

Freedom to Move

MIGRATING TO AUSTRALIA WITH HIV IS STILL A LONG ROAD

By Vikas Parwani and Alexandra Stratigos, HIV/AIDS Legal Centre (HALC)

Recent changes to visa policy affecting people living with permanent health conditions are a step towards reducing discrimination in the immigration system. However, HIV continues to be a significant barrier to obtaining permanent residency in Australia.

People living with HIV often seek to settle in Australia to work, study or live with partners or other family members. While some may have already been aware of their status, many are diagnosed in Australia and often as part of the visa health examinations. The prospect of access to better healthcare along with fears they may hold of returning to their home country, can inform their decision to settle here. For most though, the diagnosis does mean pursuing an alternate migration pathway.

Immigration law is one of the few remaining forms of legalised discrimination against people living with HIV in Australia.

Decisions made by the Minister for Immigration and their delegates are exempted from action under the Disability Discrimination Act, meaning that immigration law and policy can discriminate against people based on disabilities and health conditions, including HIV.

All visas to Australia are subject to health criteria and most visa applicants are required to undergo a health check, including an HIV test. Where it is deemed that there is a “significant cost” to providing healthcare and services to a person, they will not generally be able to obtain a visa, unless there is a provision for a waiver of the health criteria available, known as a health waiver.

In some encouraging news, the government has recently made changes to the immigration health policy which will have a positive impact upon people with HIV and other health conditions or disabilities seeking to migrate to Australia.

As of July 1 2019, the the significant cost threshold was raised from \$40,000 to \$49,000. The way in which the government calculates this costing has also changed so that permanent health conditions are now only costed for a maximum of 10 years or life expectancy (whichever is shorter). Previously, this costing was determined over the lifetime of the applicant.

These changes mean that some people living with HIV can get a visa up to four years and in most cases can get a visa for three years provided they meet the other requirements of the visa.

Travel and migration restrictions based on HIV status are discriminatory, propagate stigma and prevent people from accessing treatment and services. In this edition of Poslink our contributors take a look at recent changes to visa policy in Australia and what you need to know about travelling with HIV. We also hear a personal story of the pathway to a new life in Australia.

