

PUBLIC CHARGE: A NEW THREAT TO IMMIGRANT FAMILIES

WHAT IS PUBLIC CHARGE?

Part of federal immigration law for over a hundred years, the “public charge” test is designed to identify people who may depend on the government as their main source of support. If the government determines that a person is likely to become a “public charge,” it can deny a person admission to the U.S. or lawful permanent residence (or “green card” status).

On October 10, the Department of Homeland Security (DHS) proposed to change this long-standing policy by excluding anyone who is likely to use certain health care, nutrition or housing programs in the future. The proposed test adds specific standards for income, health, age and even English proficiency, and expands the forms of public assistance that are counted in a “public charge” determination.

PUBLIC CHARGE RULE WOULD HARM HEALTH, WELLBEING OF MILLIONS

If finalized, the proposal would fundamentally change who we are as a nation—transforming us from a country that welcomes people who plan to work hard and achieve a better life, to one rigged in favor of the wealthy. It would also put the health and wellbeing of millions of people at great risk and violate our core American values. How you live your life and contribute to your community should define you in this country, not how you look or how much money you have.

The proposal would make—and has already made—immigrant families afraid to seek programs that help them stay strong and productive and raise children who thrive. With about one in four children having at least one immigrant parent, this issue touches millions and is critical now and for our nation’s future.

HOW THE PUBLIC CHARGE RULE IS APPLIED TODAY

Under the current policy, the only benefits considered in determining who is likely to become a “public charge” are:

- Cash assistance, such as **Supplemental Security Income (SSI)**, **Temporary Assistance for Needy Families (TANF)**, and comparable state or local programs.
- Government-funded **long-term institutional care**.

HOW PUBLIC CHARGE COULD CHANGE

If the rule is finalized in its proposed form, this would mark a significant and harmful departure from the current policy. For over a hundred years, the government has recognized that work supports like health care and nutrition programs help families to thrive and remain productive. And decades ago the government clarified that immigrant families can participate in essential health and nutrition programs without fear that doing so would harm their immigration case. If this rule is finalized, we can no longer offer that assurance.

The new ‘public charge’ proposal targets key programs that help participants meet basic needs, such as:

- Non-emergency **Medicaid** (with limited exceptions for certain disability services related to education)
- **Supplemental Nutrition Assistance Program (SNAP)**.
- **Low Income Subsidy** for prescription drug costs under **Medicare Part D**.
- **Public Housing, Section 8 housing vouchers, and Project-Based Section 8**.



IF YOU WORK WITH IMMIGRANT FAMILIES, HERE'S WHAT YOU NEED TO KNOW

Some immigrant groups are not subject to “public charge.”

Some immigrants—such as refugees, asylees, survivors of domestic violence, and other protected groups—are not subject to “public charge” determinations and would not be affected by this proposed rule if they are seeking status through those pathways. The regulation also proposes to exclude benefits received by active duty servicemembers, their spouses and children. Public charge is also not a consideration when lawful permanent residents (green card holders) apply to become U.S. citizens.

Under the proposed rule, receipt of benefits by the individual—not family members—is considered.

Moreover, only the benefits listed in the proposed rule may be considered. Pell Grants, WIC, child care or other benefits not listed would not be considered. And the use of Medicaid or SNAP by eligible family members who are not applying for status themselves would not be considered under this proposal. We still expect that entire households will be harmed by the proposed rule, as there is no way to target individual immigrants without hurting children, families, and communities.

This is only a proposal; the rules governing public charge in the U.S. have not yet changed.

Federal law requires DHS to obtain comments from the public and to review and respond to the comments before it publishes a final rule. The proposed rule makes it clear that these changes will apply only to benefits received after the rule is final. Even if the rules change, applicants for admission or permanent residence can still make their best case to show why they are not likely to become a “public charge” in the future. Using benefits now can help you become healthier, stronger and more employable in the future.

Each situation is different.

People with questions should consult an immigration attorney or DoJ-accredited representative about their individual case. This online directory can help you search for local nonprofits that provide legal help and advice: [ImmigrationLawHelp.org](https://www.immigrationlawhelp.org).

FIGHT BACK!

The Center for Law and Social Policy (CLASP), National Immigration Law Center (NILC), and groups all over the country are working together to fight back against the public charge rule change. The public has until **December 10** to submit comments on this regulation.

Our opposition needs to be strong because the stakes are high. If we want our communities to thrive, everyone in those communities must be able to stay together and get the care, services, and support they need to remain healthy and productive.

To submit a comment today, please visit [ProtectingImmigrantFamilies.org](https://www.ProtectingImmigrantFamilies.org). Let the government know that this rule would harm you, your family, community and the country. Organize your networks, your neighbors, and your family to weigh in and do the same. Now is the time to make your voice heard! If you do not want to include any personal information, a friend or representative can submit a comment for you.

