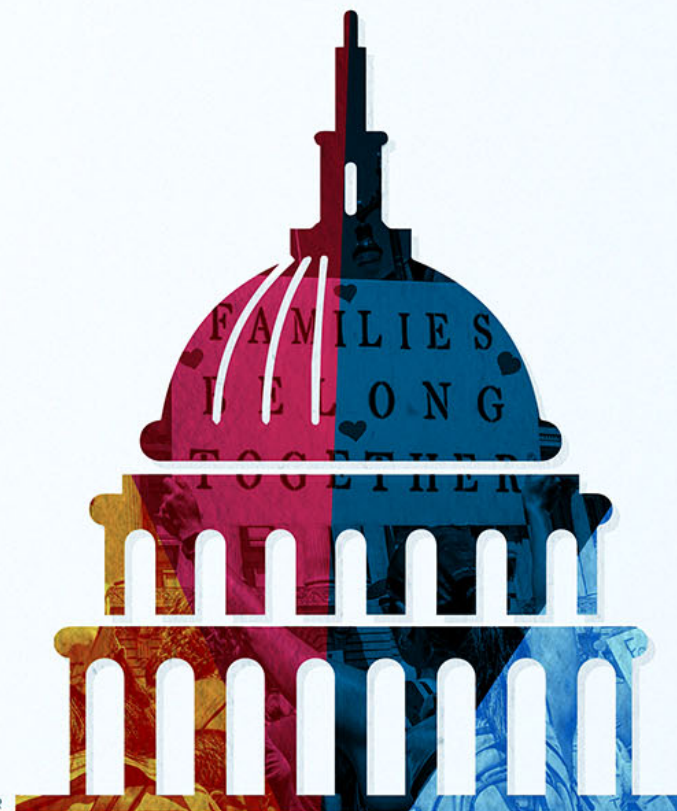


Education & Outreach on Public Charge



IMMIGRANT LEGAL RESOURCE CENTER
1458 HOWARD ST. | SAN FRANCISCO, CA 94103

October 3, 2019



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TEACHING, INTERPRETING, AND CHANGING LAW SINCE 1979



Presenters



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Special Projects Attorney
ILRC



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Special Projects Attorney
ILRC



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Skadden Fellow
ILRC

Immigrant Legal Resource Center



Purpose of Today's Training

- To equip non-legal services staff to provide accurate outreach, information, and education on public charge and to refer individuals for legal advice and counsel
- For deeper dive into the legal issues go to <https://www.ilrc.org/public-charge>
 - Webinar recordings
 - Practice advisories
 - Public Charge Manual



PUBLIC CHARGE OUTREACH TOOLKIT

INTRODUCTION

Our immigration law includes a provision that says a person is "inadmissible" if they are likely to become a public charge. Under our current policies, public charge refers to individuals who are primarily dependent on the government for subsistence, like people who rely on cash assistance programs, or require long-term care at the government's expense.

This law only affects those applying for a permanent residence (a green card) in the United States through family members, those who are applying for certain temporary visas abroad, or people applying for an immigrant visa at a consulate abroad based on a family petition. Many people are not affected by public charge rules, including people applying for other types of immigration status, most current permanent residents, and people who do not plan to apply for any immigration benefits.

On August 14, 2019, the Department of Homeland Security (DHS) published a final rule related to public charge in the Federal Register. The rule will not take effect until October 15, 2019. Additionally, many organizations have indicated they will file lawsuits challenging the legality of the rule. Thus, even after publication, legal challenges could delay implementation.

The new rule has created confusion and fear in our communities. Because it is very difficult to understand who might be impacted, many immigrant families have decided to disenroll or refuse enrolling in programs that are necessary to survive and thrive. Many immigrants remain exempt from this public charge rule and many immigrants continue to be eligible for various programs.

This is a packet of information to assist education and outreach workers presenting information to community members. Our goal is to spread accurate information about what the law is and who is impacted. We hope that these resources will enable community organizations to provide information in community forums and at community events so that families can make good decisions for their families.



ILRC Attorney of the Day

Free Attorney of the Day

- All CDSS Contractors and Subcontractors
- IOLTA Legal Services Programs in California
- All San Francisco Bay Area Non-Profits
- All NAC Partners with Naturalization questions

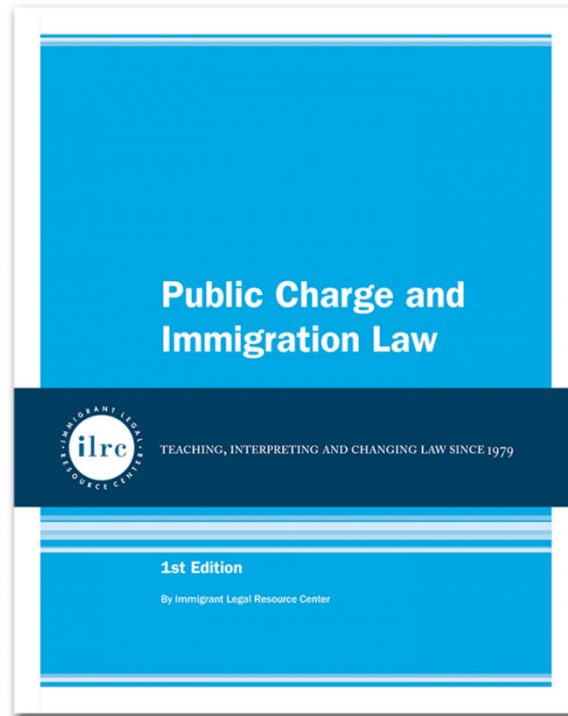
Other Attorney of the Day

- Hourly rate pro-rated (6 minute minimum)

For more information, please visit

<http://www.ilrc.org/legal-assistance>

Public Charge Manual



This and Other Manuals Available:
<https://www.ilrc.org/publications>

More Information:

For additional public charge resources and updates, please visit the following

Protecting Immigrant Families (PIF):

<https://protectingimmigrantfamilies.org/>

National Immigration Law Center (NILC):

<https://www.nilc.org/issues/economic-support/>

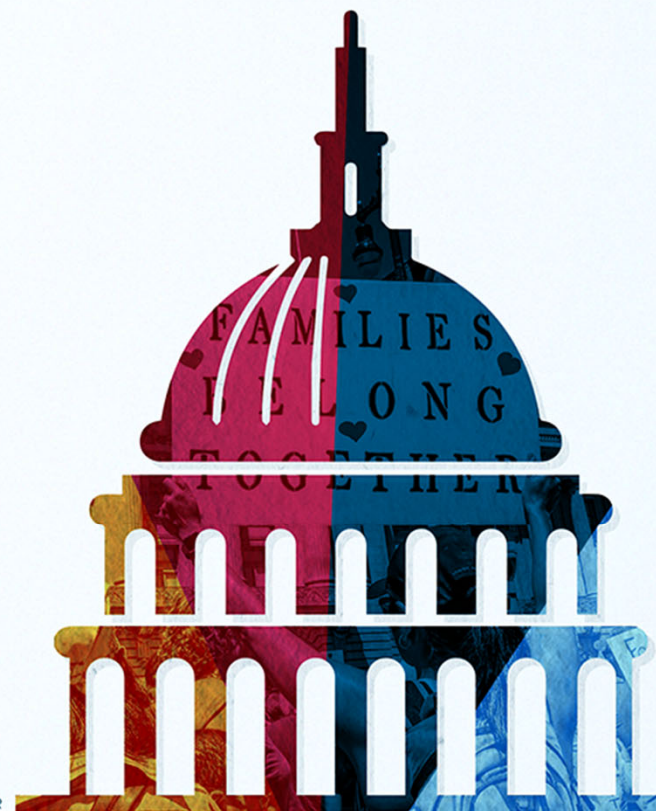


A few quick notes
for ILRC public
charge grantees

Agenda

- **What Is Public Charge?**
- **What Is the Current Status of Public Charge?**
- **What Are the Changes to Public Charge?**
- **What Can We Tell the Community in Our Education and Outreach If We Are Not Legal Services Providers?**

Public Charge



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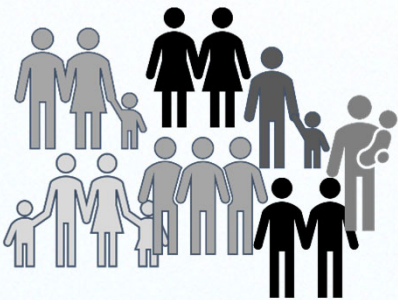
What is Public Charge?

Is it how the government can find out where I am?

Does it mean that if my children use health care, I will be deported?

What is it?

I think it means I should get off of benefits now.



Does it mean that if I use public benefits, I won't qualify for naturalization?

I think it means my family cannot access any benefits.

Where Public Charge Comes Into Play

Do I qualify for a benefit or public program?



If I use the program will it affect my immigration status or options?

Even if I'm not worried about legalizing my status, will they use information to deport me?

What is Public Charge?

- One of many reasons a person could be **denied admission or a green card**—other reasons include crimes or immigration violations or lying on an immigration application
- A person must be coming forward, **seeking admission or applying for a green card**, in order to be subject to public charge
- It's not a random test that all immigrants are subject to—**they must be applying for admission or a green card!**

What is Public Charge?



What is Public Charge?

It's a test to determine whether someone is likely to depend on public benefits in the future

→ The new rule will change how an officer thinks about this question



What about when a person is renewing their green card, are they subject to public charge?

Or when they're applying to naturalize (become a U.S. citizen), are they subject to public charge?

- **There is NO public charge test to renew a green card!**
- **There is NO public charge test when a green card holder applies for naturalization (to become a U.S. citizen)!**

Many Immigrants Are Not Subject to Public Charge

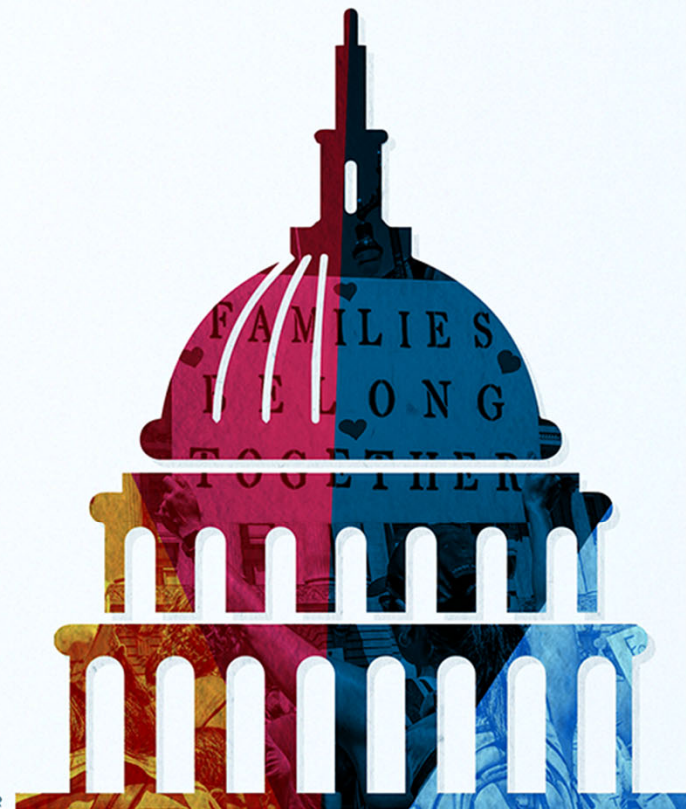
- Refugees and asylees
- Special Immigrant Juveniles
- Victims of certain crimes (U visa)
- Victims of human trafficking (T visa)
- DACA applicants
- TPS applicants
- Naturalization applicants
- **Others** (Amerasians, Afghan and Iraqi military translators, certain Cuban and Haitian adjustment applicants, certain Nicaraguans and Central Americans under NACARA, registry applicants, Soviet and Southeast Asian Lautenberg parolees)
- Most legal permanent residents
- U.S. citizens

But public charge does apply if a USC or LPR family member is petitioning for you to get a green card!

Takeaway:



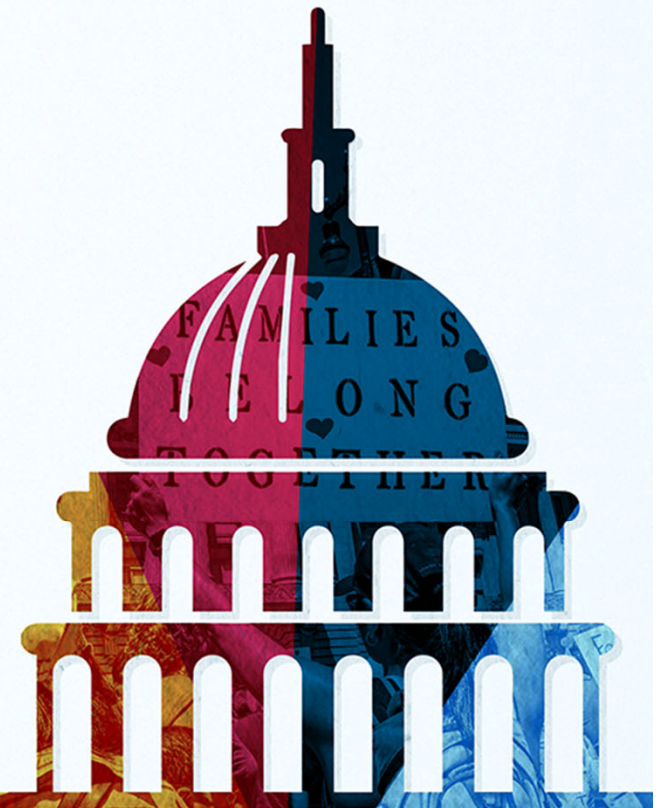
Many immigrants are not even subject to public charge



Takeaway:

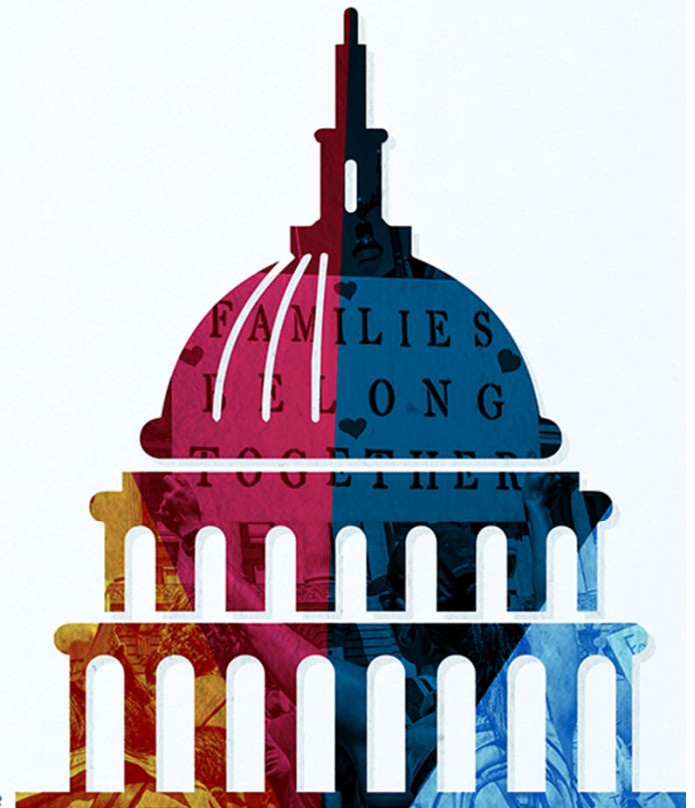


Public charge mainly impacts people who hope to immigrate through a U.S. citizen or lawful permanent resident family member



Takeaway:

Public charge DOES NOT APPLY to people renewing their green cards or applying for U.S. citizenship!



