FEDERAL UPDATE
Public Charge and Food Assistance
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February 7th, 2020
Questions we'll address

• What recent rule changes and proposals impact SNAP access?

• Public charge
  – What is it and who does it apply to?
  – What's changing?
  – How can we reduce the harm caused by these changes?
  – Where can I learn more?

• Q&A
Administrative Threats
Direct Attacks on SNAP

Department of Agriculture (USDA) Rulemaking

- ABAWD waiver restrictions
  Finalized for 4/1 implementation

- Broad-Based Categorical Eligibility rollback
  USDA reviewing comments

- Standardizing Utility Allowance methodology
  USDA reviewing comments

Learn more
Reminder

This presentation is not legal advice

• For advice on a particular case, speak with an immigration attorney

• ImmigrationLawHelp.org
Longstanding Public Charge Test

Prior Definition
A person who is considered “likely to become primarily dependent on the government for subsistence.”

Prior Benefits Considered
Only two types of benefits considered:
1. Cash assistance for income maintenance
2. Institutionalization for long-term care at government expense
Longstanding public charge test

• Totality of circumstances
  – Age
  – Health
  – Family status
  – Financial status
  – Education and skills
  – Affidavit of support

• The test is forward-looking
  – Is the person likely to rely on cash or long-term care in the future?
When does public charge come up?

A public charge determination is made when a person:

• Applies to enter the U.S.
• Applies to adjust status to become a Lawful Permanent Resident (LPR or green card holder)
• An LPR leaves the U.S. for more than 6 months and reenters
Does the test apply to everyone?

No! For example, public charge ground of inadmissibility does **NOT** apply to:

- Lawful Permanent Residents applying for citizenship
- Refugees and Asylees
- VAWA Self-petitioners
- Survivors of Domestic Violence, Trafficking, or Other Serious Crimes (U or T visa applicants/holders)
- Special Immigrant Juveniles
- Several other categories of non-citizens
New Public Charge Rule: Overview

What will change February 24th?

Public Charge Definition
A dramatically different definition of public charge

Totality of Circumstances
New weighted factors of the totality of circumstances test that would make it harder for low- and moderate-income people to pass

Benefits Considered
Additional public benefits programs could be considered by immigration officials
New Rule: DEFINITION

Previous Definition

An immigrant “likely to become primarily dependent on the government for subsistence”

Final Definition

A person who “receives one or more public benefits… for more than 12 months in the aggregate within any 36-month period…”
New Rule: TOTALITY OF CIRCUMSTANCES

- **Negative factors**
  - Low-income
  - Not proficient in English
  - Child or Senior
  - Serious illness
  - Low credit score

+ **Positive factors**
  - Higher income
  - Private insurance without subsidy
New Rule: BENEFITS

**Long-standing Policy**
- Cash Assistance for Income Maintenance
- Long Term Institutional Care at Government Expense

**New Rule**
- SNAP (Food Stamps)
- Medicaid (with exceptions)
- Federal, State, Local and Tribal Cash Assistance
- Housing Assistance (Public Housing or Section 8 Vouchers and Rental Assistance)

* Exceptions for emergency medical conditions & coverage of children < 21, pregnant women, and new mothers (60 days).
Which food and nutrition programs are listed in the public charge rule?

- Only SNAP
- Public charge test will NOT consider SNAP used before the rule is implemented
- No other nutrition assistance programs are included in the public charge test
Any benefit not specifically listed in the regulation is NOT included

Nutrition Assistance Programs NOT Included:

- Women, Infants and Children (WIC)
- School Breakfast and Lunch
- Meal Sites
- Commodity Foods
- Food Pantries
Most people don’t need to worry about using SNAP

Application to adjust status approved
Public charge test passed

Status:
- Nonimmigrant status
- Lawful Permanent Resident status (green card)
- Citizenship

SNAP eligible?
- Ineligible

LPR for 5 years, min. for adults to be SNAP eligible

SNAP eligible
For immigrants applying from inside the U.S.*

- The new rule will be implemented **February 24th, 2020.** This means...
  - The new test will only apply to immigration applications submitted on or after that date.
  - Medicaid, SNAP, and public housing benefits received before that date will not be considered in a public charge test.
- Benefits used by family members will not be counted.

