

## REGULATORY FACT SHEET: NEW PROPOSED RULE

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### Grassroots campaign opposes restrictions on public benefits for legal immigrants

*Comments due Dec. 10, 2018*

**What you should know:** The Department of Homeland Security and U.S. Customs and Immigration Service issued a proposed rule that would limit the ability of legal immigrants to adjust or extend their immigration status or gain full citizenship based on their receipt of public benefits. The proposed rule would change the definition of “public charge” and expand the types of programs that can contribute to a public charge determination, including:

- Medicaid
- Medicare Part D low-income subsidy
- SNAP (food stamps)
- Housing assistance and subsidized housing

**Impact on our communities:** DHS estimates that up to 382,000 immigrants annually would disenroll or forgo enrollment in public programs under this policy, although that number could be much higher. The agency does not take into account the potential for higher numbers due to fear negative repercussions on future immigration status, as well the likelihood of individuals choosing to drop or forego enrollment in public programs that do not count toward a public charge determination, such as the Women, Infants and Children Food and Nutrition Service or the Children’s Health Insurance Program. **We are deeply concerned about the impact of this proposal, especially on those who could choose to forego Medicaid benefits.**

Nearly 5.7 million people who currently receive Medicaid are in households that include foreign-born noncitizens.<sup>1</sup> In addition, a recent analysis found that 4.8 million children who have a current or recent medical diagnosis, disability or a need for a specific therapy live in households with at least one noncitizen adult and were insured by Medicaid or CHIP. This same analysis estimated that between 700,000 to 1.7 million of these children “in need of medical attention” are likely to be disenrolled from Medicaid if the rule is changed. Without Medicaid, these children will likely be uninsured and at high risk of going without needed medical care.<sup>2</sup>

The implications for loss of access to health care and negative impacts on public health are disturbing. In addition, our communities will feel the longer-term impact on economic well-being. A large increase in the uninsured could lead to reduced productivity and increased poverty and housing instability.

**Providence St. Joseph Health and Swedish response:** Our organization strongly opposes this policy. A grassroots advocacy campaign invites our caregivers (all employees) and our local, state and national partners to express deep concern about the proposed rule. We will also consult with stakeholders across our system to submit a formal comment letter by the Dec.10 deadline.

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<sup>1</sup> Families USA, The Public Charge Rule: What it Means and What You Can Do to Stop It, October 2018.

<sup>2</sup> California Health Care Foundation, Changing Public Charge Immigration Rules: The Potential Impact on Children Who Need Care, October 2018.

## KEY PROVISIONS IN THE PROPOSED RULE

### **Proposed framework**

Under federal immigration law, when an immigrant applies for entry into the United States or for permanent resident status (i.e., a green card), officials decide whether the person is likely to become a “public charge” or primarily dependent on the government as a main source of support. These individuals can be denied permission to enter or to become permanent residents.

In a public charge determination, immigration officials will consider the totality of a person’s circumstances. At a minimum, officials must take into account an individual’s age; health; family status; assets, resources, and financial status; and education and skills. In the proposed rule, DHS describes how it would consider each factor and identifies characteristics it would deem as positive factors that would reduce the likelihood of becoming a public charge, and cites negative factors that would increase the likelihood of becoming a public charge. One of these heavily weighted negative factors is current enrollment in or approval for enrollment in a public benefit program within the last 36 months.

### **Public benefit programs**

Under current policy, the only benefits considered in determining whether someone is likely to become a public charge are cash assistance (Supplemental Security Income and Temporary Assistance for Needy Families) and government-funded institutional long-term care.

If the administration finalizes this proposed rule, many more benefit programs would be considered when determining whether someone is likely to become a public charge. These programs include:

- Non-emergency Medicaid (with limited exceptions for certain disability services related to education)
- Supplemental Nutrition Assistance Program (SNAP or food stamps)
- Low-income subsidy for Medicare Part D prescription drug costs
- Housing assistance, including Section 8 housing vouchers

The proposal does not include the Children’s Health Insurance Program; however, DHS specifically requests feedback in the proposed rule on whether and how to account for enrollment in CHIP.

The proposal also does not include the Women, Infants and Children Food and Nutrition Service or federal subsidies for Affordable Care Act coverage programs.

### **Minimum threshold of public benefit**

The rule proposes to set a minimum threshold of public benefit accessed that would have an impact on immigration decisions. DHS proposes to assess public assistance if, in aggregate, it amounts to more than 15 percent of the federal poverty guidelines for a household of one (\$1,821 in 2018). For benefits that cannot be monetized easily, the agency will look to see if the individual received or is likely to receive public benefits for more than 12 months over a 36 month period.

## NEXT STEPS

The proposed rule was published in the Federal Register on Oct. 10. The comment period is now open, and our grassroots campaign will be active until it closes on Dec. 10.

## ADDITIONAL RESOURCES

- [Proposed rule](#)
- [DHS press release](#)

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