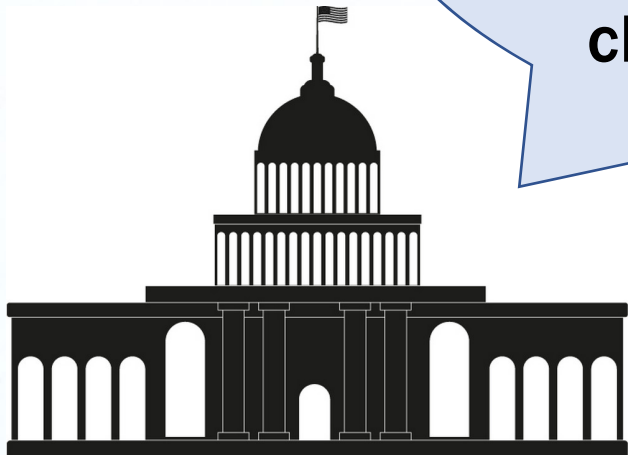
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Public charge:

✓ Not all immigrants

What Does the Immigration Law Say?

“[Someone] who... at the time of application for admission or adjustment of status, **is likely** at any time **to become** a public charge is inadmissible.”



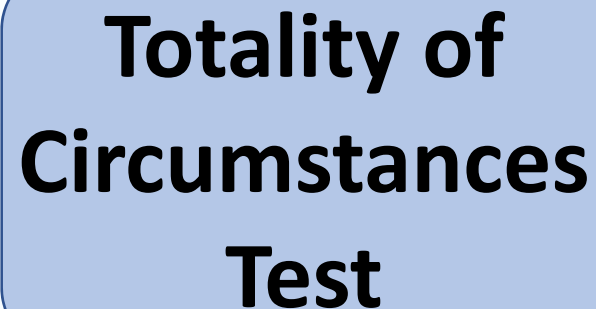
This is a future looking test.



Current Public Charge Definition (until October 15 ...and maybe longer!)

- **Public Charge = someone who is likely to become primarily dependent on the government for income support**

- Age
- Health
- Family status
- Assets
- Resources
- Financial status
- Education
- Skills, and
- Can also consider an affidavit of support



**Totality of
Circumstances
Test**

Current Public Charge Definition (until October 15 ...and maybe longer!)

Benefits that count

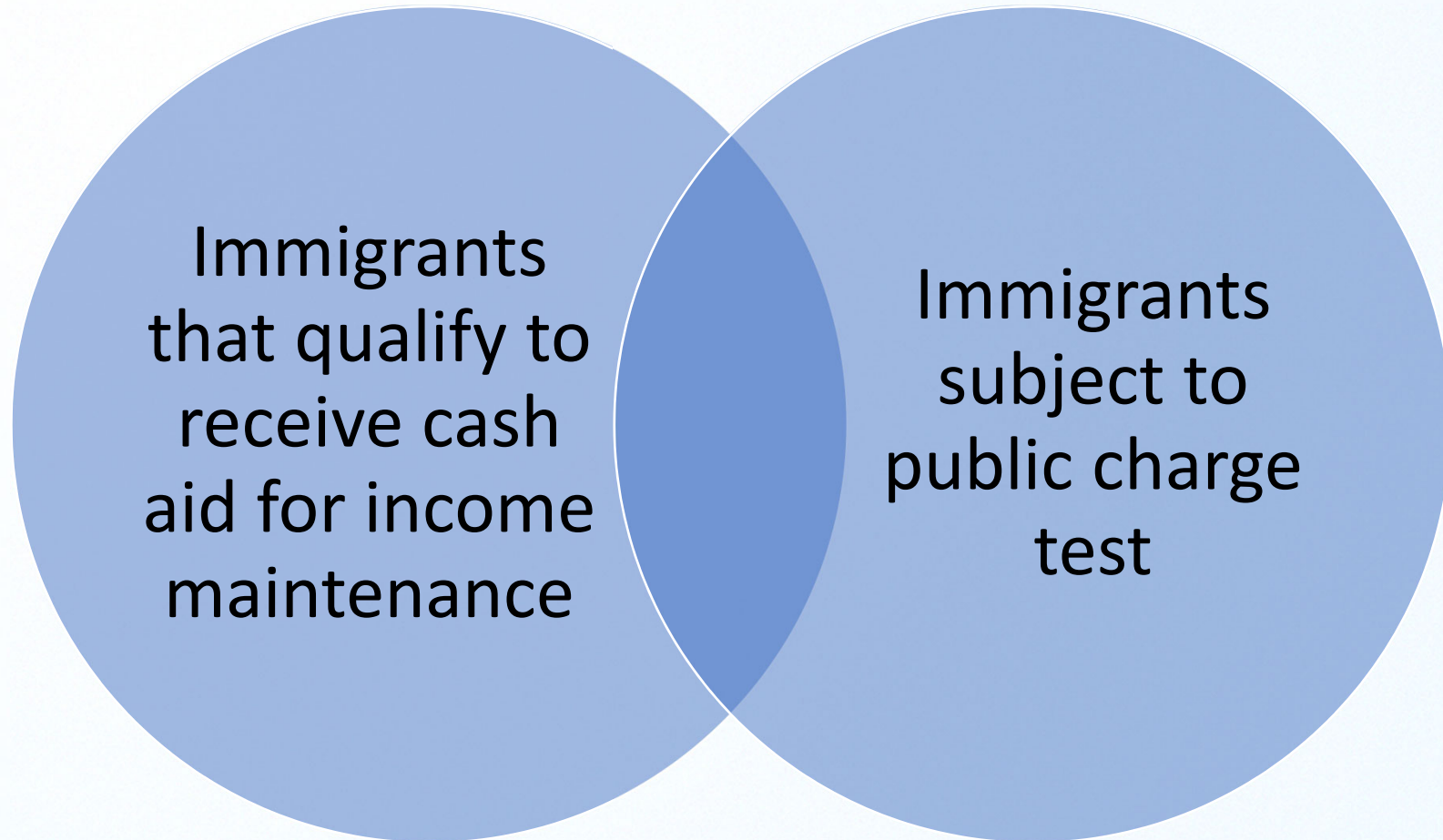
CASH ASSISTANCE
for income
maintenance

- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- Other cash assistance programs, such as “General Assistance”

INSTITUTIONALIZATION
for long-term care paid
by the government

- Medi-Cal *IF* used for long-term institutional care, like nursing home or mental health institution

Reality Check: Small Overlap!



Current Public Charge Definition (until October 15 ...and maybe longer!)

Benefits that DO NOT count:

NON-CASH benefits or SUPPLEMENTAL cash benefits

- Medi-Cal, *other than for long-term institutional care*
- Emergency medical services
- Children's Health Insurance Program (CHIP)
- Nutrition programs such as SNAP and WIC
- Housing benefits
- Educational assistance, like Head Start

CASH BENEFITS that have been EARNED

- Social Security benefits
- Government pensions
- Veterans' benefits
- Unemployment benefits

Current Public Charge Rules

(until October 15 ...and maybe longer!)

Public Charge =
primarily dependent on the government for income support

Programs that currently “count” as public charge:

- Cash assistance
- Long term institutionalization paid for by Medicaid

Programs that do not “count” as public charge:

- Health and nutrition programs
- Any non-cash assistance

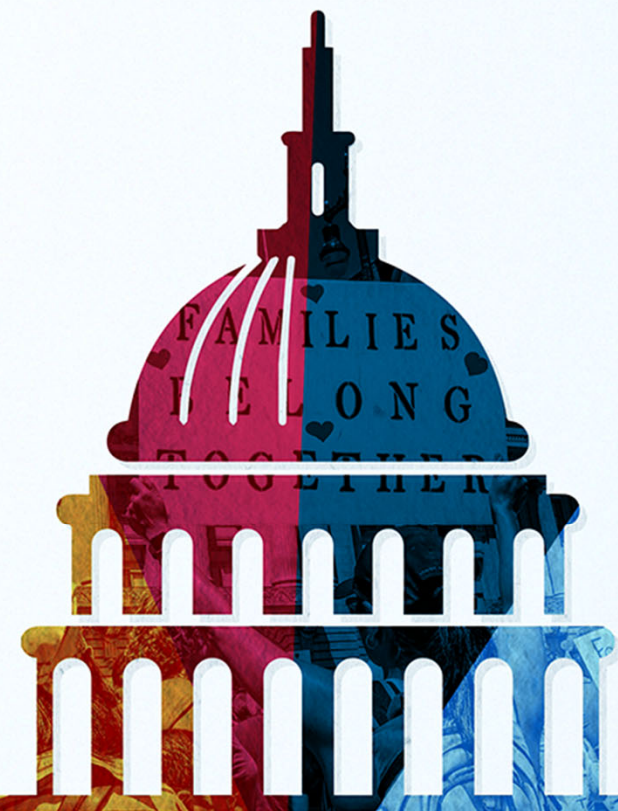
Benefits used by family members do not count against the applicant!

Takeaways:

- Not all benefits count
- Even if you've used benefits, there are other factors to be considered
- Family member use of benefits don't count



Caution!
Different at consulate



Public charge:

- ✓ Not all immigrants
- ✓ Not all benefits

Public Charge's Limited Impact

- Neither the existing policy nor the new public charge rule affects **eligibility** for health and public benefits programs.
- **Most immigrants** seeking admission or adjustment to LPR status are **not eligible** for these programs **or are exempt** from a public charge determination.

Why Are People So Concerned?



VICE News

Trump Is Now Going to Make Life Hell for Immigrants With Disabilities

Trump's new "public charge" rule would deny a visa or green card to immigrants who rely on government assistance.

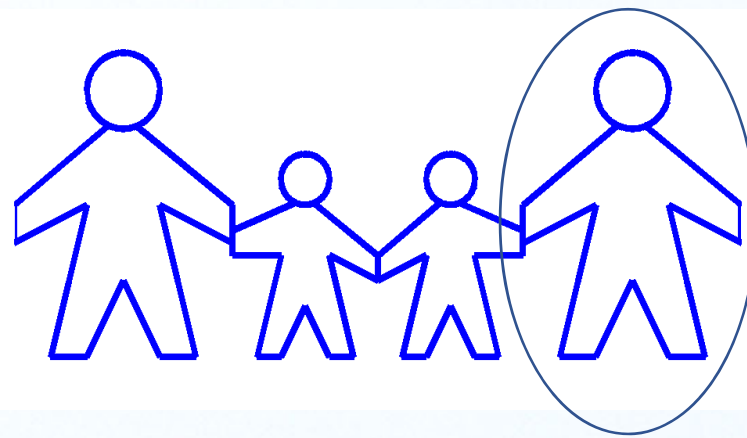
By [Emma Ockerman](#), [Morgan Baskin](#), and [Gaby Del Valle](#)

Aug 16 2019, 1:48pm



Public Charge - Impact

- As many as **26 million people** live in families with immigrants and might be chilled from participating in programs that make their families healthier and stronger
- **1 in 4 children** have an immigrant parent



Do LPRs Need to Worry About Public Charge?