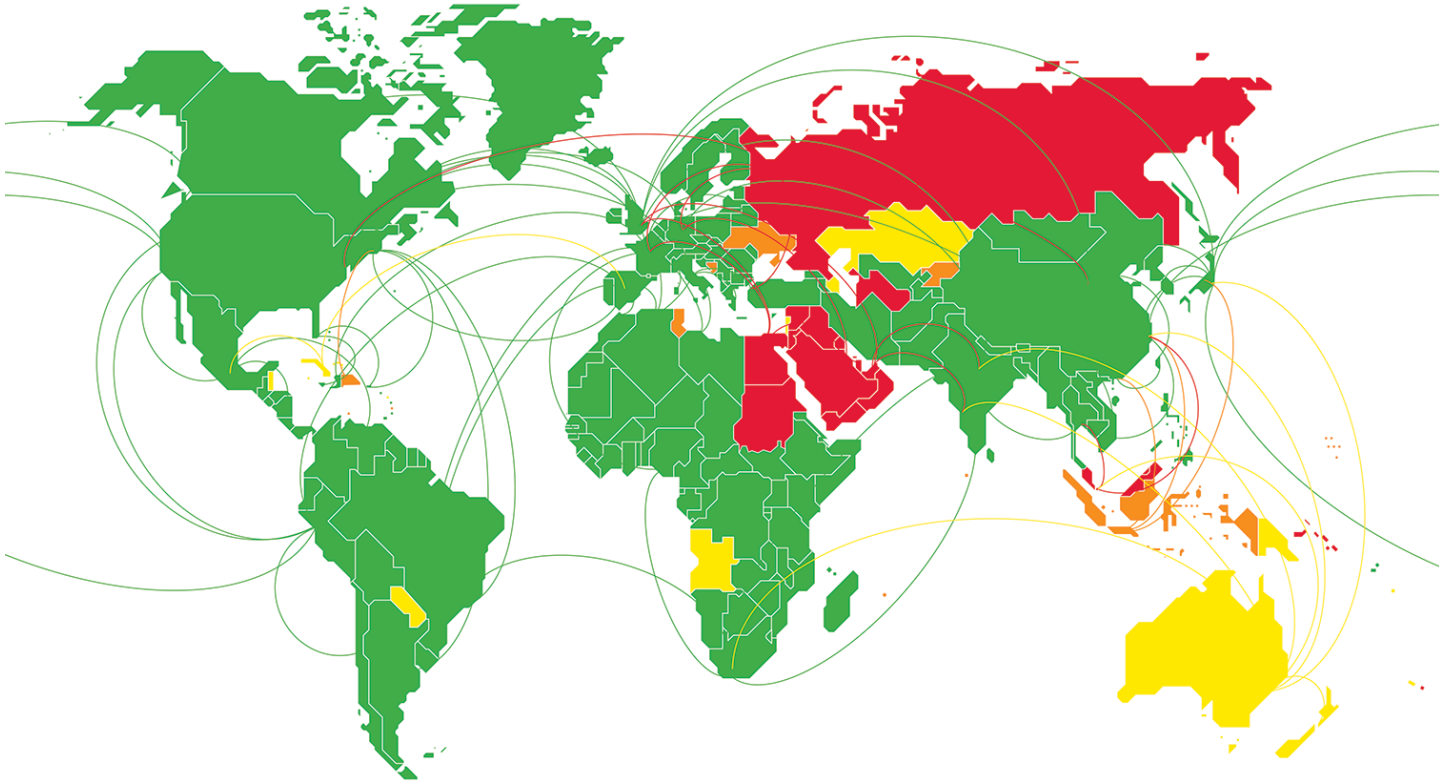


Cristian Cortes works with many people affected by the government's immigration health requirements through his work with the Latin American Hispanic Rainbow Community (LAHRC) and the HIV Peer Support Group. He says that despite recent changes, many highly skilled applicants are disadvantaged by the way the department of immigration calculates health expenses, which needs to be updated to accurately reflect the lower cost of antiretroviral therapy.

As well as this, the costing of HIV for permanent visas should now roughly be between \$65,000 and \$180,000. This costing varies depending on the specifics of the condition and prescribed antiretroviral treatment. This means that processing times may be shorter, and the prospects of obtaining a health waiver are increased.

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Mandatory HIV testing and bans on entry, stay and residency do not protect public health but undermine prevention and treatment efforts. In 2019 around 48 countries and territories still maintain some form of HIV-related travel restriction.



WELCOME



203

Countries, territories and areas that do not have any HIV-related restrictions on entry, stay and residence.



18

Countries, territories and areas that require HIV testing or disclosure for certain types of entry, study, work and/or residency permits.



11

Countries, territories and areas that:
Prohibit short and long term stay on the basis of HIV status; **and**
Require HIV testing for certain types of entry, study work and/or residence permit



19

Countries, territories and areas that:
Deport non nationals on the basis of HIV status; **and**
Prohibit short and long term stay on the basis of HIV status; **and**
Require HIV testing for certain types of entry, study work and/or residence permit

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While these changes are welcomed, the health requirements still severely limit the options available to people seeking permanent residency in Australia with a disability or permanent health condition. A health waiver is only available for certain “family sponsored” visas like partner visas and child visas and under a “limited skilled pathway.”

To obtain a permanent visa under this skilled pathway, however, is no easy feat. Temporary skill shortage visa applicants must be sponsored by an employer and have skills and two years of work experience in an occupation on the Department’s medium to long-term skills shortage list. The two-year work experience requirement alone means that most new graduates will be unable to begin this process. Following this, there is only one stream of a permanent visa which has a provision for a health waiver. Applicants must remain in the same position and be sponsored by the same employer for a minimum of three years. As such, under this skilled pathway, a highly skilled person living with HIV has a long road to go through before they can even apply for a permanent visa with a health waiver.

