mixing of families with children with unrelated adults.
- Normally, industrial hygienists, not safety officers, enforced occupation health standards such as Occupational Health Standards, Part 500, Field Sanitation, and Part 511, Temporary Labor Camps. In 2010, MIOSHA cross-trained safety officers in west Michigan to enable them to conduct inspections at farms in response to complaints or referrals about hazards for migrants working in agriculture fields or at temporary labor camps. This more than doubled the staff available to conduct inspections related to Parts 500 and 511 in western Michigan.



- In 2012, MIOSHA established a position for an industrial hygienist (IH) specialist whose purpose is to monitor, track, and provide oversight of MIOSHA’s complaints, referrals, and inspections related to the Field Sanitation and Temporary Labor Camps Standard. This IH Specialist works in conjunction with the Health Supervisor in District 1, Grand Rapids, to ensure coordinated and immediate response to complaints or referrals filed by or on behalf of migrant workers. Both the IH Specialist and the District Health Supervisor are direct contacts for outreach workers or MSFW advocates who wish to make a referral or ask questions related to rules listed in Parts 500 and 511.
- Due to the potential serious injury/possible death to a migrant who is working in the field, MIOSHA opens all investigations related to exposure to high levels of heat stress without water or suitable toilet/hand washing facilities the day the complaint/referral is received and no later than first thing the next morning.
- MIOSHA opens all complaint/referral inspections related to unsatisfactory temporary housing facilities as soon as possible and normally within 24-48 hours.
- Challenges
 - Although the MLHP has drafted bilingual notices of camp operators’ and occupants’ responsibilities, the rules associated with Part 124 of the Public Health Code have not been amended to require camp operators post these documents.
 - MLHP has drafted but not finalized or distributed bilingual complaint forms for occupants to file complaints regarding camp conditions and facilities.
 - MLHP camp licenses state the total allowable occupancy for the camp but do not define allowable capacity of individual living units. Occupants presently have no way to determine the maximum occupancy of individual units, allowable occupancy period, or other restrictions, reducing access to the complaint process and compliance with occupancy restrictions.
 - When the MLHP inspects migrant housing units and determines the units are in substantial compliance with state standards for agricultural labor camps, MLHP may issue a temporary license and require that the camp operator make necessary repairs before the expiration of the temporary license and before granting a full license. Camps are often occupied during the temporary license period, resulting in the MLHP allowing occupancy in camps with minor violations.
 - Due to staff time constraints, MLHP inspectors often do not return to re-inspect to verify that camp operators/owners have implemented the necessary corrective actions.

Per a 1972 Consent Decree, the MLHP is mandated to:

- Develop and to require to be prominently posted in all licensed agricultural labor camps, bilingual notices of camp operators’ and occupants’ legal responsibilities consistent with the duly-adopted Agricultural Labor Camp Rules (R. 325.3609).
- Develop bilingual complaint forms addressed to MLHP for occupants to file complaints regarding camp conditions and facilities, and require that such forms be readily available to residents of all licensed agricultural labor camps.

- In spite of recruitment and selection process efforts, none of the MLHP inspectors are fluent in Spanish. This limits programmatic capacity to respond to occupant concerns at sites where none of the occupants are proficient in English. MLHP staff selection efforts are described in Recommendation 13.
- Goals
 - MLHP will expand both pre-season and in-season inspection protocols to include triggers for temporary vs. full licenses, as well as methods to verify that camp operators have implemented corrective action plans in a timely manner.
 - MLHP will work to develop procedures and infrastructure necessary to track recurring violations and housing provider implementation of corrective action plans, efficiently and effectively. This is a component of a Department-wide inspection business process review covering all the inspection programs in MDARD. Procedures such as marking mattresses that have been deemed unfit for use to ensure that they are removed from the camp and flagging structural damage requiring repair are being considered to alert MLHP inspectors of un-remedied violations during in-season inspection or the following year's pre-season inspection.
 - MLHP will continue to work to obtain compliance with living unit-specific occupancy limits. Some approaches being considered include adding living unit-specific information to the face of the license or some form of placarding that details the allowable number of occupants, structural occupancy period based on heating capacity, and single family vs. same-gender group utilization.
 - MLHP will finalize and distribute a bilingual information sheet for use during 2013 in-season inspections describing whom to contact in the event the camp owner does not resolve housing issues in a timely manner.
 - MLHP will work with its Advisory Board to determine if the rules under Part 124 of Michigan Public Act 368 of 1978 should be amended to require posting of both owner and occupant responsibility documents and bilingual complaint referral documents in a conspicuous location dedicated to these sorts of materials and camp operational rules as defined by the camp owner.
 - MLHP will continue to work with MIOSHA and USDOL to clarify technical differences between rule requirements and interpretive differences. Once these agencies understand and document these differences, MDARD will work with the Migrant Labor Housing Advisory Board to develop a rule set for promulgation that improves consistency.

MLHP rules (R 325.3601 et. seq.) cover shelter infrastructure, sanitary facilities and privacy, and allowable occupancy configurations.



- Strategies
 - The MSFW Workgroup has not identified any additional strategies at this time.

Promote Inspection of All Migrant Labor Housing

- Achievements
 - MLHP, MIOSHA, and USDOL have met several times to identify ways to promote efficiency of inspections and increase the total number of migrant housing units inspected each year.
 - MLHP Advisory Board – Budget and Structure Sub-Committee has met several times to provide policy guidance on: off-farm rental housing; on-farm employment conditional housing used by non-migrants; owner-occupied housing; and the advisability of registering or licensing housing provided to fewer than five workers.
 - MLHP Advisory Board – Budget and Structure Sub-Committee has finalized seven recommendations that include: resumption of in-season inspections of all agricultural labor camps subject to licensing under current law, encouraging clarification of MLHP’s authority under existing law to inspect and license certain “off-farm” worker housing, and stating that MDARD should not pursue program expansions at this time, such as registering camps with four or fewer workers or expanding services associated with field sanitation, worker protection or food safety audits.
 - The USDOL WHD has been conducting occupancy inspections at approximately 40 camps per year since 2009.

Of the estimated 90,000 migrant agricultural workers and their families who come to Michigan each year, only about 22,000 (25%) are known to occupy migrant housing.

	2010	2011	2012
Estimated Number of Migrants	90,000	90,000	90,000
MLHP Licensed Housing Capacity	22,857	22,610	21,005
Migrants in Uninspected Housing	67,143	67,390	68,995
Percent Living in Licensed Housing	25%	25%	23%

- MIOSHA uses MLHP camp owner information records and other sources to facilitate communication of MIOSHA rules for temporary labor camps and field sanitation requirements to as many agricultural employers in Michigan as possible. Beginning in 2009, MIOSHA sent outreach letters to more than 1,400 agriculture employers and continued this through 2011. These letters described the requirements of Parts 500 and 511 and provided contact numbers for the MIOSHA Consultation, Education, and Training Division and with the General Industry Safety and Health Division.
- In 2012, MIOSHA sent outreach letters to approximately 1,400 potential agricultural employers that included information on the hazards of heat stress for employees working in agricultural fields. These outreach letters also described MIOSHA requirements to provide these employees with potable drinking water, hand washing and toilet facilities,

and information on methods agricultural employers should use to prevent these employees from experiencing heat stress illnesses.

- Through regular dialogue facilitated by IMSC and the MSFW Workgroup, MDARD, MIOSHA, and USDOL have adopted referral procedures to attempt to facilitate inspections of temporary labor camps by the appropriate state or federal agency (*See Recommendation #6*). During the main seasons when migrant workers are present in Michigan, MDARD and MIOSHA personnel discuss areas of concern weekly or biweekly. Whenever MDARD or USDOL receives a complaint about a temporary labor camp that has five or fewer employees, these complaints are immediately emailed or faxed to MIOSHA for handling.



- MLHP has expanded its memorandum of understanding (MOU) with WDA to include the inspection of housing used by workers under both Inter-State and Intra-State Clearance Orders. This has the potential to increase the amount of migrant housing

inspected in Michigan.

- Based on a referral in 2011, MIOSHA inspected multiple locations of in-town temporary migrant housing provided by a crew leader. Based on these inspections, MIOSHA successfully persuaded the agricultural employer (who contracted with the crew leader) to have the housing licensed by MDARD.
- Challenges
 - MLHP's jurisdiction only extends to migrant labor housing in which five or more migrant agricultural workers live. The safeguards provided by housing licensure are only provided to 1 in 4 migrants traveling to Michigan to harvest and pack fresh fruits and vegetables, based on the estimated 90,000 MSFW who come to Michigan each year and the available housing capacity.
 - In-town housing and housing provided by crew leaders exists with little to no regulatory oversight and often is in violation of federal and state health and safety standards.
 - Michigan relies on federal oversight and a federal registry of crew leaders who bring workers, provide housing, and transport migrant workers for work in Michigan. Lack of English proficiency can create the potential for worker abuse. While some states require crew leader registration and training, and track crew leaders who provide housing, Michigan does not.
 - Full-time farm employees are known to live in some former migrant or temporary agriculture labor housing. This conversion, from migrant or temporary agriculture labor camps to year-round housing, puts settled-out farmworkers at risk of occupying housing that lacks sufficient heating capacity for year-round use. MDARD, MIOSHA, and USDOL housing regulations are applicable only to migrant or temporary labor camps, not year-round housing.

- MIOSHA is responsible for protecting all employees (4,000,000+ full-time workers and 90,000 MSFW [est.]) in Michigan. Based on the MIOSHA Strategic Plan, high priority program requirements, and allocations of staff based on the need to protect all Michigan workers, MIOSHA responds only to complaints or referrals involving temporary labor camps. Unlike MDARD, MIOSHA does conduct inspections in response to complaints or referrals at temporary labor camps where there are five or fewer employees. MIOSHA’s Strategic Plan currently does not include programmed inspections at temporary labor camps.
- MIOSHA had planned to do programmed field sanitation inspection during the summer of 2012, under its special emphasis program related to hazards covered by Part 500, Field Sanitation. Due to weather-related crop failures that led to far fewer migrant workers in the fields, MIOSHA did not pursue this based on other priorities. All MIOSHA programmed inspections are assigned and conducted in accordance with OSHA policies/procedures and MIOSHA Strategic Plan goals and objectives as well as the MIOSHA Field Operations Manual.
- USDOL WHD inspects approximately 40 camps per year, pursuant to the investigation of violations of other federal laws such as the Fair Labor Standards Act or the Migrant and Seasonal Agricultural Worker Protection Act.
- Goals
 - MLHP, MIOSHA, and USDOL will continue to identify inspection activity and actively engage the IMSC Housing Sub-Committee and ad hoc stakeholders. The goal is to identify unmet need, the appropriate level of state and federal protection to meet those needs, and processes for uniform implementation applicable to all migrant labor housing.
 - MIOSHA does have a special emphasis program related to hazards covered by Part 500, Field Sanitation. Under this program, in addition to responding to employee complaints or referrals, MIOSHA plans to conduct programmed field sanitation inspections during the summer of 2013, when workers in agricultural fields are exposed to potentially high heat stress levels.
 - MLHP will work with the Migrant Labor Advisory Housing Board to evaluate its authority and ability to inspect all potential “agricultural labor camps” meeting that definition in the Public Health Code, Part 124 of Michigan Public Act 368 of 1978 (MCL 333.12401(b)). This includes all categories of migrant housing that the MLHP currently “exempts” by informal policy such as rental housing under the oversight of a local licensing authority. With expected crew leader involvement in off-farm housing, the MLHP, MIOSHA and USDOL may explore coordinating efforts to provide inspection of off-farm housing occupied by migrant labor.

A MIOSHA inspection at a temporary labor camp to confirm employer compliance with Part 511 is considered a “health” inspection. Health inspections are conducted to prevent employee illnesses.

“Safety inspections (audits)” are conducted to confirm employer compliance with safety standards, such as lockout/tagout or machine guarding requirements. Safety inspections are conducted to prevent employee injury.

- Strategies
 - MIOSHA should acknowledge the wealth of research supporting the Report's finding that, "Agriculture is among the most hazardous industries in the United States, and farmworkers are at a high risk for fatal and nonfatal injuries." [Report, p. 43]. Additionally, the Report contained numerous findings and examples showing that MSFWs often do not complain to governmental agencies, or even seek medical care for workplace injuries, due to crew leader intimidation, concerns about their immigration status, or fear of retaliation. [Report pp. 21, 45, 49, 51, 58].
 - MIOSHA should initiate "programmed inspections" of migrant labor housing occupied by "fewer than five" farmworkers. This would be consistent with the OSHA "State Plan" (1974075) that pledges that the State of Michigan will "conduct field inspections at *all migrant labor camps on a statewide basis*...annually before the agricultural labor season starts to insure that all camps meet minimum standards." Although the MLHP has licensing jurisdiction over camps housing "5 or more" agricultural migrant workers, it is MIOSHA's responsibility to inspect (although not license) the remainder.
 - Adequate funding, staffing, and legal mandates should be secured for governmental agencies (e.g., MLHP, MIOSHA, USDOL WHD, DCH, and DHS) to fully collaborate and coordinate to ensure that all temporary agricultural labor housing is annually inspected and/or otherwise certified as compliant with requisite state or federal migrant housing and health and safety standards, regardless of the number of occupants.
 - Due to the general lack of disaggregated data specific to MSFW, the IMSC should request enforcement agencies (i.e., MLHP, MIOSHA and USDOL WHD) report regularly on the number of inspections and investigations involving MSFW performed in Michigan and the results of these inspections/investigations.
 - The IMSC should use the new MSFW Enumeration Study (*See Recommendation 10*) to determine how many farmworkers are living in unlicensed housing and where this housing may be located. This information will assist collaborating state agencies in efficiently and effectively coordinating inspection efforts.
 - Under the auspices of the IMSC, policymaking officials of state and federal agencies and organizations with authority or responsibility for ensuring the health and safety of migrant labor housing in Michigan (MLHP, MIOSHA, USDOL and advocacy organizations including MLA, FLS, and MFB) should continue to meet regularly to develop and implement necessary referral and complaint protocols and forms.