- Most of the time, no
 - Not when they're applying to renew their green card
 - Not when they're applying to become a U.S. citizen
- But if they take a trip outside the U.S. that lasts longer than 180 days, they could be subject to public charge when they come back
- Or if they plan to sponsor a family member who will go to their green card interview **at a U.S. consulate or embassy abroad**, the sponsor LPR's use of benefits could affect *whether the family member who hopes to immigrate is viewed as a public charge*
(only applies to cases at U.S. consulates/embassies abroad)

Review: Public Charge Only Affects Certain People

- **People applying in the United States for permanent residence through a USC or LPR family member**
- **People applying from a U.S. consulate abroad for permanent residence through a USC or LPR family member**
- **People applying for a visa to enter the United States**
- **LPRs who have traveled outside the United States for 180+ days**

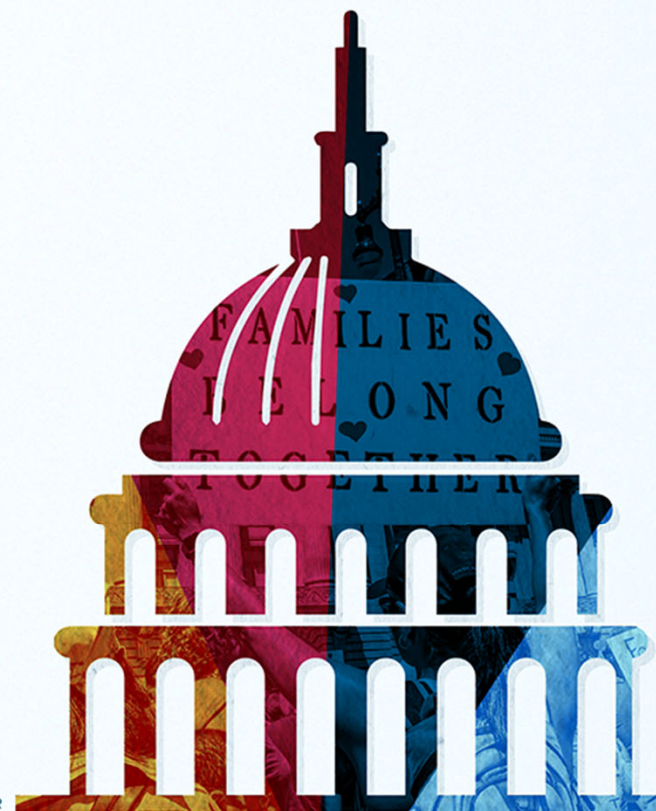
Current Status of Public Charge

**The current
definition of
public charge is
what applies until**

October 15, 2019

**Or possibly later
depending on the
lawsuits**

Public Charge Under the New Rule

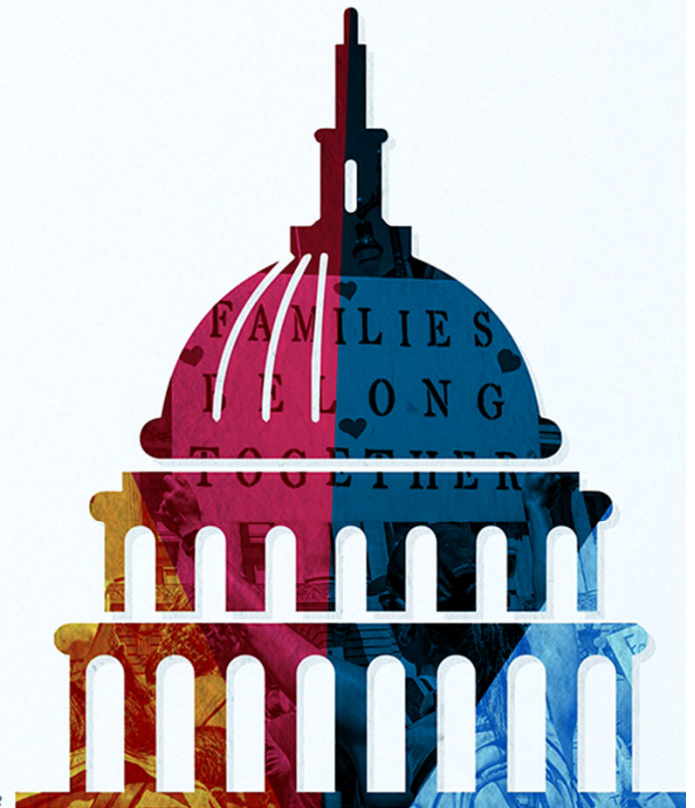


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Starting October 15 (or maybe later...)



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The changes:

- **New definition** of public charge
- **New list of benefits** that “count”
- **New considerations** when looking at a person’s entire situation (age, health, income & financial resources, etc.)

New Definition

Current: An immigrant who is likely to become primarily dependent on the government to support themselves



New Rule: An immigrant who is likely to “receive one or more public benefits . . . for more than 12 months in the aggregate within any 36-month period”

“Public Charge”

Starting October 15:

Much more **broad**

Before:

Focused on someone who would be living off the assistance they'd be receiving from the government

Remember, this is a future-looking test! But if a person fit this definition in the past, they're viewed as more likely to fit the definition again in the future

New List of Public Benefits

Same as before:

- **Cash assistance (TANF, CalWORKs, SSI, GA)**
- **Long term institutionalized care paid by Medi-Cal**

New List of Public Benefits

Newly added:

- Federal Medicaid (except for emergency services, school-based benefits, use by children under 21 years of age, and use during pregnancy and up to 60 days after pregnancy)
- Food stamps (SNAP) (federally-funded)
- Section 8 rental assistance and federal public housing

Use of benefits by family members do not count against the applicant

Use of benefits by active duty members of U.S. Armed Forces and Ready Reserve, their spouses, or their children do not count

What if someone who's undocumented lives in Section 8 housing with their U.S. citizen children and U.S. citizen spouse?

That DOES NOT count against the undocumented immigrant, if they're applying for a green card through their U.S. citizen spouse, because it's a benefit received by the U.S. citizen family members (even though they also live there)

Benefits that “Count”

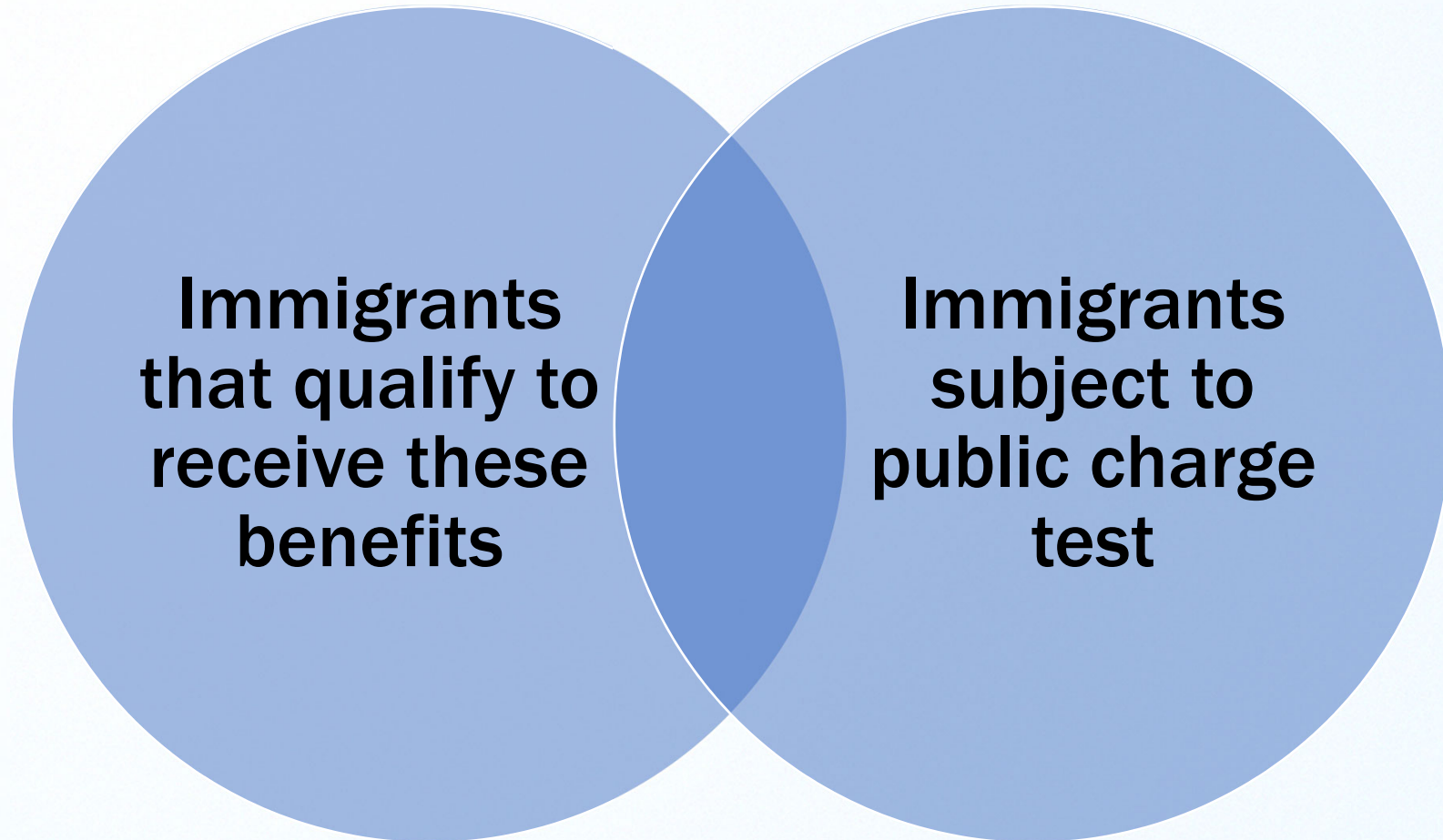
Starting October 15:

- Cash assistance (TANF, CalWORKs, SSI, GA)
- Long term institutionalized care paid for by government
- **Federal Medicaid (exceptions for emergency, children up to age 21, and pregnant people up to 60 days after pregnancy)**
- **Federally funded food stamps (SNAP)**
- **Section 8 rental assistance and federal public housing**

Before:

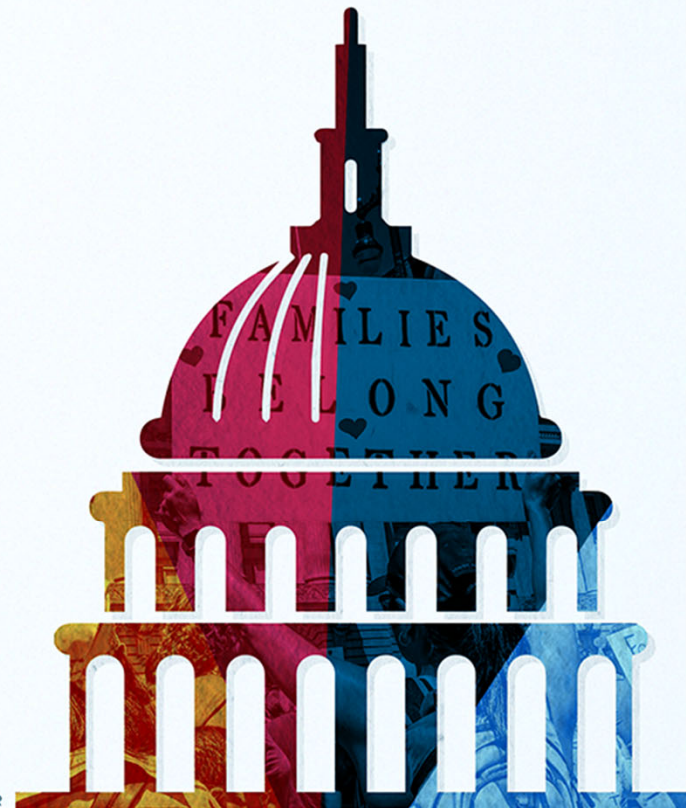
- Cash assistance (TANF, CalWORKs, SSI, GA)
- Long term institutionalized care paid for by government

Reality Check: Small Overlap!



Takeaway:

**Use of these newly added
benefits will not count before
October 15**



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Benefits that are NOT considered

- ANY benefits received by family members
- Children's Health Insurance Program (CHIP)
- Medicaid used by children under age 21
- Emergency and school-based Medicaid
- Services available to the community as a whole (no income requirement)
- Special Supplemental Nutrition for Women, Infants & Children (WIC)
- Public health services

These benefits are not considered, even under the new rule

It is okay to continue using these without having any effect on public charge

Benefits that are NOT considered (continued)

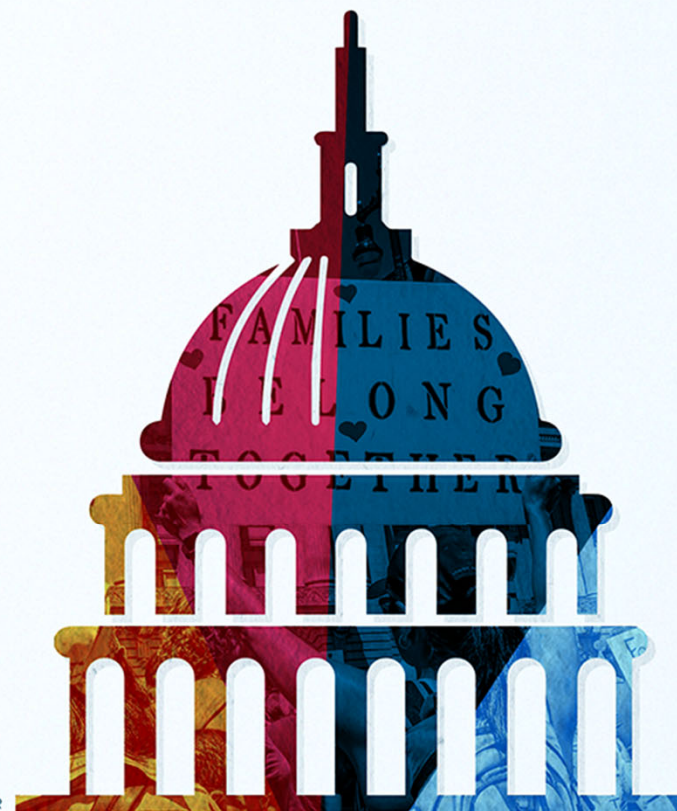
- School-based nutrition services like free and reduced school meals
- Public education, Head Start
- Earned benefits, such as unemployment, social security retirement, worker's compensation
- Tax credits
- Any other federal, state, or local benefit not listed on slide 50
- Any benefits used by members of the military, Ready Reserve, and their spouses and children

These benefits are not considered, even under the new rule

It is okay to continue using these without having any effect on public charge

Takeaway:

Even after October 15, receipt of housing or nutritional benefits *in a family member's name* does not “count”



New considerations

For example:

- When looking at health...
 - **Private health insurance?**
- When looking at finances...
 - **Credit score**
- When looking at “employability”...
 - **English language skills**

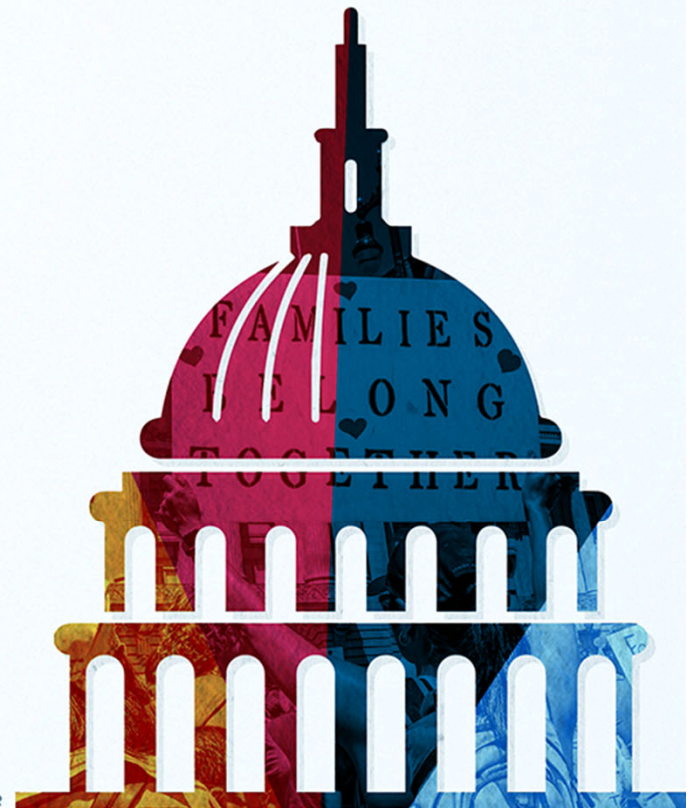
- **Age**
- **Health**
- **Household size**
- **Financial resources**
- **Education & employment history**
- **Affidavit of support**

Remember, receipt of benefits isn't the only focus!