Once an applicant reaches the health waiver stage, they still have to satisfy the Department that the costs of their health will not represent an “undue” cost to the Australian community. This on its own is a complex process for which people may want to obtain advice and representation.

Where there are no visa options available to them, more and more people living with HIV are seeking Australia’s protection – with varying degrees of success – where they fear that they will not be able to seek adequate medical treatment in their countries of origin and will be subjected to severe stigma and discrimination on account of their HIV status or their membership of key populations.

Because of the limited pathways available, it is important to get advice often and early and to be honest about your status with your migration agent so that they can advise you appropriately. In the meanwhile, we at HALC will continue our efforts to lobby for law reform so that all people with HIV are treated equally under the law.

HALC is available to provide free and confidential assistance and legal advice as to how your HIV status may impact your current and future visa applications. Contact HALC on (02) 9206 2060 or halc.org.au. Representation services are limited to those that meet certain eligibility criteria.

FINDING A PATH

Sebastian migrated from Chile to Melbourne, Australia where he was diagnosed with HIV. He believes it is important for people living with HIV to feel seen and be heard and is sharing his story to promote greater understanding of the migrant experience.

Life in my home country was nice, but stressful. I lived together with my boyfriend in Santiago but we were afraid of the increasing violence and lack of justice in the city. A serious assault had left me with a fracture on my skull. When my boyfriend got a good opportunity to work as a GP we decided to move to the south of the country. We thought that the move to a more peaceful area would be good for us.

I previously worked mainly in the food and supplement industry, with a focus on sustainability and added-value products with health functionality. But there were few opportunities and finding long-term employment was difficult. Over my lifetime I had worked in a number of occupations—as a sports nutritionist, a university lecturer, a legal cannabis consultant, and as a manager for events which I had been doing throughout my studies. Education did not seem to prove useful and society seemed broken from the very core.

When we moved to the south I found employment in the food industry but I had my wages stolen by my employer. After this I was afraid of becoming a burden to my boyfriend. He had escaped the Venezuelan crisis and needed all the money he could get to get his family out. I decided to come to Australia to save us from that difficult situation. He agreed and I came here first, to pave the way for us.

I had a clear pathway to skilled migration with my degrees and work experience but while living here I was diagnosed with HIV.

The diagnosis changed our whole visa plan. I no longer met the Australian health requirements. I went to all of the organisations that help with visa applications, but they were unable to help as my case was difficult. It became clear that my boyfriend and I would not be able to see each other for years and after a while we ended the relationship. We were supposed to get married this year but the process destroyed us.

Tolerating the side effects of medications has been horrible for me. I had trouble eating most food groups, becoming nauseous all the time. In some weeks I had trouble keeping anything down and lost a tremendous amount of weight. Worrying about my health and nutrition made me very anxious. If you do not meet your basic needs how can you focus on something else?

Due to everything I stopped working and focused on my wellbeing. I lost my visa opportunities and all my hard-earned savings. The decline in my health and wellbeing also made it difficult to socialise. But I remember the people working on the shops I go to and have little chats with them that keep me social. I changed medications which gave me fewer side effects, but was still very bad. Over time it got better.

After all of the migration and health issues I have decided to apply for a protection visa. My health is much more complicated now and am afraid I will not make it back home. I fear discrimination or retaliation and I believe we’re still not there yet in terms of tolerance to HIV positive people.

Living with HIV has taught me that stigma polarises the community. Some people fearlessly accept us. Others shame us and see us as contagious vectors. Being with someone with HIV does not have to be scary. It's actually your safest bet sometimes. You just got to be responsible and educated. Remember that "undetectable is untransmittable".