Recommendation 2: Ensure swift, certain, systemic and sufficient fines for housing, health and/or other violations as a deterrent to bad conduct.

Effective implementation of this recommendation requires that state agencies charged with enforcing MSFW protective laws (1) end their overly exclusive reliance on complaint-based enforcement by conducting programmed inspections and (2) consistently levy appropriate fines for violations. To achieve industry-wide compliance, proactive enforcement strategies by these agencies should emphasize programmed inspections, site visits and investigations, and the levying of fines sufficient to deter severe, repetitive, and systemic abuses, and eliminate habitual offenders. Increased outreach to MSFWs through bilingual and bicultural staff will also improve discovery of deficiencies and hazards requiring corrective action and help lessen obstacles to reporting violations that MSFW encounter in their daily lives. As with other Recommendations, staff capacity to fulfill the established need remains a constant hurdle.

End Reliance on Complaint-Based Enforcement by Conducting Programmed Inspections

- Achievements
 - As described in Recommendation 1, MDARD has committed to conduct programmed occupancy inspections during the 2013 harvest season in addition to the pre-season inspections.
- Challenges
 - Agencies charged with enforcing MSFW protective laws still rely primarily on “complaint-based” enforcement.
 - MIOSHA does not have the staff to conduct programmed inspections at temporary labor camps which MIOSHA’s Strategic Plan does not recognize as being an industry associated with a high rate of injury or illness
 - LARA Wage and Hour currently does not separate complaint, investigation, or penalty data by a specific type of employee (MSFW) or employer (Agriculture) from their overall data collection. LARA Wage and Hour therefore does not provide MSFW-specific data related to the number of claims, investigations, or findings for MSFW-based complaints. Insufficient data exists to demonstrate that LARA Wage and Hour conducts outreach effectively tailored to MSFWs, despite the vulnerability and historic chronic underpayment of such workers. Anecdotally, LARA Wage and Hour receives few wage complaints from MSFWs and sub-minimum wage violations remain rampant, especially among piece rate based payment schedules.
 - LARA Wage and Hour has stated it can only investigate wage claims under Act 390, Michigan Payment of Wages and Fringe Benefits, after it receives an employee complaint and that it does not have the authority to conduct programmed inspections.

Penalties for all MIOSHA-issued citations are calculated in compliance with Public Act 154 of 1974, OSHA policies/procedures, and the MIOSHA Field Operations Manual (FOM).

MIOSHA is not allowed to treat any type of employer or working environment more severely (in terms of penalties assessed) than any other type of employer or work environment; e.g., agricultural employers cannot be issued higher fines than industrial employers.

LARA Wage and Hour has also acknowledged that it can and does conduct outreach to employer and agency groups.

- Goals
 - MIOSHA will conduct programmed inspections related to the requirements of Part 500, Field Sanitation, during the 2013 season.
 - MDARD will provide IMSC Recommendation Implementation Sub-Committee with information on the number of programmed pre-season licensing inspections, in-season occupancy inspections, and complaint/referral-based inspections conducted each year.
 - MDARD staff is scheduled to provide training to IMSC participants on the establishment and use of performance metrics, intermediate indicators, and outcomes.
 - MIOSHA will issue an annual report(s) on the Field Sanitation Standard and the Temporary Labor Camp Standard complaints/referrals and/or inspections that involve MSFW. MIOSHA is willing to provide written copies of the annual summary logs of all migrant-related inspections once it closes all of the inspections initiated during a given year.
- Strategies
 - MDARD and LARA Wage and Hour should provide the IMSC with information on the number of programmed and complaint-based inspections and sanctions resulting from these inspections conducted each year.
 - LARA Wage and Hour should conduct outreach to MSFW, consistent with its acknowledged outreach to employer and agency groups, where its investigators could then simultaneously take Employee Wage Complaints from aggrieved MSFW before initiating investigations.
 - MDCR, IMSC, and the State Monitor Advocate should closely track and analyze MSFW enforcement agency activities to promote efficiency, effectiveness, and provide guidance for future seasons to assist enforcement agencies in coordination of these activities.
 - LARA Wage and Hour should develop the capacity to track complaints, investigations, and penalty data by employee type (MSFW) and employment sector (Agriculture).

Proactive enforcement, clarity of process, and certainty of judgment have benefits beyond MSFW protection.

Levying of Fines and Penalties

- Achievements
 - MDARD continues to investigate violations of operating migrant labor housing without a license and follows agency protocols relative to issuance of administrative fines. MLHP uses Compliance Agreements to improve administrative efficiency and improve camp housing conditions. The MLHP combination of administrative fines and agency-directed investments in housing improvement has so far proven effective. The standard penalty for a first offense is a \$4,000 fine coupled with an additional \$4,000 in MLHP inspector-directed housing improvements.

- USDOL issues fines for violation of individual rules and addresses housing, wage and hour, and working conditions as part of a comprehensive inspection process.
- Since 2009, MIOSHA General Industry Safety and Health Division has tracked all complaints, referrals, and inspections that involve migrant issues.

2009-2010: MIOSHA conducted 30 onsite inspections on farms to investigate complaints or referrals related to field sanitation or temporary labor camps; two MSFW fatalities were also involved. Citations and/or penalties were issued to 16 employers in accordance with the MIOSHA Field Operations Manual. All employers cited were asked to and did correct all violations immediately. Total penalties for years 2008-2010 were \$18,850.

2011: MIOSHA conducted 10 onsite inspections on farms to investigate complaints or referrals related to either field sanitation hazards or temporary labor camps; one programmed inspection involved field sanitation issues. MIOSHA issued a total of five serious citations and five other-than-serious (OTS) citations with \$3,000 in penalties.

2012: MIOSHA conducted seven inspections in response to employee complaints or referrals. MIOSHA cited eleven violations, including six serious and five OTS citations with total penalties of \$1,550.

NOTE: MIOSHA opened all of the above MIOSHA inspections within 24-48 hours of receiving the complaint or referral.

- MIOSHA has conducted outreach to housing providers informing them of potential fines associated with housing and field sanitation violations with the intent of promoting compliance. MIOSHA has also participated in outreach sessions sponsored by the Michigan Farm Bureau. (*See* previous sections on outreach letters and seminars for agricultural employers).
- Challenges
 - MLHP does not have authority to issue fines for violations of individual rules. Their authority is limited to the fines for occupancy without a license. Although the majority of housing providers implement corrective actions in a timely manner, the lack of authority limits MLHP ability to compel changes when faced with uncooperative migrant housing providers.
 - No research has been conducted on the impact of violations, citations, compliance, or the issuance of fines/penalties to adequately describe whether enforcement actions have resulted in improved housing conditions or promoted continued non-compliance.
 - LARA Wage and Hour cannot legally assess penalties unless an employer does not voluntarily come into compliance. Penalties are assessed in accordance with statutory regulations. For example, LARA Wage and Hour assesses a 10% per annum penalty and possible civil penalty of 50% of the amount, not to exceed \$1,000 and \$300.00 civil penalty for failure to provide records when a claim cannot be resolved informally and a formal determination order is issued. LARA Wage and Hour is allowed to apply double

finest only for employers who have committed a flagrant or repeat violation. (See Recommendation #3).

- MSFWs regularly complain of retaliation for asserting their rights. Such retaliation includes, but is not limited to, termination, eviction, and physical threats. Enforcement agencies have not adequately investigated retaliation complaints and anti-retaliation laws have not been effectively enforced. Enforcement agencies assert that all MSFW discrimination complaints that have been received are promptly investigated and that during inspections/investigations, information is provided that describes employee rights such as the right to file a discrimination complaint.
- MDARD has more stringent regulations for temporary labor camps than MIOSHA in several instances (e.g., electrical, lighting, and water testing requirements). Gaining compliance with MDARD's regulations is often preferable, especially if a MIOSHA rule has not been violated, because the requirement is less stringent than those of MDARD. MIOSHA cannot cite the MDARD regulations.
- Goals
 - MLHP will work with its Advisory Board to evaluate creation of an MOU with MIOSHA facilitating the referral of unresolved rule violations for enforcement under Part 511 Temporary Labor Camp authority.
 - MLHP will work with its Advisory Board to evaluate the establishment of enforcement authority when housing providers over-occupy individual living units or the camp as a whole.
- Strategies
 - Better data collection and reporting practices, along with impact metrics, should be developed and implemented by enforcement agencies.
 - All state agencies charged with enforcing MSFW protective laws should produce annual reports and performance metrics summarizing enforcement activities and distribute this information to the IMSC and to the public. The MDCR proposes to facilitate this effort as detailed under Recommendation #15.
 - MIOSHA should respond to complaints of severe violations at all migrant labor housing camps (even those "covered" by MDARD) because MIOSHA, unlike MDARD, has the authority to levy fines for substandard conditions.
 - LARA Wage and Hour should regularly levy maximum fines, such as treble damages and civil penalties for confirmed violations, where the employer has committed a flagrant or repeat violation.
 - Enforcement agencies should prioritize allegations of retaliation against workers who file complaints or communicate with enforcement agencies. Such allegations should be promptly investigated, employers should be advised that retaliation is illegal and anti-retaliation statutes should be strictly enforced.
 - Agencies charged with enforcement of MSFW health and safety standards should begin to conduct programmed outreach tailored toward educating growers/farmers, crew leaders and, more significantly, MSFW and their families.



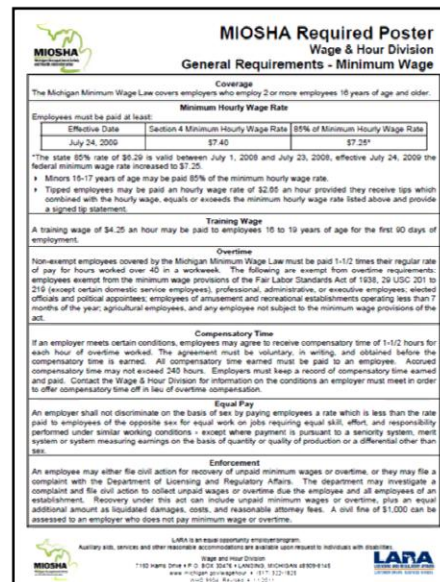
Recommendation 3: Ensure migrant and seasonal farmworkers are not paid less than the required minimum wage due to insufficient “piece rates” or other reasons.

This recommendation calls for aggressive investigation, enforcement, and outreach conducted by agencies responsible for enforcement of state and federal minimum wage laws (LARA Wage and Hour and USDOL WHD respectively). As detailed in the Report, complaint-based enforcement is ineffective in gaining agricultural employers’ compliance with state and federal statutes.

- Achievements
 - LARA Wage and Hour submitted the following suggested rule changes relating to agricultural employment to the LARA Office of Policy & Legislation. (After review and approval, the suggestions are submitted to the Governor’s Office of Regulatory Reinvention for consideration and possible action).
 1. R 408.711 Scale of piecework for harvesting vegetables.
Recommended changes to the rule will clarify that the rate of pay for harvesting fruits and vegetables be at least the equivalent of the minimum hourly wage rate. Piecework rates have not been modified since 1979.
 2. R 408.712 Scale of piecework for harvesting fruits.
Piece rates have not been updated in the rules since 1979. All employees are required by the Minimum Wage Law to receive the equivalent of the minimum hourly wage rate when harvesting fruit at a piece rate.
 3. R 408.713 Scale of piecework for sorting and bunching strawberry plants.
Piece rates have not been updated in the rules since 1979. All employees are required by the Minimum Wage Law to receive the equivalent of the minimum hourly wage rate when sorting and bunching strawberry plants at a piece rate.
 - In Spring 2011, MIOSHA, MDARD, USDOL, and LARA Wage and Hour participated in an outreach presentation for outreach workers from the DELEG Bureau of Workforce Development [now Workforce Development Agency, State of Michigan (WDA/SOM)]. For several years, LARA Wage and Hour has also participated in an outreach seminar held in Lawrence, MI, each May.
 - LARA Wage and Hour refers collection issues to the Michigan Attorney General’s office for enforcement of fines. For fiscal year 2012, Act 390 Payment of wages claims were resolved informally 74% of the time and 62% were within 90 days. Act 154 claims were resolved informally 90% of the time and 85% within 90 days.
 - For US DOL data on minimum wage violations in Michigan for 2010-2012 see www.ogesdw.dol.gov.

