

PUBLICATION

Medical Testing for Immigrants: Reductions and Alternatives

Authors: Robert C. Divine

November 20, 2009

Temporary and permanent visa applicants to the U.S. no longer need to mention HIV infection. Applicants for U.S. permanent residence no longer will be tested for HIV, will be able to obtain more relevant and less cumbersome tuberculosis testing (where available), and no longer will be required to get HPV vaccines. A new medical form is in effect in the U.S. as of 10/14/2009, but further revision will follow.

Applicants for permanent residence in the U.S. are required to undergo a special medical examination to make sure that they do not have a contagious disease. Waivers are available for those testing positive once they have obtained treatment and show ability to control the matter.

The tests routinely required have included Human Immunodeficiency Virus (HIV) and tuberculosis. Other diseases which examining physicians are to look for include infectious syphilis, gonorrhea, infectious leprosy, chancroid, lymphogranuloma venereum, granuloma inguinale.

HIV Becomes Irrelevant to U.S. Immigration. HIV has been a blood test that required laboratory analysis. Some clinics authorized to perform tests have not had on-site laboratory capability, delaying results. Congress and the Department of Health and Human Services have removed HIV from the list of "dangerous and contagious diseases." Thus, HHS (through the Centers for Disease Control) has removed HIV from the list of tests for visa applicants, stating "HIV infection is not a threat to the general population through casual contact and is no longer considered a significant public health risk given advances in public health practices and interventions for prevention and control ... and [since] HIV infection already exists as an endemic disease." This means also that HIV positive persons need not check "yes" to the question on visa application forms about having a "communicable disease of public health significance," and they may obtain temporary visas and entry to the U.S. without waivers.

HHS/CDC is reviewing the other sexually transmitted diseases on the disease list to determine whether additional revisions to Part 34 are warranted.

TB Skin Test Now Avoidable. Tuberculosis remains a "dangerous and contagious disease," probably is CDC's biggest global health concern relating to immigration, and was the subject of some tightening of standards by CDC in 2008. The preliminary screening test to detect TB for immigrants has been the tuberculin skin test (TST), which requires applicants to come back to the examining clinic the next day after the exam to determine the body's reaction, and which tends to generate "false positives" for those who have been vaccinated for TB. False positives require unnecessary chest X-rays to rule out active TB, and pregnant women have been understandably hesitant to subject themselves to chest X-rays, preventing immigration until after child delivery.

CDC has now designated the interferon gamma release assay (IGRA) as an alternative to the TST. IGRA is a blood test that may require some off-site lab work and may not be available in many clinics yet, but it has a lower rate of false positives, and CDC instructs doctors that "[a]n indeterminate or borderline/equivocal result on IGRA assay should be treated as a negative result." Thus, applicants can expect less false positives from

IGRA, which should be considered for a pregnant woman or for anyone who has received a TB vaccine. CDC allows the use of QuantiFERON-TB Gold®, QuantiFERON®-TB Gold In Tube (QFT-G IT), and T-SPOT®. If the IGRA is not available, the TST is required unless the applicant shows written proof of prior TST or IGRA positive results, in which case a chest X-ray is required anyway.

HPV No Longer Required. For the last couple of years CDC has required vaccination against Human Papillomavirus (HPV), which is reported to result in cervical cancer in some cases. But many advocates have opposed requiring HPV. In a new rulemaking, HHS has determined that HPV neither causes outbreaks, nor is associated with outbreaks, nor has been eliminated, nor is in the process of elimination in the United States. Thus, HHS finds HPV does not fit criteria for required vaccination in immigration processing, and as of December 14, 2009, the vaccination will no longer be required.

Form Revision. Form I-693 has been revised effective 10/14/09 to add IGRA as an alternative preliminary TB test. So far neither HIV nor HPV have been removed from the form, but we expect a new revision shortly.

How We Can Help

Baker Donelson's Immigration Group helps foreign nationals and their employers figure out and pursue the most efficient path(s) to permanent residence. Some of those paths are fairly elaborate, but our knowledge of the processes, and their constant changes, allow us to obtain a faster result. Sometimes we work on more than one path at a time for the same person and see which one works out first. We help obtain and maintain temporary status and interim work and travel authorization in the meantime. We seek expedited processing where warranted. We help people with problem cases obtain waivers and other relief. We defend permanent residents in removal and other proceedings. We help permanent residents and citizens sponsor their relatives. We keep up with all the constant changes to the rules on who can become a permanent resident and how, so we can help you make the most of your opportunities.