The community here is very nice and open minded, they are willing to help out others. They try to keep a good mood which is something that I was not seeing any more in my country. Living with HIV is hard, but it's not impossible. At first, the news can be a blunt hit and make you anxious about your future. But being part of a community and finding balance within yourself is what you need to seek in order to be able to deal with this new life.

TRAVELLING WITH HIV: WHAT YOU NEED TO KNOW

Sarah from Living Positive Victoria's health promotion team shares her experiences and tips for travelling with HIV

Your bags are packed. The excitement has built. You are finally taking that trip of a lifetime. But what is it like travelling with a chronic illness like HIV?

Will travel restrictions affect me? What about my meds? Will I get asked by customs? What happens if my luggage gets lost? Or if I forget to take them? And what if I get sick?

These are all very real concerns and for good reason. We spend our lives being told to be careful who we disclose to, to build a routine to take our meds around and in general to keep on top of our health. How is that all supposed to happen when routine will surely go out the window?

I have travelled extensively both before being diagnosed and after, with medication and prior to starting treatment. The good news is that if you are looking to explore the world as a tourist we can travel almost freely, get travel insurance that will cover us if anything goes wrong and enjoy the gifts the world has to offer just like anyone else. We just need to be a little more prepared.

Travel Restrictions

It's true that there are travel restrictions for people living with HIV but there is a lot more freedom for tourists (stays under 60-90 days) than for those wanting to move permanently.

Currently UNAIDS is calling for an end to travel restrictions which 48 countries still have in some form. In Australia, for example, you can be denied permanent residency based on the cost of treatment. In the United Arab Emirates you will face immediate deportation if your health check to apply for a work visa proves to be positive for HIV – whether you knew before or not.

I have never been asked if I have a health condition at the border and I've never been stopped from entering a country (although I have had to deny my HIV status in order to get a Russian Tourist Visa). In saying that though, I highly recommend being aware (even if you don't abide by them) of any restrictions that may be in place in the country you are visiting. A fantastic place to look this up is www.hivtravel.org – here you can put in any country in the world and it will tell you the most up to date information.



Get out of your comfort zone! Sarah (pictured) white water rafting on the Tully River in Far North QLD

Medication and Bag Checks

From my own experience there has never been anyone interested in my HIV medication. However, it is important to remember that each country has its own rules for regulating and controlling substances, including many common medications (not just ARVs).

Many countries only allow taking a 30-day supply of certain medicines and require the traveller to carry a prescription or a medical certificate. Before you go, ask your doctor to write a letter describing your treatment plan. It does not need to state that your medications are for HIV, just as long as the prescription on the bottle and the name on the letter are the same.

Travel Insurance

Travel insurance is a must irrespective of your HIV Status. People who are on effective treatment and have stable health may choose not to get extra cover. However, you may feel better with the extra security or have HIV-related health concerns and want that extra protection. Some providers consider HIV as a pre-existing condition and therefore you can pay extra to be covered while you are away.

If you choose not to cover HIV you may still need to disclose to the travel insurer so as to not void any part of the policy of having a pre-existing condition. Each company is different and I recommend calling them to find out their specific requirements.

Keeping on Top of it all

Missing doses can happen even with a strict routine at home. Throw in changes in time zones, delays and missing luggage into the mix and things can get really complicated. Here's some things you can do to make things easier:

- Bring enough medication for your whole trip, plus a little extra for delays.
- Carrying one bottle of medication in your carry on and the rest in your checked luggage ensures if your luggage is lost you will still have your medication with you.
- If you are travelling for an extended period you may want to have an extra prescription someone close to you can pick up and post to you. You can also see what countries have a reciprocal agreement with Australia around medication like England to get more if you require them.
- There are also a few apps that may make taking your meds easier, or you can set a daily reminder on your phone once you've reached your new time zone.

Travelling the world is almost a rite of passage. You get to explore incredible cultures, amazing history and learn things about yourself that only being out of your comfort zone can teach you. Overall, having HIV can add an extra layer to travelling, but it doesn't need to hold you back.

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