- Challenges

- LARA Wage and Hour currently does not provide MSFW-specific data related to the number of repeat offenders, claims, investigations, findings, or awards for MSFW-based complaints due to data collection limitations.
- LARA Wage and Hour presently initiates an investigation only upon receipt of a completed Employment Wage Complaint Form. Complaint-driven enforcement is ineffective as a remedy for “wage theft” among MSFWs as they are typically reluctant to lodge complaints for reasons discussed in detail in the Report.
- As of February 7, 2013, LARA Wage and Hour accepts online employment wage complaints through an online portal that does not require a physical signature to initiate an investigation, however this process is only available in English. As an electronic transaction, this process does not address the limited capacity or ability for MSFW to have both computer and Internet access to initiate the complaint submission process. A paper version of the form, in both English and Spanish, is available online and at Michigan Works offices.
- Throughout 2010-2011, LARA Wage and Hour faced staffing shortages that contributed to its limited capacity to timely and thoroughly investigate wage complaints. With only one employee with limited Spanish language skills who provides referral services and answers questions from Spanish speakers, LARA Wage and Hour has insufficient capacity to investigate complaints from Spanish-speaking individuals. LARA Wage and Hour seeks to hire additional Spanish speaking employees and asks about Spanish language proficiency during interviews.
- When LARA Wage and Hour or an Administrative Law Judge awards back wages, treble damages, and/or civil penalties for a state wage claim, collection is not aggressively pursued. Many claimants wait months after the close of the investigation to receive payment, while others never receive payment.
- LARA Wage and Hour does not conduct outreach directly to MSFW to educate them about their rights and assist them in completing Employment Wage Complaint Forms.
- In wage claim cases, inaccurate contact information for the worker hampers payment/restitution, particularly where the claimant moves after filing the claim. In this event, any funds collected toward a claim are transferred to the Michigan Department of Treasury until the claimant contacts LARA WAGE and HOUR and provides a new address. Claimants are always encouraged/reminded to provide the division with an updated address.



- Goals

- The MSFW Workgroup has not established any additional goals at this time.

- Strategies
 - LARA Wage and Hour should take the necessary steps to become proactive in educating agricultural employers and enforcing the state minimum wage and payment of wage laws. Such steps may include seeking legislative authority authorizing LARA Wage and Hour to initiate enforcement actions under the Michigan Minimum Wage Law rather than requiring an Employee Wage Complaint Form to initiate an investigation into allegations of “wage theft.”
 - LARA Wage and Hour should adhere to its current administrative rules concerning the assessment of penalties (R 408.9033) and exemplary damages (R 408.9034) and, specifically, should award treble damages whenever “the Act was deliberately and knowingly violated” with respect to the nonpayment of wages earned by MSFWs.
 - LARA Wage and Hour should evaluate and streamline its collection process to increase the rate of payment and decrease the average time a claimant waits to receive payment of the judgment in Employee Wage Complaint actions.
 - LARA Wage and Hour should conduct outreach to MSFWs to educate workers on their rights and assist workers in completing Employment Wage Complaint Forms where violations are alleged.
 - LARA Wage and Hour should provide training to WDA agricultural outreach workers on completing Wage Complaint Forms (WHD-9430). Any MSFW Wage Complaints received by WDA AES outreach workers, the State Monitor Advocate and/or MichiganWorks! should immediately be referred to LARA Wage and Hour and any other appropriate enforcement agency (e.g., USDOL WHD). LARA Wage and Hour should make MSFW complaints an investigation priority. This would address the difficulty faced by migrant workers who are only in Michigan for a brief time and receipt of their full wages is critical to their livelihood while in Michigan.
 - All agencies that provide services to MSFWs should watch for indications of minimum wage violations and assist MSFWs in completing an Employment Wage Complaint Form.



Recommendation 4: Build upon the efforts of the Interagency Migrant Service Committee to coordinate the actions of State agencies that deal with migrant farmworker programs, growers, migrant support service providers and other community leaders with the continuing goal of improving services to all parties, avoiding duplication of effort, and improving the living and working conditions of migrant farmworkers and their families.

In 1976, Governor Milliken designated DHS (then Department of Social Services) “as the single agency to assess, develop, and cooperatively administer Michigan’s services to migrants.” The IMSC is chaired by the DHS Director of Migrant Affairs. The IMSC continues to meet monthly with the objective of improving the living and working conditions of MSFWs through the coordination of MSFW services. To complete this Recommendation, the MSFW Workgroup sees the IMSC as a vehicle to maintain the achievements, address the challenges, hold stakeholders accountable for their stated goals, and move the proposed strategies forward.

- Achievements
 - In 2010, the IMSC completed and approved a Five Year Strategic Plan, which emphasized the following long-term goals:
 - Increase awareness of the value and contribution of MSFWs and their families among the public, policymakers, agencies and other stakeholders;
 - Ensure the fundamental human rights of MSFWs;
 - Enhance the communication and coordination among the IMSC members to effectively and efficiently provide timely services;
 - Coordinate, develop, research and publish reports on the state of Michigan MSFWs and their families; and
 - Review and develop policy recommendations to strengthen advocacy for MSFWs.
 - Several delegates from IMSC regularly attend the MSFW Workgroup. The IMSC delegates have provided invaluable insight to the MSFW Workgroup in analyzing and effecting the implementation of the Report Recommendations. The IMSC delegates’ participation in the MSFW Workgroup has also served to make more state department directors aware of the IMSC and to understand the importance of encouraging their key staff to participate .

- Since the publication of the Report, the IMSC has attracted new and renewed interest from agencies and organizations that previously had not regularly attended the monthly meetings.
- In March 2012, DHS filled the DHS OMA director position that had been vacant for approximately 14 months. This position convenes and chairs the IMSC and coordinates the allocation and training of seasonal DHS caseworkers who serve MSFWs.
- In September 2012, the DHS OMA hired a department analyst - a new, critically needed position that supports the functioning of the IMSC in addition to other duties.
- Challenges
 - DHS staff turnover delayed implementation of the IMSC Five Year Strategic Plan.
- Goals
 - The IMSC will review and update the Five Year Strategic Plan in 2013, ensuring that the Plan furthers implementation of the 15 Report Recommendations. Implementation of the Strategic Plan will begin in 2014.
 - The IMSC will create a Recommendation Implementation Sub-Committee, and include the MDCR Commission Liaison (see Recommendation 15) as a member. The sub-committee will ensure that metrics are established to measure progress on the implementation of the Report Recommendations and report on its activities at IMSC meetings.
 - The IMSC Recommendation Implementation Sub-Committee will issue an annual report of actions taken by IMSC member agencies to implement Report Recommendations and improve services to MSFWs. The MDCR Commission Liaison will present the annual report to the Commission and participating agency directors.
 - The IMSC Housing Sub-Committee will continue work on Recommendations 1 and 2. The subcommittee will monitor and where necessary coordinate a minimum number of outreach visits per year for each migrant housing location in Michigan. The intent is to cover all licensed housing as well as smaller unlicensed housing locations on a set cycle. The outreach visits will inform occupants of their legal rights, collect information on violations and retaliation, and then refer violations to appropriate agencies and provide representation for migrant workers who are victims of retaliation.
 - The IMSC Outreach Sub-Committee will work to provide all members with advance notice of annual or any other grower/worker conferences or outreach so each agency can participate in these events.
 - Enforcement agencies and the IMSC Outreach Sub-Committee will seek additional opportunities to support and augment grower education programming by providing education on state and federal housing, wage and hour, and anti-retaliation requirements.
 - The IMSC Outreach Sub-Committee will continue to advance the broad adoption and use of the IRF for tracking potential violations that put MSFW at risk.
 - Under Recommendation 12, the IMSC Migrant Child Task Force will continue to coordinate services to migrant children.

- The IMSC will continue a systematic review of the overall system of services available to MSFWs and the individual agencies charged with enforcement of MSFW housing and health and safety regulations. The objective is to improve delivery of services, avoid duplication of efforts, leverage available state and federal funding sources, maximize enforcement of existing laws protecting MSFWs, and improve the living and working conditions of Michigan's MSFWs and their families.
- The IMSC Data Task Force will continue to pursue full implementation of Recommendation 10.
- Strategies
 - The Global Michigan initiative should designate a representative to participate in the IMSC to support implementation of this Recommendation.
 - The Governor's Interdepartmental Immigration Group should designate a representative to engage the IMSC to support implementation of this Recommendation and commit to addressing existing and future challenges to its full implementation.

Recommendation 5: Work with the Interagency Migrant Service Committee to determine whether the goal of improving the living and working conditions of migrant farmworkers and their families could be better met by reassigning specific functions from one department/agency to another.



A stated purpose of the IMSC is assessment and resolution of issues associated with the delivery of services to migrants, and the provision of recommendations to the Governor and other state and local policymakers regarding migrant programs. In addition, the IMSC's diverse membership provides both extensive experience in service delivery to MSFWs and knowledge of the agricultural industry. Due to the unique perspective and extensive experience of its members, the IMSC is an ideal forum for a candid dialogue on the successes and failures in providing efficient and effective services to MSFWs. To implement this Recommendation, the IMSC requires the continuing priority commitment of each of its members, who must continue an open dialogue on the appropriate placement of specific functions across state agencies. Such dialogue will help overcome resistance to change.

- Achievements
 - MDARD has been working with MIOSHA and USDOL to coordinate service delivery and improve consistency in rule application.
 - MDARD and WDA/SOM have expanded the scope of the memorandum of understanding covering housing inspections associated with the placement of workers via inter- and intra-state clearance orders. This improves administrative efficiency and creates a level playing field for housing providers.
- Challenges
 - In at least one instance where state agency duties and functions were reassigned, capacity, effectiveness, and expertise was lost. When enforcement of State child labor laws was transferred from LARA Wage and Hour (*DELEG* at that time) to the MDE, the change appears to have been made without considering the prevalence of child labor violations in agriculture. Without investigators, a complaint protocol or enforcement experience, the MDE cannot adequately enforce State child labor laws. These

consequences could have been avoided if this issue was discussed with the IMSC before the re-organization. (See Recommendation 12).

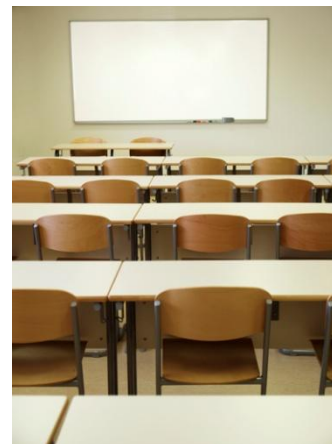
- Goals
 - The IMSC representing the interests of MSFW-serving agencies, will make itself widely known for its expertise and availability to provide key insights on MSFWs to help ensure that administrative changes and departmental reorganizations do not produce results detrimental to the interests of MSFWs.
- Strategies
 - MDCR, in consultation with the IMSC, should assess which agencies are contributing to which components of MSFW services, and then analyze the effectiveness of service delivery. In conducting this analysis, the central focus should be risks and benefits to MSFWs. When problems in provision of services are identified, the agencies involved should determine whether the problem could be remedied (and the Recommendation implemented) by a consolidation, transfer, or other change of responsibility.
 - The IMSC should evaluate state agencies' plans for improving services to MSFWs consistent with the Report Recommendations, analyze the effectiveness of such plans, and recommend potential collaborations, transfers, or consolidations of responsibilities among existing agencies to more effectively and efficiently use available resources to provide comprehensive protection and services to MSFWs.
 - The Global Michigan initiative should designate a representative to participate in the IMSC to support implementation of this Recommendation.
 - The Governor's Interdepartmental Immigration Group should designate a representative to engage the IMSC to support implementation of this Recommendation and commit to addressing existing and future challenges to its full implementation.

Governmental inertia creates a natural disincentive to explore alternative impact models to address MSFW health, safety, and working conditions. As many Recommendations disclosed, putting MSFW to the forefront of the discussion (MSFW-centered process) will shift the spotlight to the functions, benefits, and risks to MSFW, help address this inertia, and create resilience against internal and external pushback.

○

Recommendation 6: Identify how, and, where necessary, implement cross-training of State employees working onsite with growers and/or farmworkers in one area of expertise, to also function as additional observers on behalf of other departments and agencies.

This Recommendation involves improvements to the interagency referral process, as well as the cross-training of employees to assist in identifying violations outside their area of expertise. A rigorous schedule of available, recommended, and required training for off-season professional development should be implemented across MSFW-responsible agencies.



Referral Process

- Achievements
 - MDARD, MIOSHA, IMSC Outreach Sub-Committee, and the Workforce Development Agency, State of Michigan (WDA/SOM) developed an Interagency Referral Form (IRF) that prompts the individual making the referral to include information necessary to document and identify the type of violation alleged, as well as the appropriate recipient of the referral. The IRF has been distributed to the IMSC and throughout the network of nine regional Migrant Resource Councils. Small group and webinar-based trainings were conducted during the last three years, on the use and submittal of the form.
 - In 2008, targeted agency personnel and MSFW stakeholders submitted 12 IRF complaint notices to MDARD. In 2009, this increased to 28, and by 2010, the number of referrals was 67.
- Challenges
 - Many agency workers and service providers at the ground level are unfamiliar with and sometimes averse toward using the IRF. Seasonal training on the purpose and appropriate use of the IRF is necessary.
 - Although IMSC members discuss referrals during meetings, no institutionalized system has been developed to track IRF submissions, the number or type of complaints generated, or a means of documenting and reporting referral outcomes. (MIOSHA has this capability and does this for matters it receives). Without an adequate system in place and capacity to handle either a sudden influx or sustained increase in the use of the IRF over time, the very tool being used to improve interagency cooperation can overwhelm the agency systems without helping the intended beneficiaries from increased enforcement and compliance resulting from the form's use - MSFWs.
- Goals
 - Starting in 2013, MDARD expects increased participation by MLHP inspectors in local MRCs. The MLHP inspectors can use the MRCs as a forum for discussing appropriate referral procedures to employees and outreach staff.

- MDARD is developing an agency-wide inspection system to handle programmed inspections as well as complaints or referrals. Once operational, this system may help automate the components of referral tracking that fall within MDARD's authority.
- The IMSC will develop a system to track interagency referrals and identify potential improvements to the referral process. Referral data will include date, referring agency, receiving agency, location of violation, and follow-up, including investigations and corrective action taken. Members will report on referrals made and received, and this information will be made available to all IMSC members.
- MLHP will continue to use a risk-based approach to its referral responses. However, additional staff and associated smaller service areas will improve MLHP's ability to respond in both a thorough and timely manner.
- Strategies
 - Ground-level employees and outreach staff should be provided with training on the use of the Interagency Referral Form each agricultural season. Supervisors should address employees' reservations about using the form to document referrals.
 - Interagency Referral Form recipient agencies should report on receipt and resolution of IRF filings.