Takeaway:

**Even after October 15,
immigration officers are looking
at the same factors (age, health,
financial resources, etc.) as
before**

**BUT, they are supposed to
scrutinize all the factors more
closely**



Good facts when looking at a person's entire situation

- Household **income at least 125%** federal poverty guidelines (FPG) (\$32,187 for a family of 4)
- Household **income at least 250%** FPG (\$64,375 for a family of 4)
- **Never received public benefits**
- **Joint sponsor with income at least 250%** and is likely to support them
- **Good credit score**
- Everyone in household is **healthy** (no costly medical conditions)
- Any **health problems will not interfere** with ability to work and support themselves
- **Private health insurance**
- **Not many dependents to support**
- **Savings and/or retirement benefits or pension**
- **Own their home**
- **Full-time student**
- **Primary caregiver** for someone in their household
- **Job offer**
- **High school diploma**
- **Advanced degrees**
- **Proficient in English**
- **Proficient in other languages, in addition to English**

Public charge:

- ✓ It's not just about benefits
- ✓ A person's past doesn't necessarily equal their future

What if the person is consular processing?

- The new public charge rule does *not* apply
- A *different* rule applies, specific to cases at **U.S. consulates/embassies**



Who goes to the consulate?

1. **People already outside the United States** who apply for a visa or green card to come to the United States
2. **People in the United States, applying to become permanent residents, but who do not qualify to go through the process in the United States**. Some people have to leave the country to finish the process to become a permanent resident.

Public charge at the consulates

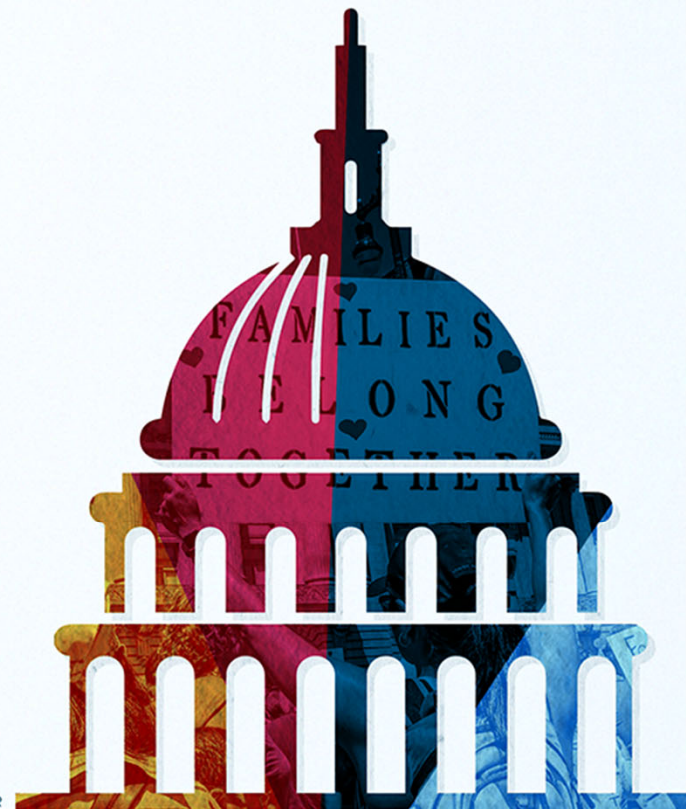
- **Public charge = someone who is likely to become primarily dependent on the government for income support**
- **Public benefits that “count”:**
 - **Cash assistance (TANF, CalWORKs, SSI, GA)**
 - **Long term institutionalized care paid by Medi-Cal**
- **More emphasis on age, health, financial resources, etc. rather than affidavit of support**
- **Will consider use of other, non-cash benefits, including benefits used by sponsors or family members**



Providing Information, Education and Outreach

VS.

Giving Legal Advice



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Talking About Public Charge

- Remember: You cannot give legal advice if you are not an attorney or DOJ accredited representative
 - Legal Advice = telling someone that they can or cannot apply for an immigration option
 - Advising people what is OK for their immigration case requires legal analysis
 - Always tell someone to get legal advice if they are uncertain and especially before disenrolling from benefits or services

Talking to Families about Public Charge

You *can* explain a lot of information *without* giving legal advice:

- ✓ That they may generally be eligible for public benefits programs; public charge does not change that.
- ✓ Certain groups of immigrants do not have to worry about public charge.
- ✓ Generally, U.S. citizens and most permanent residents can use public benefits without immigration consequences.
- ✓ Until October 15, 2019, only cash aid and long-term care impacts public charge. If someone applies for a family-based green card before then, the changes don't affect them.
- ✓ No one has to worry about whether to disenroll from other benefits until October 15, 2019.

Creating Referrals

- National legal directory by zip code of nonprofits providing immigration legal services:

<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

- Selected list of immigration legal service providers in CA: <http://www.cdss.ca.gov/Benefits-Services/More-Services/Immigration-Services/Immigration-Services-Contractors>

- Contact local partners

Public charge:

- ✓ Not all immigrants
- ✓ Not all benefits

Not all immigrants

Public charge applies:

- Applying for a visa
- Applying for a green card through a U.S. citizen or LPR family member
- LPRs who have been outside the United States for more than 180 days during a single trip

Public charge does NOT apply:

- NOT applying for a visa
- NOT applying for a green card through family
- Refugees
- Asylees
- Special Immigrant Juveniles
- Crimes victims (U visa)
- Human trafficking victims (T visa)
- DACA applicants
- TPS applicants
- LPRs who have NOT been outside the U.S. for more than 180 days during a single trip
- LPRs renewing their green card
- Conditional permanent residents
- LPRs applying for U.S. citizenship
- U.S. citizens

Not all benefits

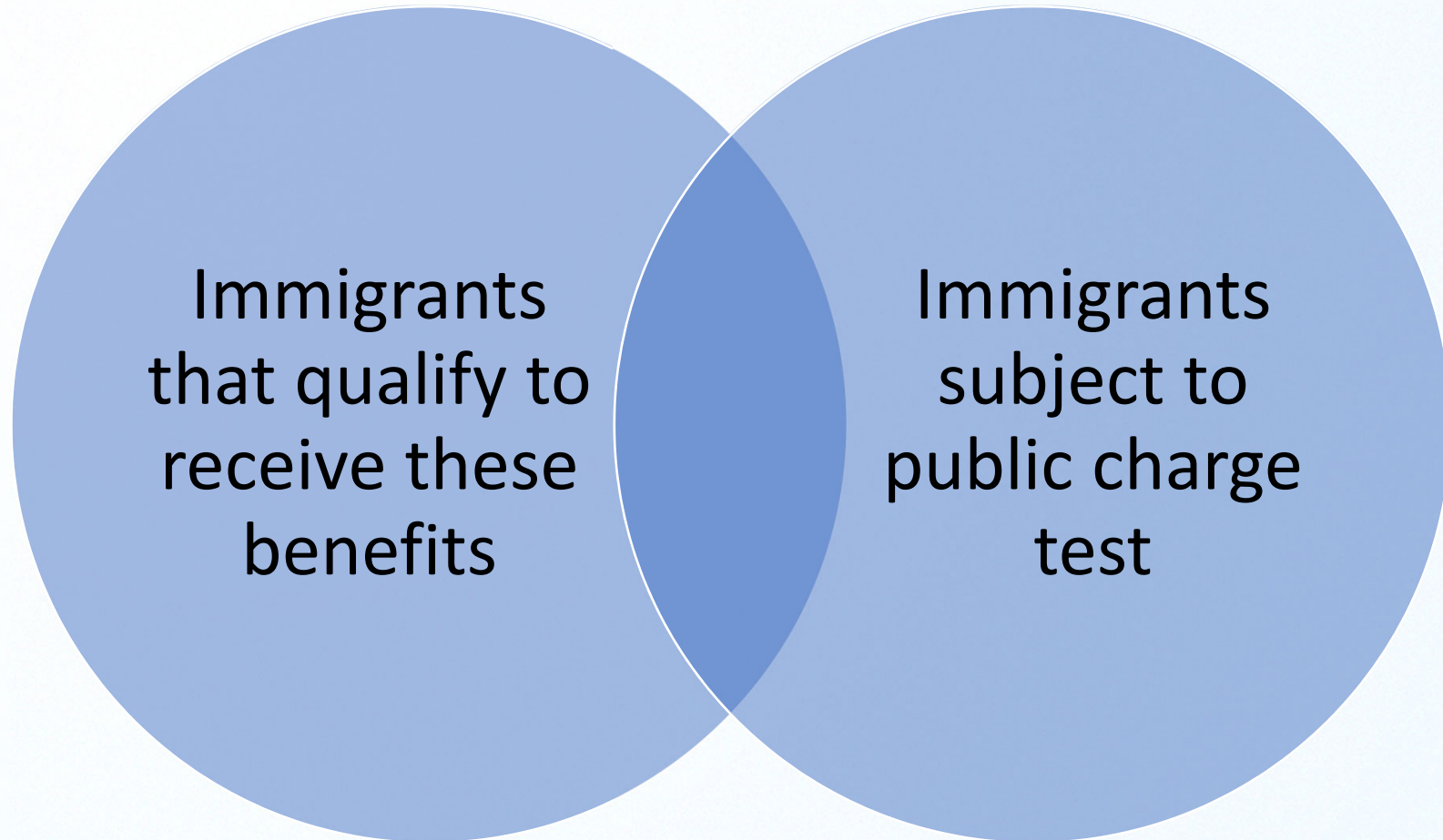
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- Federal Medicaid (exceptions for emergency, children up to age 21, and pregnant people up to 60 days after pregnancy)
- Federally funded food stamps (SNAP)
- Section 8 rental assistance and federal public housing

Benefits that do NOT count:

- ANY benefits received by family members
- Children's Health Insurance Program (CHIP)
- Medicaid used by children under age 21
- Emergency and school-based Medicaid
- Services available to the community as a whole (no income requirement)
- WIC
- Public health services
- School-based nutrition services like free and reduced school meals
- Public education, Head Start
- Earned benefits, such as unemployment, social security retirement, worker's compensation
- Tax credits
- Any other federal, state, or local benefit not listed to the left
- Any benefits used by members of the military, Ready Reserve, and their spouses and children

Remember: Limited Impact



Public charge:

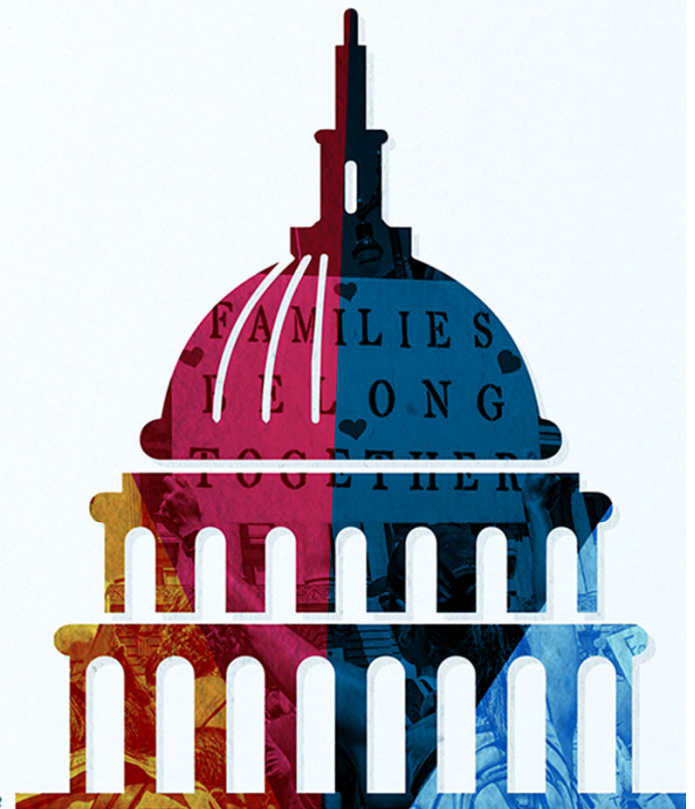
- ✓ Not all immigrants
- ✓ Not all benefits

Public charge:

- ✓ **It's not just about benefits**
- ✓ **A person's past doesn't necessarily equal their future**

Key Points About Public Charge for

- ✓ Immigrants with green cards
- ✓ Immigrants without status
- ✓ Immigrants who want to sponsor a family member



Immigrants with Green Cards

- ✓ Generally, people who already have green cards **aren't affected by public charge**.
- ✓ There is **no public charge test to renew** a green card.
- ✓ Green card holders **cannot be deported simply for using public benefits**. It is very hard for the government to deport a green card holder for being a “public charge.”
- ✓ The public charge rule could apply to a green card holder **if they left the U.S. for more than 180 days**. If a green card holder leaves the U.S. for more than 180 days during one trip, the government can ask questions to see if the person is a “public charge” upon returning to the U.S.
- ✓ There is **no public charge test to apply for citizenship**.

Immigrants Without Status

- ✓ The State of **California does not tell ICE** when a person signs up for a public benefit.
- ✓ If a person is **not eligible to apply for a green card now, there is no reason to give up needed benefits.**
- ✓ The public charge test **only affects some people who are applying for a green card through a U.S. citizen or permanent resident family sponsor. And, the public charge changes only affect applications filed on or after October 15, 2019.**
- ✓ Anyone who wants to submit an immigration application should **work with a trusted immigration attorney or accredited representative to prepare a strong application.**

Immigrants Who Want to Sponsor a Family Member

- ✓ A person can use benefits and still sponsor a family member.
- ✓ If they don't have enough income to support the family member they want to sponsor, they can add a second ("joint") sponsor who has enough income. It's important to review their financial documentation with a trusted immigration attorney or accredited representative to prepare a strong application and decide whether a joint sponsor is needed.
- ✓ If the family member will be having their green card interview at an immigration office inside the U.S., only the applicant's use of benefits can be counted against them.
- ✓ If the family member will be having their green card or visa interview at an immigration office outside the U.S. at a consulate, then the sponsor's use of benefits might show they can't support the family member—in this case, a joint sponsor might be needed. It is a good idea to talk to a trusted attorney or accredited representative to help prepare the case.