*Different rules apply to those applying from outside the U.S.*
Things to Keep in Mind

• Not everyone is subject to the rule.
  – Many immigrants are exempt from the public charge test.
  – There is no public charge test as part of naturalization.

• Most immigrants who qualify for these public benefits programs do not need to worry about public charge.

• Positive factors can be weighed against negative factors in this forward-looking test.
Impact

- Directly affected individuals
- Broader population of people subject to “chilling effect”
  - Family members living with or sponsoring immigrants, particularly U.S. citizen children
  - Non-family sponsors
- States and localities
- Providers and communities
Reducing the Harm

• Fight fear with facts
• Document the harm
• Ensure that people potentially impacted have access to accurate legal guidance and support
Reducing the Harm: Hunger

Educate communities on accessing SNAP.

Share information on the wide range of food resources available to immigrants of all statuses:

- Food Pantries
- Commodity Food Programs
- Soup kitchens
- Congregate meal sites
- Women, Infants, and Children (WIC)
- Child Nutrition Programs
  - Summer meals
  - School meals
Key Messages

• Many immigrants are not subject to public charge
• Many benefits are not considered in the public charge assessment
• The public charge test does not consider benefits used by family members
  However, different rules may apply to immigrants seeking visas from outside the U.S.
Let's practice!
Scenario #1

Question: A few months ago I was granted asylum. Could using SNAP stop me from getting my green card?

Answer: No. As an asylee, YOU ARE EXEMPT from the public charge determination. Public charge will not apply to you.

* This also applies to any of the statuses listed on slide 9
Scenario #2

**Question:** I participate in the WIC program, and I know WIC is a public benefit. Can WIC hurt my immigration status?

**Answer:** **No.** Even though WIC is a public benefit, it is NOT considered in the public charge test. You should have no fear staying enrolled in WIC.
Scenario #3

Question: I've had my green card for 10 years and now I'm applying for citizenship. Will using SNAP affect my application?

Answer: No. There is no public charge test as part of the citizenship application.
Scenario #4

**Question:** My child receives free lunch at school. Will this affect my green card application?

**Answer:** No. You should continue to apply for free school meals for your children, they are not part of the public charge test.
Scenario #5

Question: My husband is going to join me in the U.S. but he's applying from Mexico. Does public charge apply to him?

Answer: It's possible. If your family plans to apply for a green card or visa outside the U.S., you should talk with an expert before making decisions.

www.immigrationadvocates.org/nonprofit/legaldirectory
Scenario #6

**Question:** My friend said public charge applies to her and so she disenrolled from public benefit programs like SNAP. She said I should too.

**Answer:** *Every situation is different.* What is good advice for one person may be bad for another. We recommend you learn more about your situation and speak with an immigration attorney.

[www.immigrationadvocates.org/nonprofit/legaldirectory](http://www.immigrationadvocates.org/nonprofit/legaldirectory)
Public Charge and Food Assistance Materials

www.hungerfreecolorado.org/publiccharge

PUBLIC CHARGE & SNAP (FOOD STAMPS) DOES THIS APPLY TO ME?

- Are you and your family members U.S. citizens?
- Do you and your family members already have green cards?
- Are you applying for one of the following statuses?
- Does your family plan to apply for a green card or visa from outside the United States?

FOOD ASSISTANCE PROGRAMS THAT SERVE IMMIGRANTS OF ALL STATUSES

- **Food Pantries, Commodities & Meal Sites**
  Sites that offer free food or meals to families and individuals. Call the Food Resource Hotline (855-855-4626) to connect with food resources near you, Monday - Friday (8 am - 4:30 pm).

- **Women, Infants, and Children (WIC)**
  WIC provides healthy, nutritious food (such as fruits, vegetables and baby food), nutrition education, breastfeeding support and other free services for pregnant women, postpartum women and children up to the age of 5. You can request an appointment at ColoradoWICSignUp.com.

- **Child Nutrition Programs**
  Free school lunch and breakfast, after school snacks and suppers and summer meals for children 18 and under. Contact your school district to apply for school meals and visit KidsFoodFinder.org to find a summer meal site near you.

*Summer meal sites are open for everyone 18 and under, no ID required.*
Learn More

Hunger Free Colorado

HungerFreeColorado.org/PublicCharge

Center for Health Progress

Public Charge Education Materials Drive

Protecting Immigrant Families Campaign

ProtectingImmigrantFamilies.org
Questions?

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