Cross-Training

- Achievements
 - In the summers of 2010 and 2011, the IMSC Outreach Sub-Committee coordinated two webinar series targeted to seasonal outreach workers and permanent staff of state, federal and non-profit agencies serving MSFWs in Michigan. The *Outreach Worker Educational Webinar Series* included the following topics: Personal Safety for Outreach Workers (2010 & 2011); Reporting Apparent Violations & Complaints (2010 & 2011); Cultural Competence & Communication (2010); Human Trafficking (2010); Farmworker Legal Rights (2010 and 2011); and Camp Access & Child Labor (2011). The webinars also covered use of the Interagency Referral Form. The Michigan Primary Care Association, an IMSC member, provided detailed evaluations. In 2010, an average of 86 agency workers participated while 47 participated in 2011.
 - DHS OMA and the IMSC conduct annual Farmworker Conferences, which serve to educate and train seasonal and permanent staff of MSFW service agencies.
 - MDE MEP and MDARD are collaborating on joint onsite training for MEP recruiters to detect potential housing violations while conducting recruitment/outreach in migrant labor housing camps.
 - WDA/SOM trains its 17 outreach workers a minimum of four times a year. Twice a year, WDA/SOM participates in joint training with the National Farmworker Jobs Program (NFJP) partners.
 - In 2010, MDARD, MIOSHA, and USDOL WHD held a comprehensive training for WDA/SOM outreach staff, where each entity described their responsibilities.
- Challenges

- Seasonal staff turnover and changing departmental policies and priorities necessitate continued annual education of outreach staff and permanent agency staff.
- Because the 2010 and 2011 webinars covering the IRF were not mandatory, many service providers chose not to participate.
- Policies limiting travel and out-of-office training for staff in many departments have caused a decrease in attendance at the Farmworker Conference. The IMSC is considering holding the Conference every other year.
- Goals
 - MDARD, MIOSHA, and USDOL will conduct at least one cross-training session per year to develop interagency awareness of trends and technical and enforcement standards.
 - DHS and the IMSC Outreach Sub-Committee are developing an in-person training for all state and non-state service providers to MSFWs which will be offered in either the summer of 2013 or early 2014. The Sub-Committee is considering offering this training every other year.
 - The IMSC Outreach Sub-Committee will develop a plan for reinstating webinars in addition to the proposed in-person biennial training.
 - MDARD will call together and conduct enforcement agency training.
- Strategies
 - Future cross-training webinars should be mandatory for all ground level and outreach employees who are likely to encounter MSFWs.
 - State agencies should develop additional opportunities for cross-training in the field. Such training could incorporate job shadowing and joint agency visits to migrant labor housing camps and worksites where appropriate.
 - The annual IMSC Farmworker and Grower Conference should incorporate a series of workshops for service providers and enforcement agencies to update attendees on activities, priority areas, and key indicators to look for and the services available. The IMSC should record these workshops and make them available for continuing education simulcast and/or incorporation into a cross-training webinar for those unable to attend.



Recommendation 7: Ensure farmworkers, growers and crew leaders are regularly informed about the legal rights of farmworkers including, but not limited to, the right to drinking water, hand washing facilities and bathrooms in the field.

Various agencies and non-profit organizations offer educational materials, trainings, and presentations to workers, crew leaders, and growers on field and camp sanitation issues in a variety of forums. Improvements in access to drinking water and

sanitation, along with proper food handling processes, not only improve the lives of MSFW, but will directly impact heightened national concern over food safety.

- Achievements
 - See <http://ogesdw.dol.gov> for OSHA Field Sanitation Standard data for Michigan.
 - MIOSHA uses MLHP camp owner information records and other sources to facilitate communication of MIOSHA rules for temporary labor camps and field sanitation requirements to as many agricultural employers in Michigan as possible. In 2009, MIOSHA began sending outreach letters to more than 1,400 agriculture employers and continued this practice through 2011. These letters described the requirements of Parts 500 and 511, provided contact numbers for the MIOSHA Consultation, Education, and Training Division as well as with General Industry Safety and Health, and refer to these units for additional assistance in complying with these regulations. In 2012, these letters were sent to the same list of employers with additional information on heat stress exposure and associated hazards when employees work in the field.
 - MIOSHA has developed and distributed two plain language fact sheets explaining the basic requirements of Part 500, Field Sanitation, and Part 511, Temporary Labor Camps. MIOSHA has provided these fact sheets during IMSC meetings and during training sessions for outreach workers. MIOSHA has also provided these fact sheets to MDARD for their housing inspectors to distribute and made them available on the MIOSHA website. Both fact sheets are available in Spanish.
 - 2009, 2010, and 2011: MIOSHA, MDARD, LARA Wage and Hour (formerly DELEG), and USDOL participated in training of outreach workers (e.g., WDA/SOM) via seminars and/or webinars. These outreach training sessions described MIOSHA requirements for Field Sanitation and TLC Standards. The presentations were provided to attendees for future reference.
 - 2010: MIOSHA, MDARD, and LARA Wage and Hour collaborated in the creation of the Interagency Referral Form to be used by anyone from any state or private agency to refer alleged hazards to either MDARD or MIOSHA. The purpose of this form is to ensure that all required information for each agency is promptly provided on a single form and directed toward the appropriate agency (ies).

- During the seasons when migrants are present, MIOSHA and MDARD converse regularly by phone with outreach workers (particularly those from WDA/SOM) who have questions about temporary labor housing or field sanitation regulations.
- Michigan Farm Bureau regularly sends its agricultural employer members newsletters with information on various legal issues.
- Local MRCs, WDA/SOM, Michigan Farm Bureau, and MSU Extension hold “Grower Meetings” each winter where grower advocates and state agencies (MDARD, MIOSHA, etc.) present information on a variety of issues including employers’ legal obligations.
- Some MRCs hold pre-season and post-season meetings for growers, crew leaders, MSFWs, and service providers where experts are invited to present on various topics related to the legal rights of farmworkers.
- Michigan Farm Bureau offers one-on-one “safety visits” with agricultural employers to analyze their compliance with state and federal law.
- FLS and MIRC regularly distribute issue briefs on various legal issues, published in both Spanish and English, and are made available to workers, crew leaders, growers, and service providers.
- FLS publishes calendars each year in both Spanish and English that contain extensive information on numerous legal issues. FLS provides these calendars to MSFWs during outreach visits. Other service providers and state agencies are also supplied with these calendars, and their outreach workers distribute them to additional MSFWs.
- Through the IMSC and the MRC member agencies, workers, growers, crew leaders and agency staff are provided outreach materials (usually in Spanish and English). These materials explain MSFWs’ legal rights to minimum wages, safe housing, employer-provided drinking water, hand washing facilities, bathrooms in the fields, and other worker protection standards, including workers’ and staffs’ rights to file complaints alleging violations of such standards, and to be protected against retaliation for filing such complaints.
- Each year, the nine MRCs are required to create an Agency Guide of local resources for MSFWs. The new Office of Migrant Affairs Department Analyst provides technical assistance to MRCs and will enable the OMA to ensure that MRCs develop and publish the Agency Guides in a timely manner.
- Challenges
 - Although members distribute educational materials at IMSC and MRC meetings, these materials are not compiled or organized. The IMSC has not developed an efficient way to make educational materials easily accessible to all IMSC members.
 - Some IMSC and MRC members do not actively distribute other service providers’ educational materials.

National concerns over food safety can be/are addressed through proper knowledge, skill, and practices at the farm/grower level. MSFW are uniquely positioned to affect positive change to the national food supply.

- Participation by MSFW advocates/stakeholders at “Grower Meetings” and MRC pre- and post-season meetings is limited by the lack of notice and advertising by host agencies. At times MSFW advocates have been excluded from presenting at “Grower Meetings,” thereby preventing the presentation of a balanced view of farmworker rights, employer obligations, and agency responsibilities.
- Goals
 - The MSFW Workgroup has not identified any additional goals at this time.
- Strategies
 - The IMSC should create a central repository of member agencies’ educational materials, which should be made accessible to all IMSC members.
 - To ensure growers and crew leaders are regularly informed about the legal rights of farmworkers, “Grower Meetings” should include presentations by state and federal agencies charged with protecting and enforcing MSFW rights, including MDARD MLHP, MIOSHA, USDOL WHD, LARA Wage and Hour, the State Monitor Advocate and FLS. This will also help ensure a balanced view of MSFW rights and grower/crew leader responsibilities.
 - Through the IMSC and the MRC structure, government agencies and MSFW service providers should continue to produce multi-lingual informational materials and distribute them widely (e.g., via outreach and Spanish-language radio and newspapers) to migrant families upon their arrival in Michigan. This targeted outreach would familiarize MSFWs with their rights and responsibilities regarding housing, working conditions, health care, education, public services, and the services available to them when filing a complaint or obtaining benefits.



Recommendation 8: Work with Michigan State Police to clarify, and to inform both the public and law enforcement agencies about, the laws and regulations affecting the enforcement of immigration laws by police officers.

Implementation of this Recommendation requires extensive cooperation with the MSP in presenting necessary trainings and/or joint publications of educational materials for Michigan law enforcement. Without the MSP's participation, service providers face continued piecemeal contacts with law enforcement and inconsistent interpretations and enforcement by different agencies. Law enforcement must work through collaborative efforts, trainings, and careful tracking and analysis of alleged violations to ensure proper and consistent use of police powers, and to identify and eliminate incidents of racial and/or ethnic profiling.

Michigan State Police

- Achievements
 - In July of 2010, the MSP presented to the MSFW Workgroup a suggested instructive letter and sample guidelines on law enforcement's interaction with individuals suspected of being undocumented. The MSP suggested that it would coordinate issuing this guidance with the Michigan Association of Chiefs of Police (MACP) and the Michigan Sheriffs' Association (MSA).
 - Between July 2010 and July 2011, FLS and MSP were in regular communication to try to revise the proposed guidelines and an instructive letter. FLS submitted numerous revised drafts to MSP, and held two in-person meetings with MSP representatives about the revisions. In May of 2012, the MDCR Director met with the MSP Director to discuss MSP's continued participation in the MSFW Workgroup, including finalizing the letter and draft guidelines, and identifying ways to build relationships between law enforcement and the MSFW community. The MSP Director indicated that MSP would resume participation in the MSFW Workgroup, finish revisions to the letter and guidelines, and offered to commit MSP Community Relations Officers to present information to MSFWs and MSFW service providers on road rules and traffic stops. See Challenges section below.
 - On March 4, 2013, MSP completed revisions to Official Order 36 along with a draft letter and model guidelines on profiling. The Executive Boards of the Michigan Sheriffs' Association (MSA) and Michigan Association of Chiefs of Police (MACP) will present the draft letter and guidelines for review to their respective bodies in late March/early April 2013. Once approved, MSP, MSA, and MACP will distribute the cover letter and guidelines to all Michigan law enforcement agencies. MSP will also make these materials available to MDCR for additional distribution among service agencies, advocates, and MSFWs.
 - MSP and the Sheriff Departments in Manistee and Mason Counties have continued to collaborate with WDA/SOM and local growers to continue *Project Respecto* every harvest season in those areas. The goal of *Project Respecto* is to improve relationships between law enforcement and MSFWs.

- On November 21, 2012, the United States Department of Homeland Security issued its *Guidance on Providing Language Assistance to Other Law Enforcement Organizations*. (See <http://foiarr.cbp.gov/streamingWord.asp?i=1233>).
- Challenges
 - MSP does not have jurisdiction, administrative control, or legal authority over the policies and procedures promulgated or adopted by Michigan’s law enforcement agencies. The lack of a single controlling agency makes the need for professional cooperation and buy-in an essential component for achieving “industry wide” cooperation.
 - Progress on the Recommendations has been slow, but there are very positive signs that the issues presented in Recommendation 8 will be addressed by June 2013.
 - MSP ceased meaningful participation with the MSFW Workgroup following dramatic and somewhat frequent organizational changes. Three separate directors each delegated a different point person to oversee progress on Recommendation 8. Following the MSP Director’s appointment in 2011, this responsibility was delegated to the Office of the Director. These changes and other issues of precedence inhibited MSP’s full and ongoing participation with the MSFW Workgroup.
 - MSP missed an opportunity to attend the annual Farmworker Appreciation Day event in the summer of 2012 that numerous MSFWs and service providers. Their attendance and participation would have helped broaden the scope and reach of MSP’s highly successful program, *Project Respecto*.
 - Through the Community Service Troopers, the MSP intends to bring *Project Respecto* to many more in the MSFW community. The MSP’s newly formed Grants and Community Service Division is actively pursuing opportunities to engage the MSFW community to build relationships between the MSFW community and law enforcement. MSP is actively pursuing opportunities early in the 2013 season to engage with the MSFW communities in West Michigan. *Project Respecto* is not a one-way program only intended to educate MSFWs. Educating law enforcement is equally important, and that outcome is a main component of the program.
 - MSFWs and service providers continue to complain of instances of apparent racial and ethnic profiling by state and local law enforcement like the testimony outlined in the Report.
 - As evidenced in the Report by statements of law enforcement officers regarding practices and biases toward individuals that appear to be undocumented, additional training on racial and ethnic profiling is desperately needed.
- Goals
 - MDCR will continue to coordinate the development and distribution of a profiling policy memorandum to law enforcement agencies in partnership with MSP.
 - MSP is actively pursuing opportunities early in the 2013 season to engage MSFW communities in West Michigan.
- Strategies

- The MSP should resume and continue discussions with MDCR and the IMSC about the proposed guidelines and instructive letter, and should take necessary steps to finalize the document, coordinate with the MSA and MACP, and disseminate the guidelines and letter to all state and local law enforcement.
- An MSP Representative should resume regular participation in the MSFW Workgroup.
- State and local law enforcement agencies should implement mandatory training for law enforcement officers on diversity, racial profiling, and legal limitations on their enforcement of immigration laws. Sources of potential trainings have been identified.