Let's Practice: Terry's Question

Terry has had DACA since 2013 and uses Medi-Cal (California's version of Medicaid). They are worried that the public charge changes will affect their DACA in the future.

What can you tell Terry?

Terry

What can you tell Terry?

- ✓ **California allows DACA recipients to use some public benefits**
- ✓ **DACA applicants are not subject to a public charge test when they apply to renew DACA**
- ✓ **Don't give legal advice: ~~"Terry does not need to worry about using public benefits right now"~~**
[Watch out! You don't know anything about their immigration case!]
- ✓ **They should speak with an attorney or accredited rep for more information about applying to renew DACA!**

Let's Practice: Maya's Question

Maya has a green card and she is ready to naturalize and become a U.S. citizen! She's worried because she uses CalFresh (California's version of SNAP/food stamps).

What can you tell Maya?

Maya

What can you tell Maya?

- ✓ There is no public charge test to naturalize.
- ✓ A person can apply for a fee waiver for a naturalization application if they receive a means-tested benefit.
- ✓ Maya should speak with an attorney or DOJ-accredited representative for more advice about her naturalization case!

Let's Practice: Laura's Question

Laura is undocumented. Her children are U.S. citizens. Her children qualify for Medi-Cal and CalFresh.

Laura worries, because of her status, her children should not sign up.

Laura

What can you tell Laura?

- ✓ Information: Parents of U.S. citizens can apply for public benefits for their eligible children
- ✓ Information: The use of benefits by children does not count against an applicant in their own application with immigration
- ✓ “You should talk to an immigration lawyer to make a family immigration strategy”
- ✓ **BUT! Don't give advice: ~~“Because you're undocumented, this doesn't affect you”~~**
- ✓ Laura should speak with an advocate, so she knows her rights

Public charge:

- ✓ Not all immigrants
- ✓ Not all benefits

Public charge:

- ✓ It's not just about benefits
- ✓ A person's past doesn't necessarily equal their future

More Information:

For additional resources and updates about litigation and implementation, please visit the following.

ILRC:

<https://www.ilrc.org/public-charge>

Protecting Immigrant Families:

<https://protectingimmigrantfamilies.org/>

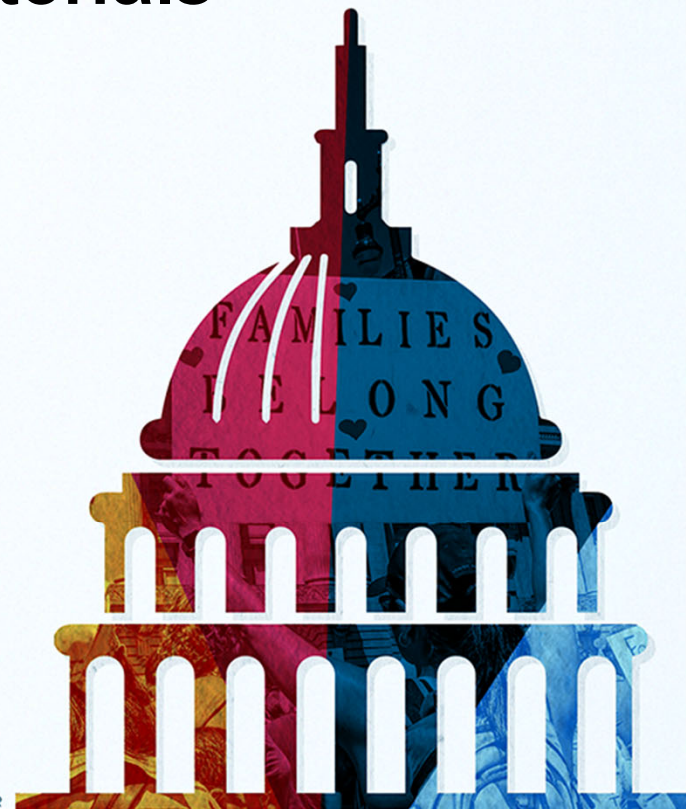
NILC:

<https://www.nilc.org/issues/economic-support/>

Thank you for attending!

Please complete our survey

Make sure you received all materials



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KEEP YOUR FAMILY HEALTHY

YOUR CHILDREN CAN
STILL USE MEDI-CAL!

*CHILDREN CAN USE
MEDI-CAL AND IT **WON'T**
CAUSE PROBLEMS WITH
IMMIGRATION*

STAY INFORMED!
FOR UPDATES ON IMMIGRATION, VISIT
ilrc.org/public-charge



AUGUST 2019

CUÍDE LA SALUD DE SU FAMILIA

¡TUS HIJOS PUEDEN SEGUIR
USANDO MEDI-CAL!

*LOS NIÑOS MENORES DE EDAD
PUEDEN USAR MEDI-CAL
Y **NO** LE VA A CAUSAR
PROBLEMAS CON
INMIGRACIÓN.*

¡MANTÉNGASE INFORMADO!
PARA INFORMACIÓN SOBRE ASUNTOS
MIGRATORIOS, VISITE
ilrc.org/public-charge



AGOSTO 2019

THESE GROUPS CAN SAFELY USE MEDI-CAL

- U.S. citizens
 - Lawful permanent residents (green-card holders)
 - **Refugees and asylees** (People who have applied for or received: **VAWA** (for some victims of domestic violence) **U-Visa** (for victims of certain crimes) **T-Visa** (for victims of trafficking) **SJS** (Special Immigrant Juveniles) People under 21 years old*)
 - People who are pregnant, during and up to 60 days after the end of a pregnancy
- * Currently, undocumented people aged 18-25 are not eligible for Medi-Cal.

STAY INFORMED!
FOR UPDATES ON IMMIGRATION, VISIT
irc.org/public-charge

ESTAS PERSONAS PUEDEN USAR MEDI-CAL SIN MIEDO

- Ciudadanos de EE.UU.
 - **Residentes** Permanentes Legales (mica)
 - **Refugiados** y personas con el **asilo** (Personas que piden o reciben: **VAWA** (Victimas de la violencia doméstica) **La visa U** (Victimas de tráfico humano) **La visa T** (Victimas de crimen) **SJS** (Inmigrantes Especiales Juveniles) Personas menores de 21 años de edad*)
 - Personas embarazadas, durante el embarazo y hasta 60 días después del fin del embarazo
- * En este momento, las personas 18 a 25 años de edad que no tienen papeles no son elegibles para Medi-Cal.

!MANTÉN GASE INFORMADO!
PARA INFORMACIÓN SOBRE ASUNTOS
MIGRATORIOS, VISITE
irc.org/public-charge



FIVE THINGS TO KNOW PUBLIC CHARGE

The Trump administration recently announced that it will be harder for some people to receive a green card through a family member or some visas if they use Medi-Cal, SNAP, and subsidized housing. This change to the “public charge” rules was formally announced on August 14, 2019, but does not go into effect until October 15, 2019. Legal challenges may further delay this change.

Not everyone needs to worry about this new public charge rule. Many people are not affected by this rule and can use public benefits without consequences. Read below for more information about whether public charge affects you!

Here are five essential facts about public charge for green card holders (LPRs), undocumented immigrants, and people applying to sponsor a family member.

IF YOU ARE A GREEN CARD HOLDER (LAWFUL PERMANENT RESIDENT):

1. Generally, people who already have a green card are not affected by public charge.
2. There is no public charge test to renew a green card.
3. Green card holders cannot be deported simply for using public benefits. It is very difficult for the government to deport a green card holder for being a “public charge.”
4. This public charge rule could apply if a permanent resident leaves the United States for more than 180 days. If a green card holder travels outside the United States for more than 180 days during one trip, the government can ask questions to see if the person is a “public charge” upon returning to the U.S. It is important for green card holders to speak to a trusted immigration attorney or accredited representative before leaving the United States for more than 180 days.
5. There is no public charge test to apply for citizenship. However, an immigration official might ask you questions about receiving public benefits to figure out if you received a benefit when you were not eligible for it. You should review your public benefits history with a trusted legal representative before applying for citizenship.

IF YOU ARE UNDOCUMENTED:

1. The State of California does not tell ICE when you sign up for a public benefit.
2. If you are not eligible to apply for a green card now, there is no reason to give up needed benefits. If you are not applying for a green card now, even if you plan to apply many years in the future, there may be no benefit to giving up necessary benefits now.



NOTE: People who plan to apply for a green card through a family member should speak to a trusted immigration attorney or accredited representative to receive advice specific to your situation!

3. The public charge test only affects some people who are applying for a green card through a family sponsor or petition, or applying for certain temporary visas abroad. The new changes to public charge only affect these applications filed in the U.S. on or after October 15, 2019.
4. Some immigrants do not have to worry about a public charge test. These people can use public benefits without problems because public charge doesn't apply to them. These people include:
 - Refugees, asylees, and people applying for asylum
 - People applying for a U visa (victims of crime), T visa (victims of trafficking), VAWA (certain victims of domestic violence), and Special Immigrant Juveniles Status (children who have been abused, abandoned, or neglected)
 - People applying for a green card based on already having a U visa, T visa, VAWA, asylum, or refugee status
 - People renewing TPS or DACA
5. Anyone who wants to submit an immigration application should work with a trusted immigration attorney or accredited representative to prepare a strong application.

IF YOU WANT TO SPONSOR A FAMILY MEMBER TO COME TO THE U.S.:

1. There is no public charge test to naturalize. You can become a U.S. citizen even if you have used benefits or need a fee waiver for your application. There is no public charge test to renew a green card.
2. You can sponsor a family member and still use public benefits.
3. If you are sponsoring your family member and do not have enough income to support your family member, you can add a second ("joint") sponsor who has enough income to support the family member. It's important to review your family member's financial documentation with a trusted immigration attorney or accredited representative to prepare a strong application and decide whether a joint sponsor is needed.
4. If your family member is going to a visa interview inside the U.S., only your family member's use of certain benefits can be counted against them.
5. If your family member is going to a visa interview outside the U.S. at a consulate, your use of benefits might show that you cannot financially support your family member—in this case, a joint sponsor might be needed. It is good to talk to a trusted attorney or accredited representative to help prepare the case.

EVERY FAMILY SHOULD GET A COMPREHENSIVE IMMIGRATION LEGAL SCREENING.

Free or low-cost help is available at immigrationadvocates.org/nonprofit/legaldirectory



PUBLIC CHARGE OUTREACH TOOLKIT

INTRODUCTION

Our immigration law includes a provision that says a person is “inadmissible” if they are likely to become a public charge. Under our current policies, public charge refers to individuals who are primarily dependent on the government for subsistence, like people who rely on cash assistance programs, or require long-term care at the government’s expense.

This law only affects those applying for a permanent residence (a green card) in the United States through family members, those who are applying for certain temporary visas abroad, or people applying for an immigrant visa at a consulate abroad based on a family petition. Many people are not affected by public charge rules, including people applying for other types of immigration status, most current permanent residents, and people who do not plan to apply for any immigration benefits.

On August 14, 2019, the Department of Homeland Security (DHS) published a final rule related to public charge in the Federal Register. The rule will not take effect until October 15, 2019. Additionally, many organizations have indicated they will file lawsuits challenging the legality of the rule. Thus, even after publication, legal challenges could delay implementation.

The new rule has created confusion and fear in our communities. Because it is very difficult to understand who might be impacted, many immigrant families have decided to disenroll or refuse enrolling in programs that are necessary to survive and thrive. Many immigrants remain exempt from this public charge rule and many immigrants continue to be eligible for various programs.

This is a packet of information to assist education and outreach workers presenting information to community members. Our goal is to spread accurate information about what the law is and who is impacted. We hope that these resources will enable community organizations to provide information in community forums and at community events so that families can make good decisions for their families.

OBJECTIVES

- To better understand the current rules for public charge determinations made by immigration officers.
- To share information that minimizes panic about the new public charge rule.
- To share resources for trainers and community members affected by the rules.

INCLUDED IN THIS TOOLKIT, YOU WILL FIND:

A QUICK LEGAL OVERVIEW

This overview goes a little more in-depth on what public charge is and the changes put forward in the new rule. This is here for those that want more in-depth understanding.

1-PAGE FAQ ON PUBLIC CHARGE

This FAQ can be used as a handout and/or to help you present basic information about Public Charge.

COMMUNITY MEETING POWERPOINT WITH PRESENTATION SCRIPT

This section includes presentation tips, followed by [powerpoint slides](#), notated with what you can say as you present.

COMMUNITY RESOURCES

We have included 3 additional handouts that you might want to use, depending on your audience. These include:

- [Community Flyer: Five Things You need to Know About Public Charge If....](#)

This provides a few tips, based on the specific situation of the immigrant.

- [Community Flyer: Keep Your Family Healthy](#)

This ½ page handout explains that using Medi-Cal is safe for children and many immigrants. This document is meant to be printed double-sided. Once printed, you can cut it in half, creating one Spanish language handout and one English language handout.

- [Community Messages on Public Charge](#)

This one-page document provides messages we can share about the new rule. You can use this to help prepare and present, as well as offer it as a resource.

SMART REFERRALS

Finally, be prepared to refer people to legal non-profits in the area for further assistance. If the person believes the public charge law might apply to them, they should seek advice. Prepare a referral sheet based on CDSS-funded non-profit legal service providers in your area. Additionally, you can share the Immigration Legal Services Directory tool maintained by Immigration Advocates Network at <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>.

Thank you for spreading the word and helping keep our communities safe!

A QUICK LEGAL BACKGROUND



NOTE: It's not important that you know all of this! This background is to help you feel prepared and familiar with the topic.

On August 14, 2019, the Department of Homeland Security (DHS) published a final rule related to public charge in the Federal Register. The rule will not take effect until October 15, 2019. Additionally, many organizations have indicated they will file lawsuits challenging the legality of the rule. Thus, even after publication, legal challenges could delay implementation.

This new rule, if implemented, will mainly impact those seeking permanent resident status through family member petitions. Immigrants should consult with an immigration expert who understands public charge to learn whether the public charge rule even applies to them or their family. Remember, many categories of immigrants are exempt from public charge.

