PARISH PATIENCE IMMIGRATION LAWYERS

AUSTRALIAN IMMIGRATION LAW AND HEALTH REQUIREMENTS
by Sharon McCabe*

Strict health requirements apply to people coming to Australia, and in particular to those wishing to come to Australia permanently. Failure to meet health criteria generally results in refusal of an application, at least in the first instance.

Whether or not an applicant meets criteria is determined by a number of factors, including:

- Possible health risk to the Australian community;
- Likely cost of anticipated medical treatment to Australia and the Australian community; and
- Access to health care in short supply.

Health risk – includes HIV/AIDS, active tuberculosis, hepatitis and other contagious diseases considered a possible health risk.

Cost to Australia – include cost of treatment, medication, specialist care, nursing home costs, carer payments and pensions.

Access to health care in short supply – includes organ transplant, radiotherapy and dialysis.

Applicants with active tuberculosis will not be admitted to Australia until treated and medically cleared.

Because all permanent residents of Australia are entitled to Medicare and, after qualifying periods, pension rights, it is not sufficient to simply state that all medical expenses will be borne by an applicant and his/her family, as there is no way of enforcing this after arrival.

There is no provision for the waiver of the health criteria, except in some situations for applicants for a few visa classes, including partner and dependent child visas. If you, or anyone in your family unit (whether included in the application or not), suffer from an illness or medical condition, it is important to check whether the health waiver provision is available to you, or whether it is condition likely to result in refusal. An application can be refused because a "non-travelling" member of the family unit suffers from a medical condition.

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The current trend is that no application, where an applicant is HIV positive, is successful at DIMIA level. However, some applications are successful following review/appeal.

Unfortunately, some applications simply cannot be successful as a result of health criteria, and it is best to be aware of this before lodging an application.

For further information on medical criteria, please email Sharon McCabe at smccabe@ppilaw.com.au

(The above information is current as at 10 June 2003)

Disclaimer

The contents of this article are not intended to be legal advice. Parish Patience Immigration accepts no responsibility for any action taken in reliance on anything contained in this article. Individuals should seek advice about their own circumstances only from a registered migration agent.

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