Other Agencies and Service Providers

- Achievements
 - MDCR and its partner agencies have established an ALPACT (Advocates and Leaders for Police and Community Trust) consortium in Flint and Grand Rapids, modeled on the initial ALPACT established in the 1990s in Southeast Michigan. ALPACTs are coalitions of law enforcement and advocacy agencies that meet regularly to discuss the prevention of racial profiling by law enforcement.
 - The MSFW Workgroup meetings have included discussions of how MDCR could effectively track instances of alleged profiling. MDCR’s complaint log already allows for such tracking. However, additional training is needed on the issue of racial and ethnic profiling of immigrants.
 - FLS, MIRC, and several other immigrant advocacy organizations in Michigan have access to a national database in which instances of alleged racial and ethnic profiling and other misconduct by law enforcement can be recorded and organized. The various agencies with access to the database are able to view non-confidential information on other agencies’ entries, thereby allowing extensive tracking and analysis, without risking breach of client confidentiality.
- Challenges
 - Between 2009 and the present, only 15 of 417 racial profiling complaint contacts received by MDCR were based on race/national origin where the basis for the law enforcement action was Hispanic/Latino. None of these instances constituted profiling based on the claimant’s actual or perceived immigration status, which is not covered under the Elliott-Larsen Civil Rights Act as an enumerated protected class. The reason for the low number of recorded incidents is twofold. First, the MDCR has not sufficiently advertised itself as both a repository for complaints of racial or ethnic profiling nor as an agency sufficiently positioned to intercede in state law claims. Individuals with immigration-related violations face a considerable hurdle in that if a local law enforcement officer engaged in profiling and subsequently initiated detention and removal through federal agencies, MDCR would be powerless to intercede. The public is not fully aware of the function of the MDCR and the appropriate means to file a complaint. Second, considerable distrust exists within the MSFW community about all aspects of governmental “enforcement” agencies. Moreover, as discussed in other sections of this report, complaint-based/initiated enforcement activity itself is or creates an additional disincentive for MSFW to exercise their rights.

- The various immigrant advocacy agencies with access to the national profiling database have not engaged in discussions to streamline their tracking systems, nor have they publicized the profiling database to potential complainants. Limited non-profit resources prevent optimal use of the database.
- Goals
 - The MSFW Workgroup has not identified any additional goals at this time.
- Strategies
 - MDCR should publicize its complaint line (in Spanish as well as English) as an appropriate venue to report profiling. Such publicity could be achieved through community education and advertisements and making the complaint web portal available in non-English (Spanish) formats.
 - MDCR should train intake workers and investigative staff on identifying racial and ethnic profiling when such discrimination appears to be based on actual or perceived immigration status. MIRC has expressed interest in offering this training.
 - The various non-profit immigrant advocacy agencies with access to the national profiling database should collaborate to create uniformity in entry protocol to streamline the process and promote accurate tracking of profiling incident data in Michigan.
 - MDCR and agencies with access to the national profiling database should create annual reports and make them available to the IMSC. The MDCR, IMSC, and other stakeholders should collaborate to ensure federal, state, and local law enforcement agencies are notified of any problem areas or trends made apparent by these reports.



Recommendation 9: Identify specific amendments to Michigan law that could be made to address concerns raised in the report.

To gain the broadest understanding of issues affecting MSFWs was possible only because the MSFW Workgroup sought input from agencies and organizations with expertise in MSFW issues who have traditionally collaborated through the IMSC. Their presence helped facilitate dialogue about agency policies and procedures by providing governmental representatives with an audience that was eager to understand the scope of programs. The participation of these stakeholders in the MSFW Workgroup also proved invaluable through their unique perspective on how agency practices and laws directly affect MSFWs in their work, homes, and daily lives. Without ties to state agencies, these stakeholders were able to make suggestions regarding legislation and administrative rules without concerns of creating conflict with internal agency politics and pressures. Because the objective of Recommendation 9 was to identify possible legislative changes that would advance the goals of the other 14 recommendations, the **MSFW Workgroup lists the identified prospective legislative amendments as Achievements, though because they remain un-enacted they must also be recognized as forward looking Strategies.**

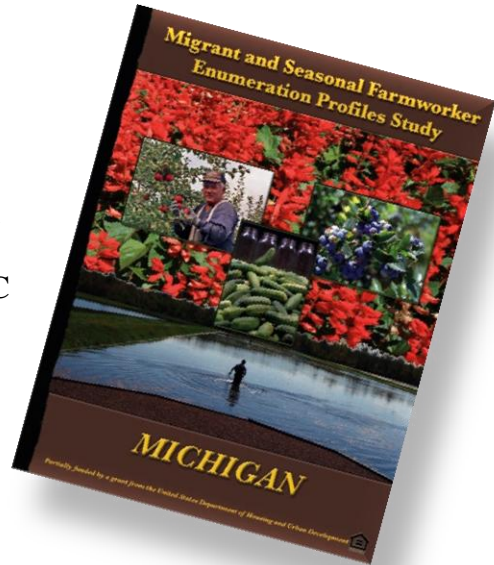
- Achievements
 - The current state law limiting eligibility for obtaining a state ID should be expanded to include eligibility for all persons employed in Michigan who can prove their identity.
 - Instead of solely authorizing complaint-driven enforcement of workplace laws, statutes enabling state enforcement agencies (such as MIOSHA and LARA Wage and Hour) should authorize and provide dedicated funding to conduct programmed inspections (i.e., workplace audits) without advance notice, whenever and wherever agricultural workers are present.
 - MLHP should be authorized to levy fines for violations of state migrant labor housing camp occupancy standards, in addition to its present authority to issue fines for unlicensed camps.
 - To ensure greater capacity and scope of current housing enforcement and licensing, potential amendment(s) to Michigan law should include enabling legislation and appropriations to operate a crew-leader/farm-labor-contractor registry and training program and a housing registry and inspection regime.
 - The Unemployment Insurance Agency (UIA) seasonal employment exemption for certain designated agricultural employers should be rescinded to be consistent with UIA eligibility of construction trades and other non-agricultural workers, to improve retention of current farmworkers and assist employers in maintaining an experienced and willing workforce.
 - The IMSC, state agencies, MSFW advocates, and farmworker service providers should review the fair labor practices for MSFWs contained in state laws of competing states, such as Oregon, California and Washington, and where appropriate, recommend

enactment of similar prescriptive laws in Michigan. Fair farm labor practices include components such as adequate rest and shade breaks, overtime compensation, and mandatory work-place injury and illness reporting.

- Worker Disability Compensation laws should be amended to extend coverage to all farm workers suffering illness or injury in the fields or packing facilities, regardless of the workers' status as piece rate agricultural employees or their lawful work authorization at the time of their work-related illness or injury.
- Challenges
 - MIOSHA is the only state agency authorized to issue fines for migrant labor housing camp violations (other than for operating an agricultural migrant labor camp without obtaining the required MDARD license). As the Report's findings suggest, MIOSHA should cooperate with MDARD inspectors to levy deterrent fines for violations of the state's agricultural labor housing law, and not just for violations of the temporary labor housing standards that fall outside MDARD's jurisdiction. However, the Governor's Office of Regulatory Reinvention eliminated the long-standing cross-reference to the MLHP standards in the MIOSHA Temporary Labor Camp Standard effective February 13, 2013. The elimination of the cross-reference in the MIOSHA Temporary Labor Camp Standard has "de-linked" these agencies, when the identified need is for greater collaboration and cooperation between agencies.
- Goals
 - Seek passage of legislation to address the issues identified in this Report.
 - The IMSC Housing Sub-Committee will evaluate the Enumeration Study (Recommendation 10 below) and make recommendations to partner agencies on amendments to Michigan law to address risks associated with unlicensed housing used by MSFW in Michigan.
- Strategies
 - The Commission should initiate discussions indicating its support for improvement in state laws affecting farmworkers, such as the suggested amendments identified above, and develop a plan on how to ensure the timely consideration, proposal, and enactment of these amendments by the State Legislature.
 - The proposal by the Governor's Office of Regulatory Reinvention to eliminate the regulatory linkage between the MIOSHA Temporary Labor Camp rules (Part 511) and the MDARD rules governing Agricultural Labor Camps (R. 325.3601, et seq.) should be reviewed and reversed to preserve the crucial, decades-long authority for MIOSHA to issue fines for violations of the Agricultural Labor Camp standards as envisioned in the OSHA State Plan of 1974 and incorporated into the MIOSHA regulations on January 1, 1975.

Recommendation 10: Find funding for and conduct an Enumeration Study to update the 2006 information.

The MSFW Workgroup successfully achieved this recommendation, as funding was secured, data collected, and an updated Enumeration Report is expected to be released in 2013. However, as this is also an ongoing concern, the IMSC will need to continue to seek sufficient funding to conduct future enumeration studies, expand them to include dairy workers and other non-traditional MSFWs, and develop a method to enumerate the MSFW population on a regular basis.



- Achievements
 - In March of 2012, the MDCR secured funding for an updated Enumeration Study through a \$50,000 grant from the U.S. Department of Housing and Urban Development.
 - In March of 2012, the IMSC Data Sub-Committee reviewed a proposal from Dr. Alice Larson, the same researcher who produced the 2006 Enumeration Study. After evaluating Dr. Larson’s proposal, the Sub-Committee recommended hiring Dr. Larson to update the 2006 Study.
 - Dr. Larson began her research during the spring of 2012 with site visits and contact with state agencies and service providers. The Enumeration Study is expected to be finalized and ready for distribution in June of 2013.
 - The DHS Communications Division has committed to help design the final Enumeration Study, provide publicity of its release, and distribute the study.
- Challenges
 - The MSFW Workgroup and IMSC have been unable to secure the \$15,000 needed to extend the Enumeration Study to include dairy workers.
 - Additional funding is required to guarantee the printing and distribution of the finalized Enumeration Study.
 - Dr. Larson estimated that to develop and test a method to synthesize all data maintained by agencies serving MSFWs in Michigan would cost \$37,800. Although MSFW Workgroup and IMSC secured an initial pledge of funding from the MDE, it was unable to secure sufficient backing to institutionalize the enumeration of MSFWs in Michigan on a regular basis, without the need to periodically contract an outside consultant to conduct an update.
- Goals

The IMSC is developing a comprehensive Report release plan to ensure wide distribution of the 2013 Study. Input has been sought from all IMSC members and all nine MRCs, as well as member agency communications departments.

- Strategies
 - The IMSC Data Sub-Committee should create a record of how the Enumeration Study is used to show the value and impact of the Study.
 - The IMSC Data Sub-Committee should secure funding to institutionalize the enumeration of MSFWs in Michigan, to include dairy workers.
 - The protocol for enumeration should be expanded to garner information on the living conditions experienced by the estimated 68,000 migrant workers and family members who are not living in licensed migrant labor housing.



Recommendation 11: Work with the Secretary of State to clarify the documentation and status requirements for both drivers’ and marriage licenses and ensure uniform enforcement by all county clerks.

This Recommendation identifies two areas of vital concern for farmworkers – driving and marriage – and calls for effective dialogue between MSFW advocates and public officials. Of the 15 recommendations in the Report, however, Recommendation 11 inaptly conflates two very distinct and unconnected issues. Indeed, to implement Recommendation 11 requires engaging separate and distinct elected officials and administrative staff. To complicate matters, debate, policy, and legislative mandates at the federal level were, have been, and continue to be an ongoing force and continue to interact on state policies in unpredictable ways.

To reconcile these complexities, Recommendation 11 should address issues related to a MSFW choosing to make Michigan his or her residence by applying for a driver’s license or state ID and how MDOS could provide better service and information to the community seeking these state-issued documents. Although a very public question at the time the report was written, marriage licenses, while important, are processed by the elected 83 county clerks, and should not be tied either directly or indirectly to the Secretary of State or MDOS. These issues are therefore addressed separately.

Secretary of State: Driver’s Licenses and State IDs

- Achievements
 - MDOS currently provides the driver operator test in 15 languages. MDOS maintains a list of approved interpreters to help customers who need a test read aloud in their language. MDOS also maintains a list of translators who can translate documents from foreign languages. The SOS-428 (Identification Requirements for a driver’s license or Personal ID Card) is available in Spanish, as is the DE-16 form (Application for a Driver’s License or Personal ID Card).
 - MDOS has participated in and shared information at many annual Refugee Conferences in Lansing and the New Immigrant Services Coalition of Mid-Michigan in Flint. The mission of this coalition was to facilitate successful integration of new immigrants and their families to life in the United States. (The coalition no longer meets.)
 - MDOS is a member of the Michigan Department of Human Services’ Refugee Advisory Council, and attends quarterly meetings with the social service and faith-based agencies assisting refugees. MDOS has also maintained a close working relationship with the Mexican Consulate in Detroit, to assist their constituents.
 - In late summer 2012, MDOS began attending the MSFW Workgroup meetings and began working directly with a subgroup on issues particular to MDOS operations. Additionally, MDOS has met on several occasions with IMSC members, including immigration advocates, to discuss the implementation of this Recommendation. As a result of these

meetings, MDOS has revised some written materials as recommended by advocates. Additionally, MDOS has been exploring cultural competency training modules for staff and is seeking video or online learning to ensure it can reach all staff without excessive disruption of services.

