Public Charge:
Tearing Down Trump’s Invisible Wall
May 3, 2019

Co-Chaired by:

CLASP
Policy Solutions That Work For Low-Income People

National Immigration Law Center

What is the PIF Campaign?

• Purpose: Unite to protect and defend access to health care, nutrition programs, public services and economic supports for immigrants and their families at the local, state and federal level.
  • Created in 2017 and co-chaired by NILC and CLASP
  • Over 370 Active Member Organizations
  • 5 Working Groups: Communications, Federal Advocacy, Field, Policy & Legal Analysis, Research. In 2019, we formed 5 new subcommittees.
  • www.protectingimmigrantfamilies.org
What does current public charge policy look like?

Longstanding public charge test

<table>
<thead>
<tr>
<th>Definition</th>
<th>Benefits Considered</th>
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<tbody>
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<td>A person who is considered “likely to become primarily dependent on the government for subsistence.”</td>
<td>Only two types of benefits considered:</td>
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<td>1. <strong>Cash assistance</strong> for income maintenance</td>
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<td>2. Institutionalization for <strong>long-term care</strong> at government expense</td>
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Where does public charge come up?

A public charge assessment is made when a person:

- Applies to enter the U.S.
- Applies to adjust status to become a Lawful Permanent Resident (LPR) - obtaining a green card
- A green card holder leaves the U.S. for more than 180 consecutive days (6 months) and reenters

Current public charge test in the U.S.

The public charge assessment is forward looking

Is the person likely to rely on cash or long-term care in the future?
- No one factor (including past use of cash benefits) can alone determine whether or not someone is a “public charge”
- Positive factors can be weighed against negative factors

Totality of Circumstances

- Age
- Health
- Family status
- Financial status
- Education and skills
- Affidavit of support
Public charge does NOT apply to everyone. Here are some examples of public charge does NOT apply to:

- Lawful Permanent Residents (Green card holders)
- Immigrants applying for citizenship
- Refugees and Asylees
- VAWA self-petitioners
- Survivors of Domestic Violence, Trafficking, or other Serious Crimes (Applicants/ recipients of U or T visa)
- Special Immigrant Juveniles
- Certain Parolees, and several other categories of non-citizens

How would the public charge test change under the proposed regulation?
Why this proposal is a radical change

**DEFINITION CHANGE**
This definition would change from someone who relies on government for main source of support to someone who participates in a health, nutrition or housing benefit to support work.

**MORE FACTORS CONSIDERED**
The totality of circumstances test has new detailed factors that make it harder for low and moderate income people to pass. Immigrants can fail the test if they are low-income, don’t speak English well, have a medical condition, etc.

**ADDITIONAL BENEFITS**
Additional benefits included in the test: Medicaid, SNAP, Housing assistance, Medicare Part D low-income subsidy

Definition of public charge

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

**PROPOSED**
An immigrant who is likely to “receive one or more public benefits”
Proposed Changes: Totality of Circumstances Factors

Age
Income and Financial Status
Health
Education and Skills
Family Status
Affidavit of Support

Public benefits included in NPRM

*Cash Support for Income Maintenance
Supplemental Nutrition Assistance Program (SNAP or Food Stamps)

*Long Term Institutional Care at Government Expense
Medicare Part D Low Income Subsidy

**Most Medicaid Programs
Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance)

* Included under current policy as well
** Exceptions for emergency Medicaid & certain disability services offered in school. DHS asked for input on inclusion of CHIP, but the program was not included in the regulatory text
Who would the proposed regulation harm?

The Chilling Effect: The Big Picture

As many as 26 million people in families with immigrants might be chilled from participating in programs that make their families healthier and stronger.¹

1 in 4 children have an immigrant parent²

¹“Public Charge Proposed Rule: Implications for Non-Citizens and Citizen Family Members Data Dashboard,” Manatt Health, October 2018
²Samantha Krieger and Anthony Cermak “Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies,” Kaiser Family Foundation, 2018
The Chilling Effect: The Big Picture

Impacts by Race and Ethnicity:

- **18.3 million LATINOS**
  > 33.4% of all LATINOS
- **3.2 million ASIAN**
  > 17.4% of all ASIAN
- **1.8 million BLACK & AFRICAN**
  > 4% of all BLACK & AFRICAN
- **2.5 million WHITES**
  > 1% of all WHITES

Source: “Public Charge Proposed Rule: Implications for Non-Citizens and Citizen Family Members Data Dashboard,” Manatt Health, October 2018

Review of the timeline

- **LATE 2018**
  - Public comment period ended
- **NOW**
  - DHS must review and consider the more than 260,000 public comments submitted
  - This process could take months or even years to complete
- **TBD**
  - A final rule posted to the Federal Register
- **60 DAYS**
  - A 60 day waiting period before the rule is in effect
- **EFFECTIVE DATE**
  - The rule is in effect

The rule is in effect
How to Get Involved with PIF?

Join our Email List
Stay up-to-date on news, developments, and other threats that impact immigrant families and join our email list. Every Monday, we provide the state of play, advocacy opportunities, and new resources. To join go to: http://bit.ly/PIFCampaign

Become an Active Member
Join the hundreds of organizations working to protect immigrant families. There are no fees or work requirements to join as an Active Member, and you can participate in one of our many working groups and subcommittees. To join go http://bit.ly/PIFActivemember

Share Your Story
Everyone’s voice matters in this fight - please share your lived experience. Go to http://bit.ly/PIFstory and we will follow up to have a more in-depth conversation. Your information will never be shared without your permission.

Take Action!
Be sure to check out our Events page for more opportunities to learn and take action to support immigrant families.

The PIF Website

Stop Trump’s Attack on Immigrant Families
In 2017, The Protecting Immigrant Families, Advancing Our Future (“PIF”) campaign was created by the Center for Law and Social Policy (CLASP) and the National Immigration Law Center (NILC) to combat the Trump Administration’s attack on access to health care, nutrition, housing, and economic security programs for millions of immigrant families. Our campaign brings together leading advocates for immigrants, children, education, health, anti-hunger, anti-poverty, and faith communities. Together, we not only defend against these threats, but also work to lay the foundation for a more productive national dialogue about our immigrant tradition and our country’s future.