HERE ARE A FEW IMPORTANT POINTS REGARDING THE PUBLIC CHARGE RULE:

- The new rule interprets a provision of the Immigration and Nationality Act (INA) pertaining to inadmissibility. The inadmissibility ground at issue says a person is inadmissible if they are likely to become a public charge. INA § 212(a)(4). This law only applies to individuals seeking admission into the United States or applying for adjustment of status. This provision of the law does not apply to all immigrants.
- Public charge and this rule do not apply in the naturalization process, through which lawful permanent residents apply to become U.S. citizens.

WHAT IS THE CURRENT LAW?

- Currently, immigration officers decide public charge by evaluating whether an applicant for a green card or an individual seeking to enter the United States on certain visas is likely to become primarily dependent on the government for support. Primary dependence refers to reliance on cash-aid for income support or long-term care paid for by the government.
- To decide whether an individual is a public charge, immigration officers rely on multiple factors specified in the INA. They must also rely on the “affidavit of support,” which is a contract signed by the immigrant’s sponsor, indicating that the sponsor will financially support the immigrant. This affidavit of support offers strong evidence that the immigrant will not become primarily dependent on the government.
- Under existing policy, immigration officers also consider whether an immigrant applying for a green card or admission to the United States has used cash aid (such as TANF, also known as “welfare,” or SSI) or long-term institutionalized care in the past. Immigrants who have used this form of assistance will have to show that it is not likely they will need these resources for support in the future.
- Use of publicly-funded health care, nutrition, and housing programs are not currently considered negative factors for purposes of public charge. Beginning on October 15, 2019, the new rule will consider some of these benefits in the public charge determination. This is a drastic change from longstanding policy.
- Existing policy is still in effect. The new rule will apply to adjustment of status applications postmarked on or after October 15, 2019. The new rule will does not apply to adjustment of status applications that are pending or postmarked before that date. Additionally, legal challenges may delay implementation.
- Individuals seeking to enter the United States apply at consulates abroad. At the consulates, the officers use the Foreign Affairs Manual (FAM) as guidance on how to make decisions. Under FAM guidance, officers investigate further into the sponsor’s ability to uphold the affidavit of support. To learn more about this process see our [Consular Processing Practice Alert on Public Charge and Affidavit of Support Issues](#).
- To learn more about the public charge ground of inadmissibility, please see our [overview](#).

WHAT’S IN THE NEW RULE?

- While the test for whether someone is likely at any time to become a public charge will still be prospective as required by the statute, the new rule redefines the definition of a public charge. Now, instead of assessing whether an applicant is likely to become primarily dependent on the government for income support, the new rule defines a public charge as a person who receives any number of public benefits for more than an aggregate of 12 months over any 36-month period of time. Each benefit used counts toward the 12-month calculation. For instance, if an applicant receives two different benefits in one month, that counts as two-months’ use of benefits.

- The rule expands the list of publicly-funded programs that immigration officers may consider when deciding whether someone is likely to become a public charge. Under the new rule, Medicaid, the Supplemental Nutrition Assistance Program (SNAP, formerly known as Food Stamps), Section 8 housing assistance and federally subsidized housing will be used as evidence that a green card or visa applicant is inadmissible under the public charge ground.
- The proposal also considers that all use of cash aid, including not just TANF and SSI but also any state or local cash assistance program, could make an individual inadmissible under the public charge ground.
- Benefits received by family members of the immigrant will still not be considered in the public charge determination. Additionally, Medicaid received by applicants while under age 21 or while pregnant are not considered. In addition, the proposal does not change long-standing policies that allow immigrants to access emergency medical care and disaster relief without public charge repercussions.
- It is important to remember that prior receipt of benefits is only one factor in the public charge test. The new rule sets out criteria for considering several factors in assessing the likelihood that a person will need more than 12 months of public benefits in aggregate over a 36-month period in the future. The rule also elaborates on criteria for considering financial status, size of family, age, education, skills and employment, among others.
- The rule allows immigration officers to consider English proficiency (positive), or lack of English proficiency (negative); medical conditions and availability of private health insurance; and past use of immigration fee waivers. The rule will require immigrants to attach a Declaration of Self-Sufficiency when applying for a green card in addition to the many forms already required.
- The rule creates “heavily weighted negative factors” and a couple “heavily weighted positive factors.” It is a heavily weighted negative factor to receive more than 12 months of public benefits in the aggregate over the 36-month period of time before submitting the application for adjustment or admission. Heavily weighted positive factors include having a household income of at least 250% of the federal poverty level and having private health insurance. It is not clear how an officer should decide a case that has a heavily weighted factor or both heavily weighted negative and positive factors.
- Bonds are possible where an immigration officer finds inadmissibility based on public charge. Bonds will be highly discretionary, and the new rule says that heavily weighted negative factors in a case will generally make an applicant ineligible for a bond.

The rule will not take effect until October 15, 2019. Until that time, all pending adjustment of status cases and those that are postmarked before October 15, 2019 will be adjudicated under current standards.



PUBLIC CHARGE: **WHAT THE IMMIGRANT** **COMMUNITY NEEDS TO KNOW**

WHAT IS PUBLIC CHARGE?

A test to determine if someone applying for permanent residence through a relative or a visa to enter the United States is likely to depend on public benefits in the future.

WHO DOES PUBLIC CHARGE AFFECT?

It only applies to people applying for permanent residence (green card) through a relative or for a visa to enter the United States. No other types of immigration cases are impacted!

WHAT DOES THE NEW PUBLIC CHARGE RULE SAY?

The new rule sets a stricter test for people to show they will not depend on public benefits in the future. An immigration officer will consider different factors, including family income, receipt of certain public benefits, and how likely the applicant is to be employed.

WHEN WILL THE NEW RULE TAKE EFFECT?

The new rule will take effect on October 15, 2019. However, there are different lawsuits challenging the rule that may delay its implementation.

DOES THIS NEW RULE AFFECT MY ELIGIBILITY FOR CERTAIN PUBLIC BENEFITS?

No! The new public charge rule does not change eligibility for health and public benefits programs. If you qualify for certain public benefits, you are still eligible.

WHO IS NOT AFFECTED BY PUBLIC CHARGE?

Many immigrants do not have to worry about public charge:

- Refugees and asylees
- People with a U Visa, T Visa, VAWA, or SIJS
- DACA and TPS applicants
- The majority of permanent residents
- U.S. Citizens

I WANT TO APPLY TO BECOME A U.S. CITIZEN, WILL IT HURT MY CASE IF I USE BENEFITS?

No! There is no public charge test for naturalization, which is the process to become a U.S. citizen. Permanent residents that travel outside the United States for more than 180 days could be subject to public charge rules.

IF I AM USING FOOD STAMPS OR MEDI-CAL NOW, WILL IT HURT MY CASE?

No! The new rule does not consider these benefits received before October 15, 2019.

WHAT IF MY CHILDREN OR OTHER FAMILY MEMBERS RECEIVE PUBLIC BENEFITS?

The rule only considers benefits received by the person applying for permanent residence or the visa. Benefits received by family members, like U.S. citizen children, will not count against you. If you are ready to become a permanent resident, consult with an immigration expert, especially if you have to leave the United States for your green card interview, as the rules are different for people in that situation.

ARE ALL PUBLIC BENEFITS PART OF THE RULE?

No! WIC, Medi-Cal for pregnant women and children under 21, Head Start, school lunches, and other benefits are not part of the public charge rule and will have no impact. Eligible families should continue to receive these important benefits!

I ALREADY FILED MY GREEN CARD APPLICATION, DOES THE NEW RULE APPLY TO ME?

No! The new rule does not apply to cases filed before October 15, 2019.

I HAVE QUESTIONS...WHAT SHOULD I DO?

Consult an immigration expert to discuss your individual case before making important decisions about the well-being of your family. Visit <https://ready-california.org/legal-service-directory/> to find a trusted legal service provider in your area.

COMMUNITY MEETING POWERPOINT WITH PRESENTATION SCRIPT

TIPS ON PREPARATION OF A PUBLIC CHARGE PRESENTATION

ROLE OF THE PRESENTER

- Your role as a presenter is to empower the immigrant community and those who represent them with accurate information on public charge. Your goal is to inform people so that they can make decisions about public benefits and the impact it might have on their specific situation.
- The issue of public charge touches on many disparate topics, including immigration law, public benefits eligibility, healthcare, and immigrant sponsor requirements. The presenter does not have to know everything about these topics. For presenters that want more information, in-depth public charge advisories are available on our website at www.ilrc.org/public-charge.
- It is important to never give legal advice on immigration matters unless you are an attorney or a DOJ-accredited representative. Doing so could result in unauthorized practice of law, which carries civil and criminal penalties. Instead, give general information from the answers in the FAQ section of this toolkit and direct people to the resource list of free and low-cost legal services providers that you will find in the resources section of this toolkit.

PRESENTATION BEST PRACTICES

- Be clear on what you will and will not cover. This will help the audience understand what the key information is for them to remember.
- Review your materials.
- Practice.

- Lead with confidence, not panic. This is important because the announcement of the new rule on public charge has increased fear in our communities, often without good information about what the current law is, and which groups are impacted by public charge. Offering assurances about which people are not affected and what public benefits will not impact community members, when possible, will help your audience make important decisions based on knowledge and not based on fear.
- Know who your audience is. The level of complexity of this presentation can be modified depending on whether you are talking to community members, community organization leaders, etc. The size of your group might determine your level of formality, as well. If possible, determine in advance how much your audience already knows about the topic, and what information will be helpful to them from your presentation.

INITIAL PREPARATION FOR A PRESENTATION

- Reserve a site available for your date and time. Community venues such as churches, schools and libraries may be more familiar to community members and may not charge a fee for the event.
- Consider partnering with another local organization that also works with immigrant communities. For example, legal services presenters often collaborate with health services groups. Public charge presentations might persuade immigrants to seek out individual consultations with attorneys or accredited representatives to better understand their options, so presenters could provide a referral to low cost legal services providers.
- Consider inviting co-presenters who may have expertise in immigration law, public benefits, or access to healthcare. If you decide to bring in additional outside speakers, it is important to schedule their participation in advance, and hold meetings or conference calls to agree on the content and format of the presentations prior to the event.
- Advertise the event. Design a flyer with the location, date, and time of the event that also describes the topics to be covered, and the presenters. Distribute this flyer locally and through traditional and social media.

FINAL PREPARATION FOR A PRESENTATION

- Create an agenda. The agenda should describe the topics you will cover, the presenters assigned to each, and the timing of each presentation. The agenda will help you and your co-presenters stay on schedule.
- Think about how much time you have for the topic each time. Some times, you will have 5-10 minutes, some times the main issue for the meeting will be public charge. Adjust how you will present accordingly!
- Copy and prepare handouts that are relevant to your audience. For example, some of the flyers and other materials included in this toolkit are more helpful for community members who are deciding whether public charge affects them.
- Many hands make light work! Organize volunteers for setup, registration, and cleanup of the venue.

SAMPLE PRESENTATION AND SCRIPT FOR PUBLIC CHARGE PRESENTATION

AGENDA

Present with Slides (10-20 minutes)

- What is Public Charge- Introduction to Immigration Law and Overview
- Who Does Public Charge Apply to?
- What Groups are Exempt from Public Charge?
- New Rule
- Final Takeaways

Answer Questions (10 minutes)

- You can use the FAQ sheet and Community Messages handout to help answer questions.

**You can shorten [this presentation](#). If you have less time or don't have a projector, you can always use handouts to lead your discussion. The FAQ page and the community messages page are good resources for short announcements with handouts.*

SCRIPT

INTRODUCTIONS AND OPENING

Trainers should introduce themselves and describe the purpose of the presentation: to distribute accurate information about public charge, to empower the immigrant community and minimize unwarranted panic, to advise people of the current rules and proposed changes in the final rule (these are not yet in effect), and to share available resources.

Sample Openings: How many people here today have heard that you will have problems with immigration if you use public benefits? How many people want to apply for a family member to come to the United States, or know someone who does? How many people are scared to turn in any kind of application to Immigration right now?

There has been a lot of scary information about immigration right now, and news about public charge rules are one of the reasons that people are nervous. Many people are worried that they will be deported if they use public benefits because the government might think they are a "public charge." We will talk about what the current rules say about applying for a green card in the United States and which public benefits are ok to use. We will describe which groups are not subject to public charge rules at all, because it does not apply to everyone.

What is Public Charge?

SPEAKER NOTES:

We are going to dive in on what the law says about public charge now. We will start with what is in the statutes passed by congress. The new rule doesn't and can't change these basic principles that are in the statute.

Public Charge

A test applied only at certain points along the immigration path:

- When they **apply to enter the US**
- When they **apply to become a lawful permanent resident (green card)**



There is **no** public charge test when a permanent resident applies for naturalization (becomes a citizen).

Mainly impacts individuals who hope to immigrate through a family member

SPEAKER NOTES:

Public charge is a test in immigration law that does NOT apply to all immigrants.

It is important to remember that this test is only applied at time of entering the U.S. and at time of becoming a permanent resident, also called "getting a green card."

For other folks, for example those that don't have status and are not on a pathway to get status, public charge is not the main concern.

It does not apply to folks applying to naturalize, which is when a person becomes a US citizen.

Generally, permanent residents (green card holders) inside the US are not subject to public charge at all. They can continue to use services for which they qualify.

Public Charge Exemptions

Many immigrants are **not** subject to public charge:

- **Refugees and asylees**
- **Special Immigrant Juvenile Status**
- **U visa**
- **VAWA self-petitioners**
- **T visa**
- **DACA applicants**
- **TPS applicants**
- **Others (Amerasians; Afghan and Iraqi military translators; certain Cuban and Haitian adjustment applicants; certain Nicaraguans and Central Americans under NACARA; Registry applicants; Soviet and Southeast Asian Lautenberg parolees)**
- **Most legal permanent residents**
- **U.S. citizens**

*But public charge may apply if getting green card through family!

SPEAKER NOTES:

It's important to keep in mind that many categories of immigrants are not subject to this test!

People who are applying for the types of immigration status on this slide do not have worry about a public charge test. This means they can use public benefits and do not have to worry about it affecting these immigration applications.

A public charge test might apply when a person applies for a green card through a family member, even if this person previously had a status that did not have a public charge test before.

For example, a person with DACA will not have to worry about a public charge test if they apply to renew their DACA. However, if they later apply for a green card through a family member, they will have to go through a public charge test to get their green card.

Permanent residents are not subject to this test, unless they travel outside the US for more than 180 days.

Public Charge Current Policy (until October 15) ...and maybe longer!