- MDOS has also worked successfully with the farmworker community and the international university student community to make MDOS forms more clear to help applicants understand the proper documentation required by state law for all individuals applying for a driver’s license or personal identification card. MDOS has made substantial progress with a variety of communities in providing education and clarification on state laws, which has positively affected outcomes for the groups represented.
- In direct talks with IMSC members, MDOS provided contact information for MDOS exception specialists. Exception specialists receive applications from the local offices that are found to have insufficient information and review the documentation provided. Exception specialists expressed willingness to communicate with IMSC members about such applications and the review process. An exception specialist was a panelist at the 2012 Farmworker Conference.
- On February 1, 2013, MDOS reversed its October 8, 2012, legal determination based on new information from the federal government stating “Deferred Action for Childhood Arrivals (DACA) participants who have documentation that they’re in the United States legally for a limited period of time may apply for driver’s licenses and IDs” starting February 19, 2013.
- Challenges
 - The Secretary of State is an elected government official who is responsible for the administration and oversight of the Michigan Department of State (MDOS) and its programs.
 - Although MDOS staff participated in MSFW meetings in different cities around the state, access to these groups was lost following retirements at MDARD in 2010. The groups reestablished communications in late 2012. As a result, MDOS participated as a panel member at the November 2012 Farmworker Conference in Grand Rapids.
 - Although state law establishes the qualifications and criterion for a driver’s license or state ID, the Secretary of State and MDOS rely on the federal government to determine who is and who is not in the United States legally.

MCL 257.307(b) If the applicant is not a citizen of the United States, the applicant shall provide, and the department shall verify, documents demonstrating his or her legal presence in the United States. Nothing in this act shall obligate or be construed to obligate this state to comply with title II of the real ID act of 2005, Public Law 109-13.

The secretary of state may adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as are necessary for the administration of this subdivision. A determination by the secretary of state that an applicant is not legally present in the United States may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

- In 2011, the Legislature amended the Motor Vehicle Code (MCL 257.307) through PA 159 of 2011 to clarify that individuals determined by the U.S. government as having legal presence are eligible to apply for a driver’s license or state ID.

In June 2012, the federal government established the Deferred Action Child Arrival (DACA) beneficiaries program and authorized the legal presence of certain undocumented individuals to live and work in the United States pursuant to the DACA program.

On October 8, 2012, the Secretary of State announced that based on the information provided by the federal government, DACA beneficiaries did not meet the “legal presence” requirement of the Motor Vehicle Code, and declared that DACA recipients would continue to be ineligible for a Michigan driver’s license or state ID.

In January 2013, the federal government issued additional DACA guidance indicating that DACA beneficiaries have legal presence during the period of their deferral. Based on this new information, MDOS announced that DACA beneficiaries would be eligible to apply for limited term driver’s licenses and/or state IDs under state law beginning February 19, 2013. (See *Achievements* above).

- Goals
 - MDCR will continue to monitor and advocate for the full implementation of this Recommendation, including facilitating dialogue between stakeholders, the design and delivery of meaningful training, and following state and federal legislation that impact MSFWs and their quality of life.
- Strategies
 - MDOS officials should continue to meet with MSFW advocates and immigration stakeholders to discuss the potential impact of MDOS decisions on MSFW and proposals to improve MDOS services.
 - MDOS should continue to meet with MSFW advocates and immigration stakeholders to discuss actual or perceived differences in policy, administrative, and/or legislative intent under the Motor Vehicle Code.
 - MDOS should continue to explore cultural competence training options for its employees and set forth an established program for addressing this need.
 - MDOS, MDCR, and the IMSC should continue the procedure for addressing concerns raised by MSFW and their families regarding application for a Michigan driver’s license or state ID under present or future federal legislation and/or policy guidelines.

County Clerks: Marriage Licenses

- Achievements
 - In 2010, private litigation against the Ottawa County Clerk by a national Latino civil rights organization was successful in reversing the discriminatory policy of requiring a Social Security number before issuing a marriage license in the county. A similar lawsuit was filed against the Kent County Clerk but was later dropped after the Clerk’s office

announced that it would allow those without a Social Security number to obtain a marriage license if they signed an affidavit stating they have “a legal or religious exemption.” These two legal challenges have apparently resulted in changes to policy that have, for the time being, resolved the right to marry issues in counties identified in the Report.

- Challenges
 - In general, County Clerks have not been sufficiently educated on the issues surrounding the right to marry, so it is possible that the problems encountered by immigrants caused by decisions of local officials could reemerge.
 - With the exception of complying with the legislative mandates overseen by the Office of Secretary of State (elections, vital records, and oath of office for notary public), the MDOS has no control over the policies and procedures of local County Clerks.
- Goals
 - MDCR, in collaboration with its partners, will continue to monitor MSFW issues relative to County Clerk offices and the public services provided. No individualized goals have been set at this time.
- Strategies
 - All Michigan County Clerks should become informed and follow applicable law (federal and state laws and applicable Michigan Attorney General Opinions) clarifying the proper grounds for issuance/denial of marriage licenses with respect to applicants’ immigration status or lack of a Social Security number. (See OAG 7212, 3/19/2008).
 - MDCR should conduct outreach to County Clerks, including the offer of appropriate cultural competence training, and closely monitor and investigate all reports of potentially discriminatory denials of the right to marry in Michigan.

Recommendation 12: Eliminate any and all illegal use of child labor in agriculture.

Michigan is unique among other “receiving” states in the migrant stream, in the number of entire families, as opposed to single workers, who regularly travel to Michigan for the harvest season. In October 2009, before release of the Report, the issue of illegal child labor in agriculture garnered media attention including an *ABC News* investigation of illegal child labor in Michigan’s blueberry fields; ABC’s *Nightline* subsequently aired a full report on its program. Other local and national news outlets followed up on the story.



As discussed in the Report, the (un)lawful use of child labor in agriculture is extremely complex. Children as young as 12 are lawfully allowed to perform certain non-hazardous agricultural work provided that a parent work for the same employer. Anecdotal evidence suggests that due to the low wages paid to MSFWs, the entire family often must work together to earn enough to meet basic necessities (food, shelter, clothing, and costs of migrating). MSFW parents are less likely to conscript their children to work if they receive a living wage and services such as childcare and educational programming are readily available. The successful implementation of this Recommendation thus hinges largely on the increased enforcement of child labor laws and access to appropriate childcare and education.

Enforcement of Child Labor Laws

- Achievements
 - The MDE investigator charged with enforcing the Michigan Youth Employment Act now regularly attends IMSC meetings.
 - See USDOL website (<http://ogesdw.dol.gov/>) for enforcement data on Child Labor violations in Michigan.
- Challenges
 - On February 23, 2011, Governor Snyder issued Executive Order 2011-4, which moved all functions related to enforcement of the Michigan Youth Employment Act of 1978, MCL 409.101-124 (MYEA) from LARA Wage and Hour to the MDE. The Order inhibits the enforcement of this law by reducing the staffing necessary for adequate enforcement. Before the Order, LARA Wage and Hour offices throughout the state employed 20 trained investigators who enforced the MYEA and Michigan’s other employment laws concerning the payment of wages, minimum wage, and overtime. Supporting these investigators were approximately eight secretaries providing administrative support, two receptionists answering the phone, and several supervisors trained in the enforcement of these laws. Through this transfer of authority, a single investigator is now responsible for addressing allegations of child labor violations throughout the state, as well as facilitating all work permit paperwork and granting special exemptions. This investigator has little administrative support and no colleagues

or supervisors trained in MYEA enforcement. Due to the overwhelming workload, this investigator is unable to perform programmed inspections.

- In 2011 and 2012, no MYEA enforcement actions were filed or investigated.
- The MDE accounting department has not set up an account for receipt of fines under the MYEA.
- Metrics for MSFW-specific investigations, violations, fines, and repeat offenders involving child labor are not available due to data aggregation by enforcement agencies (USDOL, LARA Wage and Hour, etc.).
- Goals
 - The MSFW Workgroup has not identified any additional Goals at this time.
- Strategies
 - Enforcement agencies should ensure adequate oversight of the work permit system and take proactive efforts to verify that employers have obtained work permits and/or other records as proscribed by the MYEA.
 - An effective referral process should be developed and disseminated to facilitate streamlined reporting of child labor law violations to the appropriate enforcement agencies.
 - Enforcement agencies should conduct unannounced, programmed inspections of worksites with high rates of illegal child labor and of known offenders of child labor laws.
 - Enforcement agencies should regularly issue the maximum fines prescribed by law to deter employers from engaging in violation of child labor laws.
 - MDCR should capitalize on its membership within the Michigan Human Trafficking Task Force and its relationship with other partners to provide educational services about child labor, civil rights protections, and human trafficking.

Childcare

- Achievements
 - Telamon Corporation - Michigan Migrant Head Start provided comprehensive services to children two weeks through five years of age (infants and toddlers), maintained active parental involvement in the decision making of the Migrant Head Start program, met state/federal requirements of providing 10% of its services to children with disabilities, and has garnered increased enrollment for the last few years with the exception of 2012.
 - Spanish-speaking parents can complete the entire online application process for DHS-supported childcare and other benefits in Spanish from DHS's website. A FAQ sheet on provider billing is also available in Spanish on DHS's website.
 - MDE created a new central office for unlicensed childcare provider enrollment in January 2013 to help streamline its process.

County	Children & Pregnant Women	% of Total Served	Children - Migrants	Children - Seasonals	Pregnant Women	Waiting Lists
Ottawa	158	13.04%	150	4	4	11
Kent Montcalm Muskegon	109	8.99%	97	12	0	11
Newaygo	35	2.89%	32	3	0	7
Oceana Mason	220	18.15%	192	27	1	34
Allegan	88	7.26%	88	0	0	16
Van Buren Berrien Cass	498	41.09%	490	7	1	111
Leelanau	42	3.47%	42	0	0	33
Manistee Benzie	32	2.64%	27	5	0	0
Monroe Washtenaw Lenawee	30	2.48%	25	2	3	4
Totals	1212	--	1143	60	9	227

- MDE OSG hired a Spanish/English bilingual employee in their centralized unlicensed provider enrollment unit to facilitate enrollment of unlicensed Spanish-speaking providers. MDE OSG also has three Spanish-speaking employees that handle billing questions from Spanish-speaking providers and parents.
- Challenges
 - To be more effective, Telamon Corporation - Michigan Migrant Head Start requires additional funding to offer more slots for infants and toddlers and to increase the weeks of service offered.
 - To improve children’s services, Telamon Corporation - Michigan Migrant Head Start noted there is a need to reduce the timeframes for children receiving follow-up care for medical services and a need for more specialists who are Medicaid providers.
 - Since 2009, the Legislature has decreased the maximum number of hours of compensable childcare from 90 hours biweekly, to 80 hours. The limited number of compensable hours is incompatible with hours typically worked by MSFWs families.
 - MDE is working with DHS to change the current Child Development and Care (CDC) application process for childcare benefits. MDE/DHS expect the processing time will decrease from 45 days to 30 days in June 2013.
 - Though DHS has made changes to accommodate Spanish-speakers, MSFW parents find it difficult to navigate the electronic application system and fulfill CDC program requirements once a case is open.

- Although becoming licensed allows for a higher rate of compensation and increased training fosters higher quality childcare, significant barriers still prevent MSFW childcare providers from becoming licensed. To become licensed, applicants must complete an application with the DHS Bureau of Child and Adult Licensing (BCAL), go through a rigorous process of home inspections, and take an orientation class. These program requirements are stymied by the very nature of MSFW living conditions.



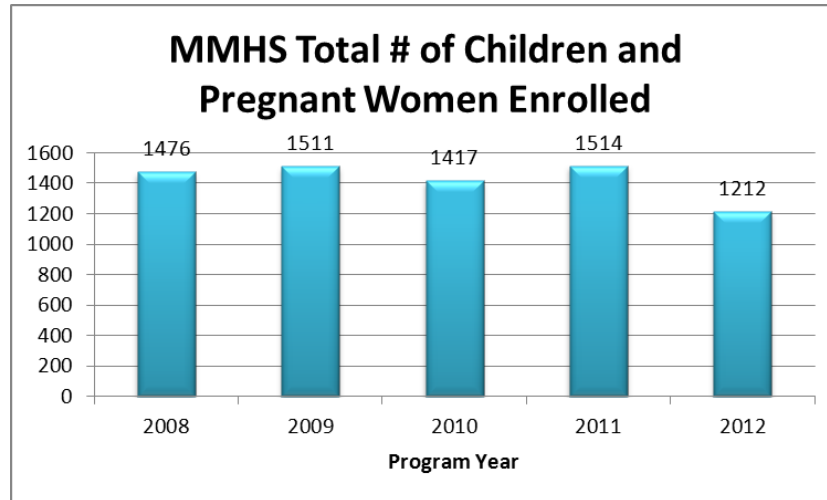
If an unlicensed provider meets MDE OGS enrollment criteria, they must take the seven-hour *Great Start to Quality* orientation before being able to get subsidy reimbursement from DHS. From 2009-January 2013, only 95 *Great Start to Quality* orientation training classes statewide were designated Spanish classes. MDE OGS is unable to determine whether these classes are meeting migrant providers' needs, because MDE OGS currently does not keep a record of locations of classes or class characteristics (i.e., language, class format) by location.

- Goals

- MDE OGS will develop a method to track the number of *Great Start to Quality Orientation* classes by location, date/time and format, language of instruction, and seasonal availability. This information will assist MDE OGS in determining whether class offerings are meeting migrant provider needs.



