



PUBLIC CHARGE EXPANSION PROPOSED RULE: A THREAT TO WOMEN OF COLOR

FACT SHEET
SEPTEMBER
2018

Reproductive justice will be attained when all people, inclusive of all immigration statuses, have the economic, social and political power and means to make decisions about their bodies, sexuality, health and families. Public charge goes against everything that reproductive justice represents. By expanding public charge, the administration is directly attacking the health and economic stability of immigrant Black, Latinx, and Asian American and Pacific Islander (AAPI) people, families, and communities.

WHAT IS PUBLIC CHARGE?

“Public charge” refers to a determination, used by U.S. immigration officials, to refer to a person who is considered likely to become primarily dependent on the government for financial and material support.

- Public charge considerations occur when a person applies to enter the U.S. or when a person applies to adjust their status to lawful permanent resident (LPR). This determination primarily affects those petitioning through a family-based visa.¹ Public charge is not considered when an immigrant with a green card (lawful permanent resident) seeks to adjust to U.S. citizenship status.
- Public charge determination is based on, at minimum, an assessment of the following factors: age; health; family status; financial status; education and skills; and an affidavit of support.
- Benefits currently considered in public charge considerations are (1) cash assistance for income maintenance, such as Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF), and (2) institutionalized long-term care.
- Individuals who are determined to be a public charge can be denied LPR status or entry into the US, and, in very limited cases, deported.²

POSSIBLE EXPANSION TO PUBLIC CHARGE

Leaked drafts of the proposed rule show that the administration intends to drastically expand the definition of public charge. Specifically, this would go beyond cash assistance to include a much broader scope of public benefits that should be considered in making this determination. This vast expansion of public charge could have a detrimental effect on immigrant communities, forcing immigrants to choose between their own immigration status and their family's well-being.

The potential proposed changes to public charge would expand the grounds of public charge beyond cash assistance to include public benefits such as:

- **Medicaid/Children's Health Insurance Program (CHIP):** Women who qualify for Medicaid may forgo family planning, STI treatment, prenatal care, labor and delivery, as well as postpartum care, and instead be forced to pay thousands of dollars out of pocket just to have a child—or not seek medical care for their births or the health of their newborn at all. Public charge expansion could increase disenrollment rates from 15% to 35% for US citizen children with at least one non-citizen parent, despite being eligible.³
- **Women, Infants, and Children program (WIC):** Immigrant women would be forced to choose between feeding their children or foregoing breastfeeding support, health care, nutrition and food assistance for the guarantee of their immigration status.
- **Supplemental Nutrition Assistance Program (SNAP):** Parents who qualify for SNAP, which offers nutrition assistance to millions of low-income individuals and families, could opt out of the federal program due to ongoing threats of citizenship eligibility.
- Other public benefits such as the **earned income tax credit, ACA tax credits, the low-income home energy assistance program, and housing assistance may be included in the expansion.**



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Additionally, whereas noncitizens are currently considered a public charge based on individual use of public benefits, the new proposed rule could allow immigration officers to consider their dependents—including US citizen children—who have received or sought access to the above public benefits. This would have a devastating impact: according to a report by the Migration Policy Institute, 3.8 million AAPI immigrants and 10.3 million Hispanic immigrants currently are in families in which at least one member received at least one of the means-tested public benefits programs (Medicaid/CHIP, TANF, SNAP, and SSI).⁴

The Migration Policy Institute estimates that under this expanded definition, the percentage of noncitizens who could be considered public charge would increase from **3 percent to 47 percent**.⁵

The proposal also lays out negative and positive factors to be “heavily weighed” in a public charge determination. Heavily weighed negative factors could include “lack of employability,” where a person may have to show some sort of employment history or perhaps some sort of proof of future employment, or “medical condition(s) without non-subsidized health insurance,” indicating an individual may have to show proof of ability to pay for treatment of a medical condition. The Department of Homeland Security cites “significant income, assets, and resources” and support of at least 250% of the Federal Poverty Limit (FPL) as heavily weighed positive factors, again showing which immigrant communities it prefers.

CURRENT IMPACT ON IMMIGRANT COMMUNITIES

Since the media leak of upcoming public charge expansion, health providers have seen an increase in immigrant families unenrolling from social programs. The current administration has instilled a culture of fear in immigrant communities across the country, and the chilling effects of potentially expanding the criteria of public charge will have lasting impacts on the health and safety of these individuals. A Kaiser Family Foundation report shows that immigrant families, particularly from the Latinx and Muslim communities, are experiencing significant levels of fear and uncertainty in the current political climate. The report also shows that such fear has a direct impact on the health and well-being of children that are likely to have lifelong consequences.⁶

The public charge expansion proposed rule would have a devastating, long-term impact on immigrant families and women of color’s health, economic security and progress. This is an attack on reproductive justice by the administration, exposing a reprehensible method of curtailing immigrants’ use of social programs in order to enact anti-immigrant policy without Congressional oversight.

“The chilling effects of the leaked draft of the public charge proposed rule have already left imprints in immigrant communities, as community health centers report of immigrant patients and their children opting out of public programs and limiting their utilization of health care services. When forced between keeping their families together and their own health, we know too well the sacrifices parents will make.”

— Thu Quach, Asian Health Services, Oakland, CA

REFERENCES

- 1 Some immigrants will stay exempt from the public charge expansion rule including refugees, asylees, survivors of trafficking and other serious crimes, self-petitioners under Violence Against Women Act, special immigrant juveniles, and certain people who have been paroled into the US.
- 2 Language from KFF Fact Sheet
- 3 <https://www.kff.org/report-section/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children-issue-brief/>
- 4 https://www.migrationpolicy.org/sites/default/files/publications/ProposedPublicChargeRule_FinalWEB.pdf, pg. 24-25
- 5 https://www.migrationpolicy.org/sites/default/files/publications/ProposedPublicChargeRule_FinalWEB.pdf
- 6 <https://www.kff.org/disparities-policy/issue-brief/living-in-an-immigrant-family-in-america-how-fear-and-toxic-stress-are-affecting-daily-life-well-being-health/>