



**Public Charge:
The Policy that Could Change
Everything for Immigrant Families**

June 26, 2018

What is the “public charge” immigration law?



One of requirements for getting “lawful permanent residence” (LPR) status (a “green card”) in the U.S. is proving to the Department of Homeland Security that you are “not likely to become a public charge”

Current interpretation of “public charge”

- Parallel law/process by Department of State for applications for green cards from outside the U.S.
- Public charge exclusion does NOT apply to refugees, asylees (individuals granted asylum), women using domestic violence/human trafficking applications for green cards, other exceptions
- Public charge exclusion does NOT apply to applicants for U.S. citizenship (“naturalization”)

Current interpretation of “public charge”

- Public charge = reliance on government cash assistance as income, or living in government-paid long-term care (e.g. nursing home)
- Cash assistance = SSI, TANF, local general assistance
- But can respond with “affidavit of support” from sponsor (sponsor makes income available to applicant for green card/LPR)
- And final decision must look at “totality of circumstances” (past vs. current vs. future situation; age, family, health status, employment, etc.)

What's the expected change to the “public charge” law?

- Any day now, we expect the Department of Homeland Security (DHS) to publish a *proposed regulation* (drafts were leaked in February and March)
- Once published, we will have 60 days to send public comments on the proposed regulation
- DHS then has to respond to the public comments and publish a *final regulation*
- Final regulation will then become the new law/policy; there will be a legal challenge to the final regulation

Programs to be considered under proposed regulation

- SSI, TANF, general assistance as income
- Government-paid long-term care
- Medicaid (Medi-Cal), Children's Health Insurance Program, and subsidies for health insurance marketplace (Covered California)
- SNAP (CalFresh) and WIC
- Section 8 housing and home energy assistance
- Earned Income Tax Credit (EITC)
- Similar state/local programs (e.g. state-paid Medi-Cal, Cash Assistance Program for Immigrants, California Food Assistance Program)

Proposed regulation also asks additional questions...

- New form will take 4½ hours to complete; will ask about all programs on the expanded list
- Will ask more questions about medical history, education, employment, credit history, English language proficiency
- Will ask about programs used by applicant's family, *including U.S. citizen children*
- May require public charge bond (starting at \$10,000 each)
- Final decision still depends on “totality of circumstances”
- *Already more questions/denials in parallel Department of State process for those getting green cards from outside U.S.

Who would be impacted by the proposed regulation?

- LPR applicants, especially those using family-based applications
- Children of those applicants, *including U.S. citizen children*
- Others in temporary immigration statuses who would be fearful or confused about jeopardizing their future immigration status
- Broader community from dis-enrollment in health insurance, nutrition programs, etc. (higher costs for everyone)

Why is this change being proposed?

- Part of other anti-immigrant policies (Muslim ban, reduction of refugee admissions, end of Deferred Action for Childhood Arrivals (DACA), end of Temporary Protected Status (TPS), separation of immigrant families)
- Continues attacks on legal immigrants and family immigration (e.g. proposals to eliminate family immigration categories and eliminate diversity visas)
- Fuels false narratives that immigrants misuse government programs and are bad for the economy
- Also part of attacks on Affordable Care Act, Medicaid, SNAP (e.g. adding work requirements)

How can funders respond?

- Continue to educate your colleagues about this issue
- Prepare to send a comment to the Department of Homeland Security opposing the proposed regulation
- Help grantee organizations educate/support immigrant families, and mobilize organizational and individual comments opposing the proposed regulation

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<https://www.clasp.org/protecting-immigrant-families-campaign-resources>