- Telamon Corporation - Michigan Migrant Head Start will, consistent with available funding, seek to increase enrollment numbers to meet funded enrollment and will ensure children receive all health services and follow-up care available.
- DHS has developed a Community Partner initiative that trains nonprofit organizations to assist residents in applying for benefits through MI Bridges. In spring 2013, DHS will begin large-scale partner recruitment of organizations that serve farmworkers to assist them in applying for CDC and other benefits.



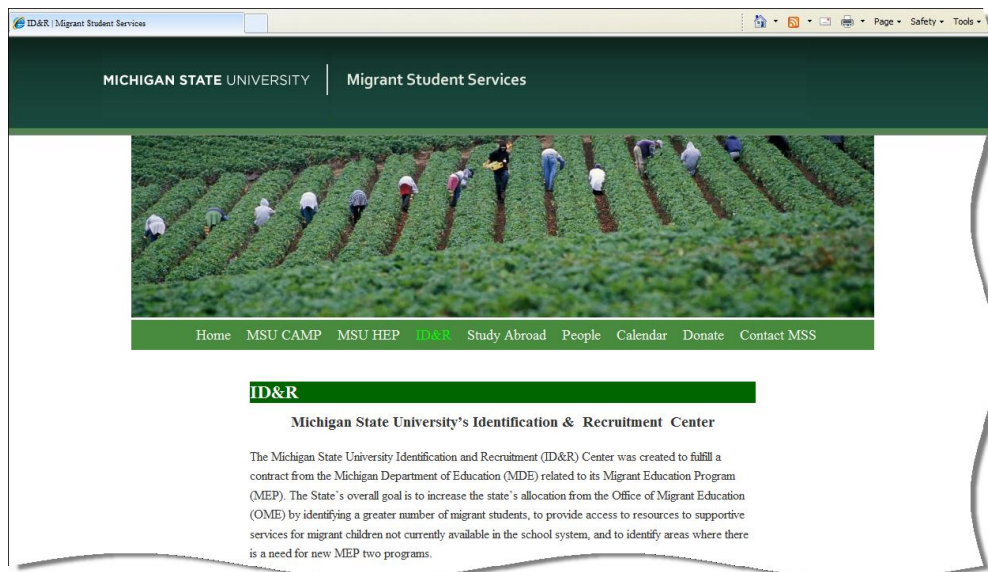
- Strategies
 - MDE and DHS should continue to streamline the childcare benefits and licensed childcare application process to further reduce processing time, increase participation opportunities for MSFW and other Spanish-speaking providers, and ensure participants are educated about program requirements. A shorter processing time for parents to receive CDC benefits would further benefit MSFWs based on the short time they work in Michigan.
 - MDE should, in areas with high numbers (concentrations) of MSFW families, adjust the methodology used for conducting community needs assessments to capture and address the unique routines, availability, and language proficiency of MSFW, particularly for classes offered March-July at the height of the MSFW season.
 - MDE should standardize class offerings at the local level, set targets for Spanish or bilingual classes, consider evening and/or weekend classes, increase classes offered March-July, and increase class offerings in areas with high numbers (concentrations) of MSFW families.
 - MDE and DHS jointly should ensure that additional materials for parents and providers are translated into Spanish, and that these materials are easily accessible on departmental websites and at local MEP/Migrant Head Start offices.

- The MSFW Workgroup should explore all feasible methods for increasing funding to non-profit MSFW service agencies, such as Michigan Migrant Head Start, to expand pre-school education and childcare to underserved MSFWs in Michigan.

Migrant Education Programs (MEP)

- Achievements

- The MDE MEP reports that the number of students participating in local Migrant Education Programs (MEP) has increased by approximately 500 from the 2008-09 school year to the 2010-11 school year even while overall counts of identified migrant children have decreased.
- The MDE MEP moved the recruitment contract to MSU establishing their Identification and Recruitment (ID&R) Center in 2011. ID&R Centers are charged with identifying students that live outside other MEP service areas and in school districts without MEP operations. It is the second of two ID&R Centers that identify migrant children across the state. The MSU Center operates in 53 counties and the Detroit, Thumb, East-Central and Northern areas of the Michigan.



- In March 2013, MDE MEP completed a Comprehensive Needs Assessment (CNA) for migrant education, and used the CNA to establish a State Service Delivery Plan (SDP). The SDP will be completed and disseminated in May 2013. The SDP includes measurable performance objectives for Reading, Math, School Readiness, and Graduation. MDE MEP collaborated with other state departments, nonprofit MSFW service providers, and migrant parents to complete the CNA. The implementation, evaluation, and revision of the CNA and SDP are on a three to five year cycle.
- The MDE MEP and local MEPs continued to collaborate with programs within the state such as Adult Education, ESL, Telamon, DHS, local Migrant Resource Councils, Michigan State University CAMP, Michigan State University HEP, and the new Western Michigan University CAMP to identify and recruit out of school youth and provide

effective support systems to sustain these individuals' engagement in educational opportunities.

- New, statewide summer migrant education program curricula developed by MDE will be available for local MEPs this summer. This new curriculum is aligned with Common Core Career and College Readiness Standards to maximize migrant student success.
 - The MDE began conducting extensive training and providing ongoing technical assistance for data entry personnel to ensure accurate reporting in 2012, and established a State-level review of all entries to ensure proper identification of all eligible students.
 - MDE enhanced its yearly professional training for recruiters. This expanded training will begin in 2013 and will include cross-training with other state agencies, such as onsite training with MDARD MLHP investigators to identify housing violations that recruiters may encounter while conducting outreach. Data entry personnel and other MEP education staff will be strongly encouraged to attend this enhanced recruiter training.
 - MDE has enhanced collaboration with Florida and Texas (the primary sending and home states of Michigan migrants) to ensure continuity of educational services and timely identification and recruitment of students.
- Challenges
 - Local MEP recruiters have had difficulties with identifying out of school migrant students, thereby preventing meaningful access to services for many.
 - Although children as young as two-and-a-half-years-old and individuals up to 21-years-old who have not yet graduated high school are eligible for the MEP program, local communities and school districts may not have programs or services intended for or tailored to students outside of the traditional school age (6-18).
 - The federal Migrant Student Information Exchange (MSIX) has not been used consistently and effectively by Michigan school districts. MSIX is the technology that enables states to share educational and health information on migrant children who travel from state to state and as a result, have student records in multiple states' information systems.
 - Goals
 - MDE MEP will implement its State Service Delivery Plan after the U.S. Department of Education approves it.
 - MDE MEP will host annual CNA Committee discussions to review progress and ensure continued input from stakeholders.
 - MDE MEP will achieve its measureable performance objectives included in the Comprehensive Needs Assessment and State Service Delivery Plan.



- MDE will facilitate an increase in the use of the MSIX migrant student database by local programs.
- MDE will continue providing professional development in Sheltered Instruction, which enhances learning for students not fluent in English, and will encourage migrant program staff to attend.
- Strategies
 - MDE should encourage retention of MEP recruiters in local programs and promote the development of relationships between the recruiters and migrant families.
 - MDE should facilitate increased cooperation between migrant recruiters and other state agencies to identify and recruit additional students.
 - MDE MEP should implement the broad and specific strategies outlined in its State Service Delivery Plan.
 - MDE MEP should provide training on MSIX for Michigan school districts to increase their use of the national Migrant Student Information Exchange (MSIX) with migrant students to track students as they move among states, and ensure timely identification and recruitment of migrant students.
 - The MDE MEP should work with local districts participating in the MEP to improve curricula and maximize successful schooling of migrant students.
 - The IMSC should evaluate the potential for collaborative recruitment among its member agencies, through which member agencies could identify prospective migrant education students and make referrals to the appropriate MEP.
 - The MDE should continue to educate local school districts on the constitutional requirement to educate all children, regardless of immigration status (in accordance with the U.S. Supreme Court decision of *Plyler v. Doe*) and aggressively enforce such requirements statewide.



Recommendation 13: Increase the number of State employees working with migrant and seasonal farmworkers who speak Spanish and provide tools to facilitate communication between non-Spanish speaking State employees and non-English speaking workers.

Pursuant to Title VI of the Civil Rights Act of 1964, recipients of federal financial assistance must ensure that language barriers do not exclude Limited English Proficiency (LEP) persons from meaningful access to the recipient’s benefits and services. The Report outlined numerous instances in which LEP MSFWs were denied meaningful access to public services, especially in communities that receive a large influx of Spanish-speaking MSFWs during the harvest season. To fulfill this Recommendation, agencies must offer LEP MSFWs meaningful access to services. State agencies can achieve this through any number of mechanisms such as by hiring and retaining sufficient bilingual employees, developing and following language assistance plans (LAP) incorporating LEP protocols, using assistive technology, and offering materials to enhance communication with LEP individuals.

- Achievements

- DHS Office of Migrant Affairs continues to train and employ 45-50 bilingual/bicultural Migrant Program caseworkers and supervisors responsible for managing MSFWs’ public benefits cases.
- DHS Office of Migrant Affairs and DHS’s employee training division developed new, comprehensive, six-hour training for Migrant Program caseworkers and supervisors on migrant policy and management of migrant benefits cases. These trainings will be conducted in various locations with high migrant populations March-May 2013.
- WDA/SOM continues to employ and train 17-20 bilingual/bicultural Employment Specialists who are responsible for employment services and who assist MSFWs.
- WDA/SOM’s website (www.michaglabor.org) provides monthly reports, in Spanish, on crop conditions and provides a snapshot of what crops are being harvested, whether housing is available, and who to contact for employment opportunities and information.
- Spanish-speaking applicants can apply for DHS benefits online in Spanish through the MI Bridges portal.
- DHS has developed a Community Partner initiative that trains nonprofit organizations to assist residents in applying for benefits through MI Bridges. Large-scale recruitment will begin in spring 2013. DHS will recruit organizations that serve Spanish speakers.



- In 2009 and 2010, DHS OMA convened a multi-agency bilingual workgroup that issued five recommendations: 1) Conduct an assessment of language needs at the county level; 2) Create best practice models for recruitment and hiring; 3) Implement language testing for employment requirements; 4) Train staff on Title VI requirements; 5) Implement a Bilingual Employee Development Plan. DHS has completed #1 and #2-5 are in progress.
- In 2012, DHS surveyed all local offices to compile information on employees with bilingual capabilities and the language needs of DHS clients. DHS will develop target increases in employees with foreign language capabilities at local offices by mid-2013.
- In 2010, DHS issued a policy for the provision of interpretation services in compliance with LEP requirements.
- MDE OGS hired a bilingual Spanish/English employee in their unlicensed childcare provider enrollment unit to facilitate the enrollment of Spanish-speaking providers, including migrant providers at labor camps. MDE OGS also has three Spanish-speaking employees that handle billing questions from Spanish-speaking providers and parents.
- During the 2012 season, MDARD utilized three bilingual MSU CAMP student interns to assist housing inspectors in communicating with camp occupants.
- MDARD has made numerous attempts to recruit MLHP housing inspectors with Spanish-speaking capabilities. Postings for MLHP positions indicated a preference for individuals with Spanish proficiency and screening questions designed to identify Spanish language competency levels were included. MDARD also promoted these MLHP inspector position openings through the IMSC and MDCR to specifically target applicants who are bilingual and bicultural.
- MDARD has provided computer-based and immersion Spanish training to MLHP inspectors who expressed interest in increasing Spanish proficiency.
- During the 2012 harvest season, Telamon, MSU CAMP and MDARD formed a partnership supporting three bilingual student interns placed in the MDARD MLHP to assist with communication with camp occupants.
- MDARD has updated a bilingual *Owner and Occupant Guide* intended to improve compliance and camp operations and distributed this guide to licensed camp operators for posting in migrant labor camps.
- MIOSHA currently has two Spanish-speaking staff who serve as interpreters during employee interviews and investigations when necessary. Both are allowed to travel to any part of the state when they are needed to provide assistance with Spanish-speaking customer.
- During interviews to hire new employees, the General Industry Safety and Health Division and LARA Wage and Hour continues to look for employees who speak Spanish who also meet other required job criteria for industrial hygienists or occupational safety inspectors.
- MIOSHA has created two plain language fact sheets describing the basic requirements of the Field Sanitation and TLC Standard. MIOSHA distributes these fact sheets during outreach and training seminars; both are available to other state agencies as handouts and are on the MIOSHA website.

- MIOSHA maintains 12 documents on the MIOSHA website with Spanish language versions, including the MIOSHA JOB Poster that explains the right to file a complaint and the basic purpose and protections provided by MIOSHA, and a brochure that explains employer and employee rights and responsibilities. The brochure includes information on filing a complaint and information on how to file a discrimination complaint. Investigators/Inspectors hand these Spanish language brochures out during inspections involving migrant complaints or referrals.
- MIOSHA references and provides a variety of OSHA publications written in Spanish, including documents specifically for migrant workers that address heat stress problems and methods to protect employees.
- MIOSHA is working with OSHA to finalize a complaint form written in Spanish.
- LARA Wage and Hour has one employee on staff with 19 years of experience assisting Spanish-speaking workers with wage and hour issues.
- LARA Wage and Hour has posted a Spanish language complaint form on its wage site that can be downloaded and completed.
- The Civil Rights Center of USDOL has accepted a complaint and is investigating allegations regarding the Unemployment Insurance Agency’s (UIA) failure to comply with federal LEP guidance and Title VI in its provision of benefits to unemployed claimants, including farmworkers.



● Challenges

- MDCR has not sufficiently committed itself to be a coordinating or advocating agent, to improve coordination and understanding of the legal ramifications/connection between the Elliott-Larsen Civil Rights Act and LEP provisions among state recipients of federal assistance.
- As noted, despite recently expanding inspection staff, none of the current MLHP’s seven housing inspectors, support staff, or supervisors are bilingual in Spanish/English.