Public Charge= primarily dependent on the government for income support.

Programs that currently “count” as public charge:

- Cash assistance
- Long term institutionalization paid by Medi-Cal

Programs that do not “count” as public charge concerns:

- Health and nutrition programs
- Any non-cash assistance

Use of benefits by family members do not count against the applicant*

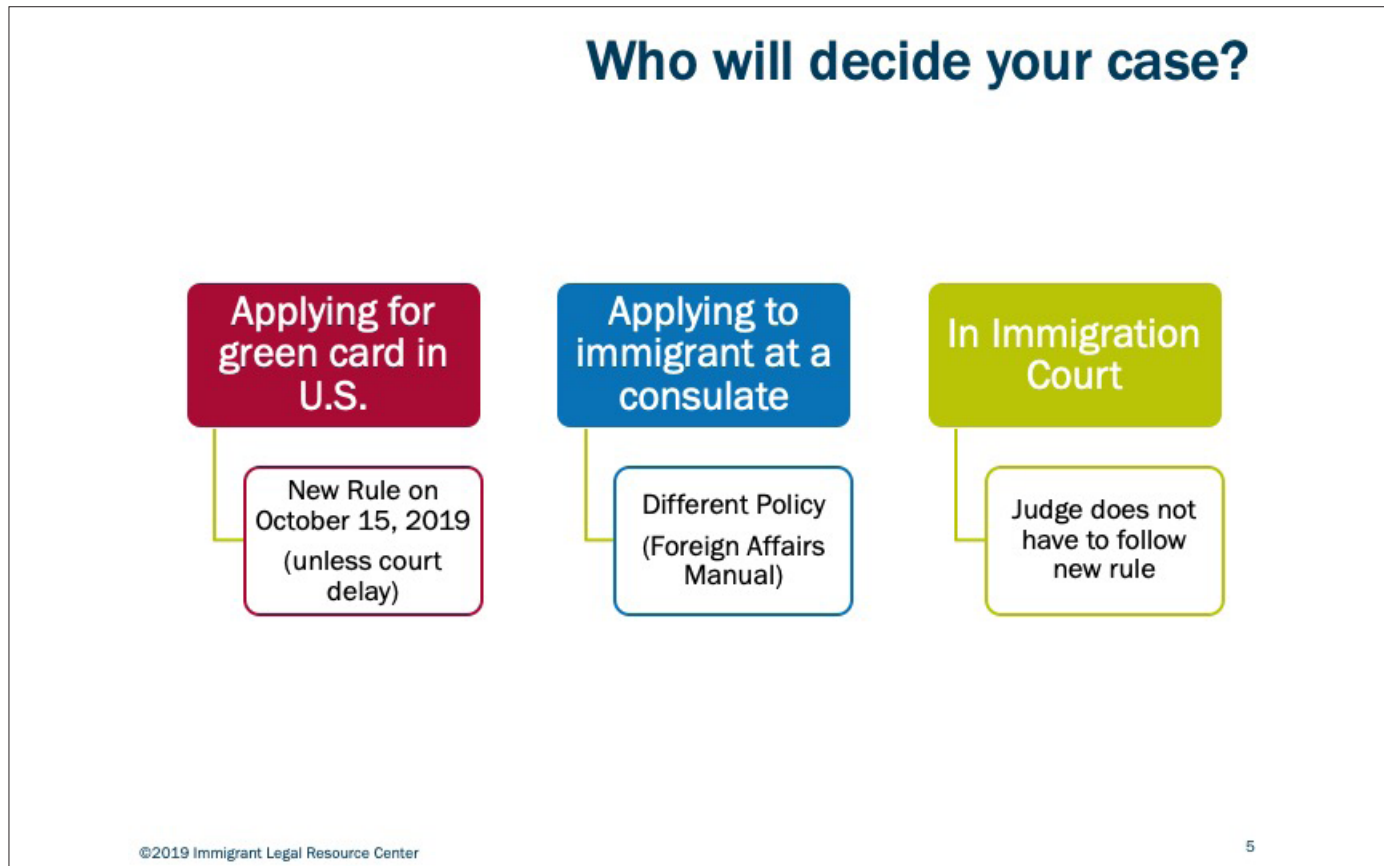
SPEAKER NOTES:

The current policy says public charge means primarily dependent on the government for income support– not just mere use of any service. This policy is in effect until the new rule starts on October 15. The current policy might be in effect even longer if the new rule is delayed beyond that date by courts. APPLICATIONS FOR ADJUSTMENT OF STATUS (to get a greencard in the US) that are submitted before October 15, will be decided under current policy.

Additionally, the only programs that count in the public charge assessment are cash aid (what some people consider “welfare”) and long-term institutionalize care. That means all other services are not part of what we think of when we mean someone is a public charge. For instance, under current policy, using health care programs isn’t considered a public charge. Nor are any other programs aside from cash-aid. Nutrition programs, WIC, “food stamps” or CalFresh, etc. don’t factor into whether someone is a public charge under the current policy.

Additionally, public charge is an individualized test. Use of cash-aid by a family member does not make you a public charge. (unless they see you are surviving off the family member’s benefits for income maintenance and don’t have your own income).

*A person who must go to an interview outside the United States to get their green card will have harsher standards applied to their case. It is always a good idea to get legal advice before a case outside the United States.

**SPEAKER NOTES:**

Remember, public charge is a test applied at time of asking for admission to the United States, or at the time you are asking for permanent residence through adjustment of status in the U.S.

Different government agencies decide the case depending on where you are applying. The new rule only applies to cases heard by USCIS, which are adjustment of status (i-485 form) cases here in the U.S.

The new rule only applies to cases at USCIS—which decide green card cases (adjustment of status) here in the United States. Cases pending before October 15 will be decided with current policy.

If the person goes to the consulate, outside the United States for their immigration interview, different policies apply

Am I able to apply for a green card?

If a family member can petition for you, find out if you are ready to apply for a green card.

- Ask an immigration attorney or accredited representative
- Go to a non-profit in your area for support!

National legal directory by zip code of nonprofits providing immigration legal services:

<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

Selected list of immigration legal service providers in CA:

<http://www.cdss.ca.gov/Benefits-Services/More-Services/Immigration-Services/Immigration-Services-Contractors>

SPEAKER NOTES:

The only change is at the consulate where they have already implemented a new policy. At the consulates, they are already asking questions beyond the affidavit of support, to more fully consider other factors when deciding public charge.

At the Consulates

It's important to talk to a lawyer or accredited representatives to know where you will apply. The rules at the consulate are different.

At the consulate, the officer will ask more questions about the sponsor.

- Questions about the relationship with the sponsor
- Questions about the sponsor's family, job
- Questions about benefits the sponsor might use

SPEAKER NOTES:

They are not presuming the affidavit is sufficient, and will ask questions to decide whether the person signing really will support the immigrant and to assess whether there are other negative factors. This is resulting in a lot of uncertainty for cases that must process at the consulate instead of at an immigration office in the U.S. And also, we are now seeing more denials at the consulates based on public charge.

New Changes Effective October 15

New definition of “public charge”

Additional public benefits included

New detailed negative factors that make it harder for low and moderate income people to get approved for a green card

SPEAKER NOTES:

Here are the changes that go into effect on October 15, 2019. Applications for a green card that are submitted before October 15 will be decided under current policy.

The new rule changes the definition of public charge. It also adds new benefits that would count against a person if they are applying for a green card through a family member or certain visas.

And it provides more details about factors that officer must consider when deciding whether someone is a public charge. These details are very complicated, so it is important for someone who wants to apply for a green card through a family member to speak with a trusted attorney or accredited representative about their case.

We will discuss the benefits that are included in the next slide.

New benefits that count after October 15

- **Medicaid (federally-funded Medi-Cal),**
NOT including:
 - Emergency services
 - School-based benefits to children
 - Medicaid used by immigrant children under 21 years of age
 - Medicaid used by immigrants during a pregnancy and up to 60 days after the end of a pregnancy
- **Food Stamps- SNAP (federally-funded CalFresh)**
- **Section 8 housing assistance and project-based rental assistance**
- **Subsidized housing**
- **Long-term care**
- **Cash assistance: SSI, TANF, General Assistance**

**New additions in red, cash assistance and long-term care would continue to be considered*

SPEAKER NOTES:

The new rule expands the benefits that count against a person. Currently, as we said before, only cash assistance and long-term care count when deciding if someone is a public charge.

In the new rule, all the programs in RED now count, in addition to cash aid and long-term care. This means that if a person is applying for a green card through a family member and uses certain amounts of federally funded Medi-Cal, food stamps or federally funded housing assistance, they could be considered a public charge. Using benefits is just one factor considered. Officers are instructed to consider other factors, such as whether they have a job, whether they have a health condition, or if they have family members who can financially support them.

Benefits that are NOT considered

- BENEFITS USED BY FAMILY MEMBERS!!
- Children's Health Insurance Program (CHIP) and Medicaid used by children under 21 years of age
- Emergency and school-based Medicaid
- Medicaid for pregnancy and up to 60 days after pregnancy
- Emergency and disaster relief
- Services available to the community as a whole (no income requirement)
- WIC
- Public health services
- School-based nutrition services and public education, including Head Start
- Earned benefits, such as unemployment, social security retirement, workers compensation
- Tax credits
- Any other federal, state, or local benefit that is not listed on the prior slide
- Benefits used by members of the military, Ready Reserve, and their spouses and children

SPEAKER NOTES:

There are many services that will not impact a person under the current rules or the new rule.

Public Charge:

Key Points:

- 👍 Most people are not affected by the new rule- stay healthy!
- ✗ New changes do not go into effect until October 15, 2019!
- ✓ The rule does not change who is eligible for benefits
- 👤 Affects people applying for a green card through family
- ### Many immigrants NOT impacted (refugees, U, VAWA, DACA, TPS, etc.)
- ⚠️ There is time to change enrollment- talk to an expert first

SPEAKER NOTES:

To summarize, here are the key points that you should know about public charge now.

Many people will not have to get off public benefits because public charge will not apply to them. Most people are not affected- stay healthy!

While there is a new rule about public charge, many immigrants are NOT impacted, such as refugees, U and T visa applicants, people applying for VAWA, DACA, TPS, etc.

Only affects those applying for a green card through a family member petition. If people are not applying for anything with immigration, the rule won't apply to them. If they are applying for asylum or asylee benefits, this will not apply to them. U visa adjustments, etc.

Even if you are worried it might apply to your situation, the rule does not go into effect until Oct. 15. There is time to get legal support and make changes.

The rule does not change who is eligible for benefits

There is still time to change if you are worried. It is important for people to talk to a trusted attorney or accredited representative at a non-profit organization to get advice specific to their situation before deciding to get off benefits! Many non-profit organizations can give trusted advice to immigrants and their family members.

SAMPLE AUDIENCE QUESTIONS

Presenters take questions from the audience. You could just hand out the FAQ or other resources if you are not comfortable taking questions. It is better not to answer questions if you are not sure of the answers. There are many printed resources you can use to guide people to good information. Below are some questions that get asked frequently.

WILL I BE DEPORTED IF I USE PUBLIC BENEFITS?

Public charge is a test applied when an immigrant **applies** for a green card or entry into the United States. The immigrant would have to come forward and apply for something before immigration would apply a public charge test. When you apply for a benefit in your town, our counties and state offices do not call ICE! They only use the information to enroll you or your family member in a benefit.

AN ATTORNEY TOLD ME THAT I SHOULD DISENROLL MYSELF OR MY CHILDREN FROM PUBLIC BENEFITS, IF I WANT TO APPLY FOR A GREEN CARD. IS THIS TRUE?

Under current rules at Immigration in the U.S., the only public benefits that would make a person a public charge are cash assistance and long-term institutionalization care. Other benefits don't count against a person who is applying for a green card through a family member in the United States. (This might change if the new rule takes effect on October 15, 2019.) Also, remember people applying for other types of immigration status, including asylum, visas for victims of crime or domestic violence, and naturalization are not affected by public charge at all. However, if a person is applying at an American consulate for a visa, the rules are stricter, and that person should consult a trusted legal representative to get help preparing their application.

IF THE NEW PUBLIC CHARGE RULE GOES INTO EFFECT IN OCTOBER, CAN I STILL GET HEALTH INSURANCE IN CALIFORNIA IF I'M PRUCOL?

The public charge rules are not about eligibility for our California programs. They don't change the rules about Medi-Cal eligibility in California or your access to health insurance. If you are worried that it might affect your eligibility for a green card, talk to an immigration representative.

PRUCOL stands for persons residing under color of law. The presenter should NOT try to answer legal questions about PRUCOL if they are not an expert. If someone has questions about eligibility, they should seek advice from a benefits expert.

WILL I BE CONSIDERED A PUBLIC CHARGE IF I USE WIC?

No. WIC isn't considered for public charge, and it's also not considered under the new rule.

WILL I HAVE PROBLEMS IF MY CHILDREN USE MEDI-CAL?

No. USCIS will not consider benefits received by family members when deciding if a person is a public charge, as long as it is not the sole source of income for the family. Under current policies, Medi-Cal doesn't count in the public charge test. Under the new rule, children's use of Medi-Cal is exempt. And also, the use of benefits by a family member doesn't count directly against an applicant for a green card. People who are applying for a green card or visa at the U.S. consulate abroad should get advice from a trusted attorney or accredited representative. For now, the rules are different for cases at the consulate.

WILL I GET DEPORTED IF I GO TO THE EMERGENCY ROOM OR USE EMERGENCY MEDI-CAL?

No. This type of emergency service is not considered under public charge.

I'M PREGNANT AND NOT A U.S. CITIZEN. WILL I HAVE PROBLEMS WITH IMMIGRATION IF I USE MEDI-CAL?

Currently, the government does not count Medi-Cal against a person in a public charge test at all. The new rule, starting October 15, will look at use of medicaid, but does not include medicaid for pregnant women or children under 21. Additionally, our state-funded Medi-Cal programs should not count in the public charge test. Also, remember that people who are not applying for a green card through a family member do not have to worry about being public charge at all!

I WAS INJURED ON THE JOB AND I'M RECEIVING PAYMENTS FROM MY EMPLOYER BECAUSE I CAN'T WORK. WILL THIS CAUSE ME PROBLEMS IF I APPLY FOR A GREEN CARD OR TO BECOME A U.S. CITIZEN?

