

# The Final Public Charge Rule

## Five Things Early Childhood Stakeholders Need to Know

On August 14, 2019, the Trump Administration's Department of Homeland Security (DHS) issued a regulation on "public charge." States, counties, and non-profit organizations challenged the regulation in court, and it was temporarily prevented from going into effect as scheduled. On January 27, 2020, the U.S. Supreme Court ruled that the administration could begin implementing the regulation while litigation challenging it proceeds. The new standards are effective February 24, 2020. Here's what early childhood stakeholders need to know:

### **1** *What is "public charge"?*

Public charge has been part of immigration law for decades. It is designed to identify people who may depend on government benefits as their main source of support in the future. People deemed "likely to become a public charge" can be denied admission into the country or lawful permanent resident status.

### **2** *Why is it important for me to understand public charge?*

The changes to public charge were designed to be scary and confusing. Parents are certain to have questions about the rule and whether it's safe to continue receiving health, housing, and nutrition benefits and participating in child care programs.

### **3** *How will the public charge test change under the new regulation?*

Immigration officials are required to look at all of a person's circumstances when making a public charge determination. The new regulation dramatically expands the definition of public charge and requires officials to closely examine and weigh factors like health, age, income, and skills (including English language skills). The regulation also allows officials to consider more public programs (see back page). These changes are designed to make it harder for people with low and moderate incomes to pass the test.

### **4** *Who is affected by the changes to public charge?*

The changes to public charge policy affect immigrants who are applying for lawful permanent residency (a green card). Public charge does **not** apply to refugees, asylees, and other vulnerable populations. Public charge is **not** relevant when immigrants apply for U.S. citizenship.

### **5** *What do recent court rulings mean for families?*

All preliminary injunctions that prevented the DHS public charge rule from taking effect nationwide have been lifted by the courts. This means that the administration can implement the new public charge rule nationwide while litigation continues. **The new standards are effective as of February 24, 2020.**

Nutrition, housing, and health insurance benefits used before February 24 are **not** being considered in a public charge determination.

Find the full Q&A for early childhood stakeholders at [www.clasp.org/ECEpubliccharge](http://www.clasp.org/ECEpubliccharge). Visit the Protecting Immigrant Families campaign website for additional resources: [www.protectingimmigrantfamilies.org](http://www.protectingimmigrantfamilies.org).

## Talking to parents about public charge

In your work with families, you will most likely encounter parents who are concerned about how their young child's use of benefits will affect the parent's future ability to gain permanent status. In rare cases, parents may also be concerned about their own use of benefits. Parents may understandably be scared and confused, so it's important that you are able to answer basic questions and connect families to resources. These top-line messages are important to keep in mind when talking to immigrant parents:

- **Many immigrants are not affected by the changes to public charge.** Refugees; asylees; survivors of trafficking, domestic violence, and other serious crimes; and other vulnerable immigrants are exempt from public charge determinations. Lawful permanent residents (LPRs) are **not** subject to the public charge test when they apply for U.S. citizenship or when they renew their LPR status.
- **The new standards are not retroactive.** Nutrition, housing, and health insurance benefits used before February 24, 2020 are **not** being considered in public charge determinations.
- **Your children's benefit use will not be considered in your public charge determination.** Nutrition assistance, Medicaid, and housing assistance can keep children healthy and provide a strong start in life.
- **The use of public benefits alone does not automatically make you a public charge.** Immigration officials must look at all your circumstances in determining whether you are likely to become a public charge in the future. Public benefit use is just one of those factors.
- **Changes to public charge policy do not affect eligibility for public programs and services.** Eligibility rules for public benefit programs and early care and education programs have not changed.
- **Your personal information is protected.** Federal and state laws protect the privacy of people who apply for or receive health care coverage, nutrition, economic support, or other public benefits.

Families need to make decisions based on their unique circumstances. Find low-cost immigration advocates in your community at <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>.

## Is my program included in the final rule?

**Immigration officials are considering receipt of one or more of the following in a public charge determination (\*indicates program is included under current policy as well):**

- Cash assistance (SSI, TANF, and state or local cash benefit programs that supplement income)\*
- Government-funded long-term care in an institution\*
- Supplemental Nutrition Assistance Program (SNAP or Food Stamps)
- Housing Assistance (public housing or Section 8 housing vouchers and rental assistance)
- Non-emergency Medicaid (note that Medicaid is **not** be considered in public charge determinations for children under age 21 and pregnant women up to 60 days post-partum)

**Any non-cash programs not listed above are not considered in public charge determinations. This means that the following programs are not affected by changes to public charge policy:**

- Head Start
- Home visiting

- Public education services, including public pre-K and early intervention
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Emergency medical assistance
- Child care assistance, including the Child Care and Development Block Grant (CCDBG)
- Children’s Health Insurance Program (CHIP)
- School breakfast and lunch
- Non-cash TANF benefits

CLASP is here to help—contact Rebecca Ullrich ([rullrich@clasp.org](mailto:rullrich@clasp.org)) with questions.