- MIOSHA employs only two Spanish-speaking staff based in eastern Michigan. This is problematic because a majority of MSFW housing and worksites are located in western Michigan
- Currently, LARA Wage and Hour employs only one individual with limited Spanish-speaking capabilities to facilitate communication with Spanish-speaking individuals with wage complaints.
- Although individuals can apply for UIA unemployment benefits in Spanish and may call MARVIN in Spanish, as of late 2012 all correspondence from the UIA is in English. Although the UIA does employ some Spanish-speaking representatives, due to extremely high call volume, it is often impossible to get through to a Spanish-speaking representative, and callers are often disconnected before having the chance to speak with anyone. Notices of adverse action and other communications to claimants are not bilingual, nor does the agency provide a “Babel notice” alerting claimants in a language that they understand that the agency will provide language assistance upon request. When Spanish-speaking claimants receive a notice in English that they cannot understand, they are frequently unable to receive assistance with translation of the document through the UIA customer service line. This is crucial because of the strict time limits for responding to certain UIA correspondence. If an LEP claimant (MSFW) fails to timely respond to such an inquiry that he/she does not understand, the UIA automatically enters a finding of fraud, resulting in a determination that restitution is owed by the claimant in an amount two to four times the amount of benefits received.

State of Michigan
Department of Licensing and
Regulatory Affairs

**UNEMPLOYMENT
INSURANCE AGENCY**

Rick Snyder, Governor
State of Michigan

Steven H. Milligan, Director
Department of Licensing and
Regulatory Affairs

Steve Arwood, Deputy Director
Department of Licensing and
Regulatory Affairs

Steve Arwood, Acting Director
Unemployment Insurance Agency

Reclamando Beneficios de Desempleo en Michigan

Si usted se queda sin trabajo, tal vez califique para beneficios del seguro de desempleo. Estos beneficios sirven para que usted tenga ingresos temporales mientras busca un nuevo trabajo. Lo que sigue es información básica sobre el programa del seguro de desempleo de Michigan, cuál es administrado por la Agencia de Seguro de Desempleo (UIA).

Cómo archivar un reclamo para beneficios de desempleo – Un reclamo de beneficios de desempleo empieza la semana que se presenta. Por lo tanto, debería hacer su reclamo de beneficios durante su primera semana de desempleo. Hay dos maneras de hacer un reclamo de beneficios. Usted puede hacer un reclamo nuevo o reabrir un reclamo establecido por:

- Internet** – visite a nuestro sitio web -- www.michigan.gov/uiia
El sitio web es disponible entre la semana desde 7:00 a.m. hasta las 7:00 p.m. (*Tiempo Estándar del Este*). Si usted necesita una computadora con acceso al Internet, visite a su biblioteca pública local. La mayoría tienen computadoras con conexiones del Internet disponibles para el uso público.
- Teléfono**– llame al número de UIA para reclamos archivados por teléfono al 1-866-500-0017. *Cuando llamar*: Llame al número gratis para archivar su reclamo para desempleo, según el horario mostrado a la derecha.

En cuanto usted archiva un reclamo nuevo, le enviarán:

- Una determinación indicando si califica basado en los sueldos ganados, la cantidad de beneficios sem anuales, y el número de semanas que pueda recibir.
- Si hay un problema de elegibilidad con su reclamo, usted recibirá un aviso separado.
- Un folleto con información detallada sobre sus derechos y responsabilidades para los beneficios de desempleo. *Favor de leer este material con cuidado.*

Horario para archivar por teléfono
De acuerdo con los últimos dos dígitos del número de Seguro Social

	8:00 AM hasta las 12:30 PM (Asistentes disponibles)	12:30 PM hasta las 4:30 PM (Asistentes disponibles)	6:00 PM hasta las 8:00 AM (No asistentes disponibles)
Lun 00-15		16-33	Llamadas Abiertas
Mart 34-48		49-66	
Mier 67-81		82-99	
Juev Vier	Llamadas Abiertas		

sheet

- The 2010 LEP policy developed by DHS has not been fully implemented and complete compliance with the translation protocols has not yet been achieved.
- Monitoring of state agencies’ compliance with LEP requirements has been limited.
- Goals
 - MDARD will continue developing its partnership with Ferris State University’s new Center for Latino Studies to encourage Spanish-speaking students to pursue sanitation careers at Ferris and recruit those students to work for MDARD MLHP.

- DHS will implement the target increases in local office employees with needed foreign language skills, in conjunction with fulfilling DHS Bilingual Work Group recommendations #2-5.
- DHS will create and disseminate to each local office materials to assist non-English-speaking clients and educate staff about Title VI, including “I Speak” cards and DHS’s LEP policy.
- DHS will work to achieve full compliance with its 2010 LEP policy, including compliance with interpretation and translation protocols.
- Strategies
 - All state and federal agencies providing services to MSFWs should follow and enforce the LEP guidance associated with their receipt of federal funding, so that LEP MSFWs are granted meaningful access to public services and benefits.
 - MSFW service agencies should monitor state agency compliance with LEP requirements and additional complaints to the appropriate federal agencies should be filed to address the failure to adequately serve LEP individuals.
 - The UIA should automatically provide Spanish translations of all correspondence sent to known Spanish-speaking claimants who opened their UIA case using the Spanish application phone line.
 - The UIA should develop and implement a rule, consistent with USDOL guidance, that explicitly states that failure to provide an LEP individual with correspondence in the appropriate language constitutes “good cause” for late appeal.
 - The UIA should eliminate its current practice of automatically finding fraud when a claimant merely fails to timely respond to an agency inquiry within 10 days.
 - MIOSHA health and safety investigators, LARA Wage and Hour investigators, and MDARD MLHP inspectors should increase the number of staff who have bilingual language skills.
 - MDCR should monitor state agencies’ compliance with LEP guidelines, actively solicit and accept complaints of alleged violations, and refer alleged LEP violations to the appropriate federal agency for further investigation and enforcement.
 - Each state department should formally assess the current bilingual capabilities of its employees, establish a baseline of current bilingual employees in relevant customer service positions, and commit to increasing the number of employees with bilingual capabilities by a specified metric within a specified period.
 - DHS cases opened in Spanish should be automatically assigned to Spanish-speaking caseworkers.
 - MDARD should develop “Jiffy Cards” to be used to help inspectors in communicating about specific housing conditions with camp occupants during MLHP inspections, as well as other tools to facilitate communication between occupants and inspectors.

- Telamon, MSU CAMP, and MDARD should issue a report on the successes and limitations of the student intern program and make it available to the IMSC so that suggestions for improvements and continued implementation of the project can be presented and necessary adjustments can be made for future seasons. The partner agencies and IMSC should work to secure funding for implementation and expansion of the project in future seasons.
- IMSC should invite the Global Michigan initiative to attend and participate in its meetings.



Recommendation 14: Solicit recommendations from organizations with expertise on farmworker issues for ways these next steps may be accomplished, and provide submitted suggestions to the Commission, and the Interagency Migrant Service Committee.

Immediately following the release of the Commission’s Report in 2010, directors from various state agencies began meeting monthly to discuss the Report and the implementation of the

Recommendations. Over time, agency directors delegated attendance at monthly meetings to agency employees with expertise in programs and priorities of the agency. Agency representatives from MDCR, DHS, MDARD, WDA/SOM, SOS, MDE, and MIOSHA continued to meet monthly, with occasional attendance by the directors. Non-governmental representatives from the IMSC, including Farmworker Legal Services, Michigan Farm Bureau, Telamon Head Start and Michigan Primary Care Association (MPCA) were also invited to the MSFW Workgroup meetings and continued to attend monthly. Implementation of this recommendation requires maintenance of current collaborative levels through continued monthly meetings, active participation by agency directors or their designees, and continued involvement and feedback by IMSC members.

- Achievements

- The initial formation of the Directors’ Level MSFW Workgroup, and the evolution and continuation of the MSFW Workgroup has set a tone for positive cooperation and effective collaboration between and among MSFW service providers and state agencies. The MSFW Workgroup has facilitated an open dialogue between members that has resulted in numerous effective initiatives and accomplishments, such as the placement of CAMP student interns with MLHP inspectors within MDARD, and the securing of funding for the Enumeration Study Update.
- Since the inception of this MSFW Workgroup, the MDCR Director of Community Relations has made bimonthly reports on the progress of the MSFW Workgroup to the Commission at its business meetings.
- Beginning in August 2012, selected members from the MSFW Workgroup, including representatives from MDCR, DHS, MDARD and FLS, began meeting to review the implementation of the Report Recommendations and set about to write a draft of this report. Since that time, this sub-workgroup has made monthly reports to the MSFW Workgroup about the implementation of Report Recommendations and of its progress on this report.

- Challenges
 - The MSFW Workgroup was initially convened to facilitate interagency collaboration in implementing the Recommendations. Without regular and active participation by representatives from all relevant state agencies, the MSFW Workgroup is less effective.
 - Although there has been a standing monthly report to the IMSC by the MDCR Report Liaison, IMSC members have not been individually solicited to submit suggestions regarding the Report and Recommendations. Many IMSC members that have not had the opportunity to attend MSFW Workgroup meetings may have experience and expertise that would be valuable to responding to the Report and identifying other ways to implement its Recommendations.
- Goals
 - The Recommendation implementation process will be institutionalized within the IMSC Recommendation Implementation Sub-Committee. *See* Recommendation #4.
- Strategies
 - The IMSC should appoint a standing sub-committee of representative member agencies to continue to meet regularly to work toward implementation of the Recommendations and to regularly report progress to the Commission through the MDCR Liaison.
 - State agency directors or designee(s) with authority to act on their behalf should be encouraged to participate in the IMSC's report implementation Sub-Committee. Continued high-level involvement by state agencies with key responsibilities for services to MSFWs will provide more immediate authority for suggested actions and allow the key agencies to maintain focus on the Report implementation objectives.
 - The IMSC should solicit suggestions from each government agency and non-governmental organization serving MSFWs and determine how to incorporate additional goals into the implementation strategies and/or recommend further action by other entities or state agencies to implement the Recommendations of the Report.
 - This Progress Report should be submitted to the IMSC and its individual members for review and additional feedback and clarification on achievements, challenges, strategies, and goals.



Recommendation 15: Designate an employee of the Department as the Commission’s liaison on protecting migrant and seasonal farmworkers, and assign this person with the duty of coordinating the above efforts with the Interagency Migrant Service Committee and reporting back to this Commission on progress.

Recommendation 15 was the first to be fully accomplished, and yet is arguably the most important to regularly revisit to assure the progress initiated by the Commission's 2010 report and is not allowed to regress. It represents the Commission's mandate that the Department of Civil Rights commit resources to addressing the conditions facing MSFWs. The ultimate objective of this Recommendation is to maintain focus on the conditions of MSFWs, institutionalize collaboration in implementing the Recommendations and to ensure continued progress. In addition to the 2010 Commission Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan, between 1965 and 2010 numerous reports regarding conditions of MSFWs in Michigan were issued. These reports include a:

- 1965 Michigan Legislative Service Bureau Report on Migrant Labor in Michigan
- 1968 Commission Report and Recommendations on the Status of Migratory Farm Labor in Michigan
- 1969 Final Report by the Governor’s Task Force on Migrant Labor, and
- 1979 IMSC Report on the Status of the Recommendations regarding the 1969 Governor’s Task Force Report

As noted in the 2010 Report, despite the abundance of reports, recommendations, and reviews issued during this 45-year period, little real improvement could be identified, and in some cases the conditions had deteriorated. Essential to ensuring that the 2010 Report and Recommendations succeed in positively impacting the conditions of MSFWs in Michigan is the institutionalization within the IMSC of continued monitoring, reporting and collaboration between state agencies and non-governmental service providers .

- Achievements
 - MDCR’s Director of Community Relations has been designated as the Commission’s liaison on protecting MSFWs.
 - To date, the MSFW Workgroup has met regularly with the goal of facilitating implementation of the Recommendations, and the Commission’s liaison is present at these meetings.
 - As the Commission’s Liaison, the Director of MDCR Community Relations presents bimonthly updates to the Commission on the MSFW Workgroup’s progress.
- Challenges
 - The Civil Service Job Description for the MDCR Director of Community Relations does not contain the role or duties of the Commission’s Liaison, thus a change in management or personnel could result in the loss of this essential function.

- Before this report, no other formal status report on the progress of the implementation of the Recommendations was prepared and presented to the Commission or the IMSC.
- Without further institutionalization of the role of Commission Liaison within the MDCR and IMSC, the sustainability of the implementation of the Recommendations cannot be guaranteed.
- **Goals**
 - The Commission Liaison will recommend adjustments in meeting schedules and workgroups to address systematic issues or concerns raised by the IMSC, its member agencies, the Commission and/or the MDCR.
 - The Commission Liaison will present the above-referenced summary to the Commission (on at least an annual basis) for review and possible action. Before presenting the report to the Commission, the report should be submitted to the IMSC and department directors for review and feedback. The IMSC should also be notified in advance as to which regularly scheduled Commission meeting the summary will be presented.
- **Strategies**
 - The job description of the MDCR Director of Community Relations should be changed to institutionalize the role of the Commission Liaison on MSFW issues.
 - With the assistance of the IMSC Recommendation Implementation Sub-Committee, the Commission Liaison should direct collection of all published service and enforcement data (e.g., annual reports) from other state and federal agencies and summarize the implementation of the Recommendations including complaint resolutions (fines and assessments) and other information relevant to monitoring progress toward implementing the recommendations.
 - MDCR should work with IMSC members to draft guidance and provide outreach for local authorities relative to attempts to prohibit the establishment of migrant labor housing using zoning authorities.

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