No. Benefits that a person earns through their job, such as workmen's compensation or unemployment benefits, don't count against the person in a public charge test, nor will they count against a person under the new rule.

WILL I HAVE A PROBLEM IF I GET HELP FROM A DOMESTIC VIOLENCE SHELTER? FROM A FOOD PANTRY? FROM A CHURCH?

No, under both current policies and the new rule, services that are available to the community as a whole, or without an income requirement, will not make a person a public charge.

COMMUNITY RESOURCES

We have included 3 additional handouts that you might want to use, depending on your audience. These include:

- [Community Flyer: Five Things You need to Know About Public Charge If....](#)
This provides a few tips, based on the specific situation of the immigrant.
- [Community Flyer: Keep Your Family Healthy](#)
This ½ page handout explains that using Medi-Cal is safe for children and many immigrants. This document is meant to be printed double-sided. Once printed, you can cut it in half, creating one Spanish language handout and one English language handout.
- [Community Messages on Public Charge](#)
This one-page document provides messages we can share about the new rule. You can use this

KEEP YOUR FAMILY HEALTHY

YOUR CHILDREN CAN
STILL USE MEDI-CAL!

*CHILDREN CAN USE
MEDI-CAL AND IT **WON'T**
CAUSE PROBLEMS WITH
IMMIGRATION*

STAY INFORMED!
FOR UPDATES ON IMMIGRATION, VISIT
ilrc.org/public-charge



AUGUST 2019

CUÍDE LA SALUD DE SU FAMILIA

¡TUS HIJOS PUEDEN SEGUIR
USANDO MEDI-CAL!

*LOS NIÑOS MENORES DE EDAD
PUEDEN USAR MEDI-CAL
Y **NO** LE VA A CAUSAR
PROBLEMAS CON
INMIGRACIÓN.*

¡MANTÉNGASE INFORMADO!
PARA INFORMACIÓN SOBRE ASUNTOS
MIGRATORIOS, VISITE
ilrc.org/public-charge



AGOSTO 2019

THESE GROUPS CAN SAFELY USE MEDI-CAL

- U.S. citizens
- Lawful permanent residents (green-card holders)
- Refugees and asylees
- People who have applied for or received:
 - **VAWA** (for some victims of domestic violence)
 - **U-Visa** (for victims of certain crimes)
 - **T-Visa** (for victims of trafficking)
 - **SIJS** (Special Immigrant Juveniles)
- People under 21 years old
- People who are pregnant, during and up to 60 days after the end of a pregnancy

STAY INFORMED!
FOR UPDATES ON IMMIGRATION, VISIT
irc.org/public-charge

ESTAS PERSONAS PUEDEN USAR MEDI-CAL SIN MIEDO

- Ciudadanos de EE.UU.
- Residentes Permanentes Legales (mica)
- Refugiados y personas con el **asilo**
- Personas que piden o reciben:
 - **VAWA** (Victimas de la violencia doméstica)
 - La **visa U** (Victimas de tráfico humano)
 - La **visa T** (Victimas de crimen)
 - **SIJS** (Inmigrantes Especiales Juveniles)
- Personas menores de 21 años de edad
- Personas embarazadas, durante el embarazo y hasta 60 días después del fin del embarazo

¡MANTÉN GASE INFORMADO!
PARA INFORMACIÓN SOBRE ASUNTOS
MIGRATORIOS, VISITE
irc.org/public-charge



FIVE THINGS TO KNOW PUBLIC CHARGE

The Trump administration recently announced that it will be harder for some people to receive certain visas or a green card through a family member if they use Medi-Cal, SNAP, and subsidized housing. This change to the “public charge” rules was formally announced on August 14, 2019, but does not go into effect until October 15, 2019. Legal challenges may further delay this change.

Not everyone needs to worry about this new public charge rule. Many people are not affected by this rule and can use public benefits without consequences. Read below for more information about whether public charge affects you!

Here are five essential facts about public charge for green card holders, undocumented immigrants, and people applying to sponsor a family member.

IF YOU ARE A GREEN CARD HOLDER (LAWFUL PERMANENT RESIDENT):

1. Generally, people who already have a green card are not affected by public charge.
2. There is no public charge test to renew a green card.
3. Green card holders cannot be deported simply for using public benefits. It is very difficult for the government to deport a green card holder for being a “public charge.”
4. This public charge rule could apply if a permanent resident leaves the United States for more than 180 days. If a green card holder travels outside the United States for more than 180 days during one trip, the government can ask questions to see if the person is a “public charge” upon returning to the U.S. It is important for green card holders to speak to a trusted immigration attorney or accredited representative before leaving the United States for more than 180 days.
5. There is no public charge test to apply for citizenship. However, an immigration official might ask you questions about receiving public benefits to figure out if you received a benefit when you were not eligible for it. You should review your public benefits history with a trusted legal representative before applying for citizenship.

IF YOU ARE UNDOCUMENTED:

1. The State of California does not tell ICE when you sign up for a public benefit.
2. If you are not eligible to apply for a green card now, there is no reason to give up needed benefits. If you are not applying for a green card now, even if you plan to apply many years in the future, there may be no benefit to giving up necessary benefits now.



NOTE: People who plan to apply for a green card through a family member should speak to a trusted immigration attorney or accredited representative to receive advice specific to your situation!

3. The public charge test only affects some people who are applying for a green card through a family sponsor or petition, or applying for certain temporary visas abroad. The new changes to public charge only affect these applications filed in the U.S. on or after October 15, 2019.
4. Some immigrants do not have to worry about a public charge test. These people can use public benefits without problems because public charge doesn't apply to them. These people include:
 - Refugees, asylees, and people applying for asylum
 - People applying for a U visa (victims of crime), T visa (victims of trafficking), VAWA (certain victims of domestic violence), and Special Immigrant Juveniles Status (children who have been abused, abandoned, or neglected)
 - People applying for a green card based on already having a U visa, T visa, VAWA, asylum, or refugee status
 - People renewing TPS or DACA
5. Anyone who wants to submit an immigration application should work with a trusted immigration attorney or accredited representative to prepare a strong application.

IF YOU WANT TO SPONSOR A FAMILY MEMBER TO COME TO THE U.S.:

1. There is no public charge test to naturalize. You can become a U.S. citizen even if you have used benefits or need a fee waiver for your application. There is no public charge test to renew a green card.
2. You can sponsor a family member and still use public benefits.
3. If you are sponsoring your family member and do not have enough income to support your family member, you can add a second ("joint") sponsor who has enough income to support the family member. It's important to review your family member's financial documentation with a trusted immigration attorney or accredited representative to prepare a strong application and decide whether a joint sponsor is needed.
4. If your family member is going to a visa interview inside the U.S., only your family member's use of certain benefits can be counted against them.
5. If your family member is going to a visa interview outside the U.S. at a consulate, your use of benefits might show that you cannot financially support your family member—in this case, a joint sponsor might be needed. It is good to talk to a trusted attorney or accredited representative to help prepare the case.

EVERY FAMILY SHOULD GET A COMPREHENSIVE IMMIGRATION LEGAL SCREENING.

Free or low-cost help is available at immigrationadvocates.org/nonprofit/legaldirectory



COMMUNITY MESSAGES

PUBLIC CHARGE

CORE MESSAGES TO SHARE WITH THE COMMUNITY:

- The new public charge rule was published on August 14, 2019, but will not go into effect until October 15, 2019. The rule might be stopped or delayed beyond that date by courts.
- The new public charge rule does not apply to immigration applications filed before October 15, 2019.
- The new public charge rule does not apply to pending adjustment of status applications and new applications postmarked before October 15, 2019.
- Many immigrants remain eligible for public benefits programs and should be unaffected by this rule. Asylees, refugees, U visa holders, Special Immigrant Juveniles, T visa holders, VAWA applicants, and most permanent residents are not subject to this public charge rule.
- The new public charge rule does not change who is eligible for health and benefit programs. Immigrants who are currently eligible for public benefits will remain eligible.
- Children under 21 and pregnant women will not be penalized under the new public charge rule for using Medicaid/Medi-Cal. (SB 75 Medi-Cal for children in California is unaffected).
- Under the new public charge rule, many government-funded services are still safe to use and do not cause any immigration harm. School-funded programs like free and reduced lunch, emergency Medi-Cal (Medicaid), disaster relief, Head Start and more all remain safe to use.
- The use of benefits by family members, such as children, are not counted against the applicant for immigration status.
- Immigrant families should consult with an immigration law expert about the possibility that there are no immigration consequences of their accessing health and benefits programs before making important decisions about the health and well-being of their families.
- The new public charge rule will not take effect until October 15, 2019. Some counties immediately filed a lawsuit to block the new rule, and additional litigation is expected. Thus, legal challenges could delay implementation. If, after consulting with an immigration expert, you believe the new public charge rule will affect you, you have until October 14, 2019 to file an immigration application without the new rule affecting you.



MENSAJES COMUNITARIOS

CARGA PÚBLICA

MENSAJES PARA COMPARTIR CON LA COMUNIDAD:

- La nueva regla de carga pública fue publicada el 14 de agosto del 2019, pero no entrará en efecto hasta el 15 de octubre del 2019. Hay la posibilidad que la regla sea detenida o demorada más allá de la fecha por las cortes.
- La nueva regla de carga pública no aplica a solicitudes de Inmigración que hayan sido presentadas antes del 15 de octubre del 2019.
- La nueva regla de carga pública no aplica a solicitudes de ajuste de estatus que estén pendientes y cualquier solicitud nueva que tenga un sello postal antes del 15 de octubre del 2019.
- Muchos inmigrantes siguen siendo elegibles para programas de beneficios públicos y no les debería afectar esta regla. Asilados, refugiados, portadores de la Visa U, Jóvenes Inmigrantes Especiales, portadores de la Visa T, Solicitantes de VAWA, y la mayoría de los residentes permanentes legales no están sujetos a la carga pública.
- La nueva regla de carga pública no cambia quien es elegible para programas de salud y beneficios. Inmigrantes que actualmente son elegibles para beneficios públicos permanecerán elegibles.
- Los niños menores de 21 años y mujeres embarazadas no serán penalizados bajo la nueva regla de carga pública por usar Medicaid/Medi-Cal. (La propuesta SB 75 de Medi-Cal para menores en California no es afectada).
- Bajo la nueva regla de carga pública, muchos servicios financiados por el gobierno todavía son seguros para usar y no causarán ningún daño migratorio. Programas financiados por las escuelas, como los almuerzo gratis o reducidos, Medi-Cal de emergencia (Medicaid), ayuda de desastre, el programa de Head Start, y otros continuarán siendo seguros para usar.
- El uso de beneficios por parte de miembros familiares, tal como hijos, no son contados en contra del solicitante para un estatus migratorio.
- Las familias Inmigrantes deberían consultar con un experto de leyes de inmigración sobre la posibilidad de que no existan consecuencias migratorias por usar programas de beneficios de salud antes de hacer una decisión importante sobre la salud y el bienestar de sus familias.
- La nueva regla de carga pública no entrará en efecto hasta el 15 de octubre del 2019. Algunos condados inmediatamente presentaron una demanda para bloquear la nueva regla, y se espera que haya litigación adicional. De este modo, los retos jurídicos podrían aplazar su implementación. Si, después de haber consultado con un experto de leyes de inmigración, usted piensa que la nueva regla de carga pública le afectará, usted tiene hasta el 14 de octubre del 2019 para presentar una solicitud de inmigración sin que la nueva regla le afecte.

“Carga pública” es un término usado bajo las leyes federales de inmigración que se refiere a alguien que podría depender del gobierno para ciertos servicios y apoyos.



PUBLIC CHARGE: WHAT THE IMMIGRANT COMMUNITY NEEDS TO KNOW

WHAT IS PUBLIC CHARGE?

A test to determine if someone applying for permanent residence through a relative or a visa to enter the United States is likely to depend on public benefits in the future.

WHO DOES PUBLIC CHARGE AFFECT?

It only applies to people applying for permanent residence (green card) through a relative or for a visa to enter the United States. No other types of immigration cases are impacted!

WHAT DOES THE NEW PUBLIC CHARGE RULE SAY?

The new rule sets a stricter test for people to show they will not depend on public benefits in the future. An immigration officer will consider different factors, including family income, receipt of certain public benefits, and how likely the applicant is to be employed.

WHEN WILL THE NEW RULE TAKE EFFECT?

The new rule will take effect on October 15, 2019. However, there are different lawsuits challenging the rule that may delay its implementation.

DOES THIS NEW RULE AFFECT MY ELIGIBILITY FOR CERTAIN PUBLIC BENEFITS?

No! The new public charge rule does not change eligibility for health and public benefits programs. If you qualify for certain public benefits, you are still eligible.

WHO IS NOT AFFECTED BY PUBLIC CHARGE?

Many immigrants do not have to worry about public charge:

- Refugees and asylees
- People with a U Visa, T Visa, VAWA, or SIJS
- DACA and TPS applicants
- The majority of permanent residents
- U.S. Citizens

I WANT TO APPLY TO BECOME A U.S. CITIZEN, WILL IT HURT MY CASE IF I USE BENEFITS?

No! There is no public charge test for naturalization, which is the process to become a U.S. citizen. Permanent residents that travel outside the United States for more than 180 days could be subject to public charge rules.

IF I AM USING FOOD STAMPS OR MEDI-CAL NOW, WILL IT HURT MY CASE?

No! The new rule does not consider these benefits received before October 15, 2019.

WHAT IF MY CHILDREN OR OTHER FAMILY MEMBERS RECEIVE PUBLIC BENEFITS?

The rule only considers benefits received by the person applying for permanent residence or the visa. Benefits received by family members, like U.S. citizen children, will not count against you. If you are ready to become a permanent resident, consult with an immigration expert, especially if you have to leave the United States for your green card interview, as the rules are different for people in that situation.

ARE ALL PUBLIC BENEFITS PART OF THE RULE?

No! WIC, Medi-Cal for pregnant women and children under 21, Head Start, school lunches, and other benefits are not part of the public charge rule and will have no impact. Eligible families should continue to receive these important benefits!

I ALREADY FILED MY GREEN CARD APPLICATION, DOES THE NEW RULE APPLY TO ME?

No! The new rule does not apply to cases filed before October 15, 2019.

I HAVE QUESTIONS...WHAT SHOULD I DO?

Consult an immigration expert to discuss your individual case before making important decisions about the well-being of your family. Visit <https://ready-california.org/legal-service-directory/> to find a trusted legal service provider in your area.