

Overview of Public Charge and How to Talk to Immigrant Families

May 9, 2019

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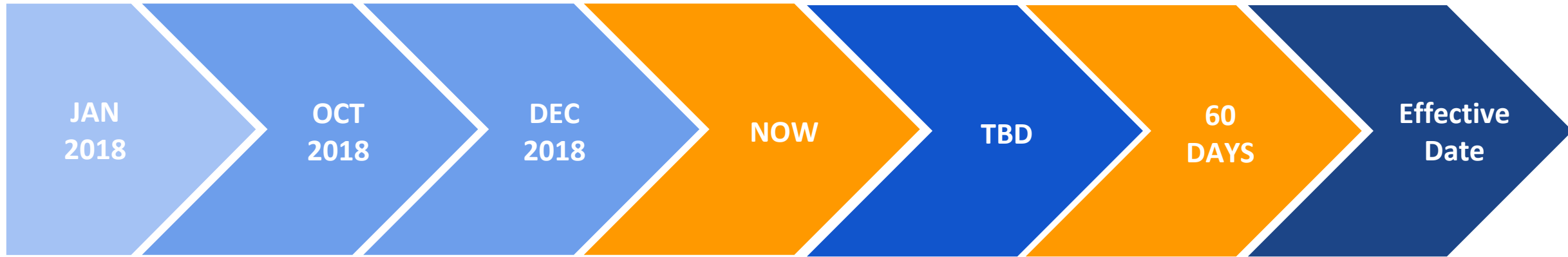
What is the PIF Campaign?

- **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.
 - One of our main priorities this year is to combat the chilling effect of Trump's anti-immigrant agenda, and empower immigrants and their families to make informed and accurate decisions.
 - [Click here](#) for more information on the PIF Campaign.

Questions we'll address

- **What's the status of changes to public charge policy?**
- **What does current policy look like?**
- **What has already changed?**
- **What would change under the draft proposed regulation?**
- **How should we talk about public charge?**
- **Where can I direct families?**

Timeline of Public Charge Proposals



Changes to the Foreign Affairs Manual

DHS published the proposed rule

Over a quarter million people submitted comments against the rule change

DHS must review and consider all comments

A final rule posted to the Federal Register

There is a minimum 60 day waiting period before the rule can go in effect (could be longer)

The rule is in effect

What does current public charge policy look like?

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

Note: There are also deportability grounds associated with public charge, but is very limited in its scope and application.

Does this test apply to everyone?

Public charge does NOT apply to all immigrants. Here are some examples of where public charge does NOT apply:

- Lawful Permanent Residents (Green card holders) 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

Longstanding public charge test

Definition

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

Benefits Considered

Only two types of benefits considered:

1. **Cash assistance** for income maintenance
2. Institutionalization for **long-term care** at government expense

Current public charge test *in the U.S.*

Totality of Circumstances

- Age
- Health
- Family status
- Financial status
- Education and skills
- Affidavit of support



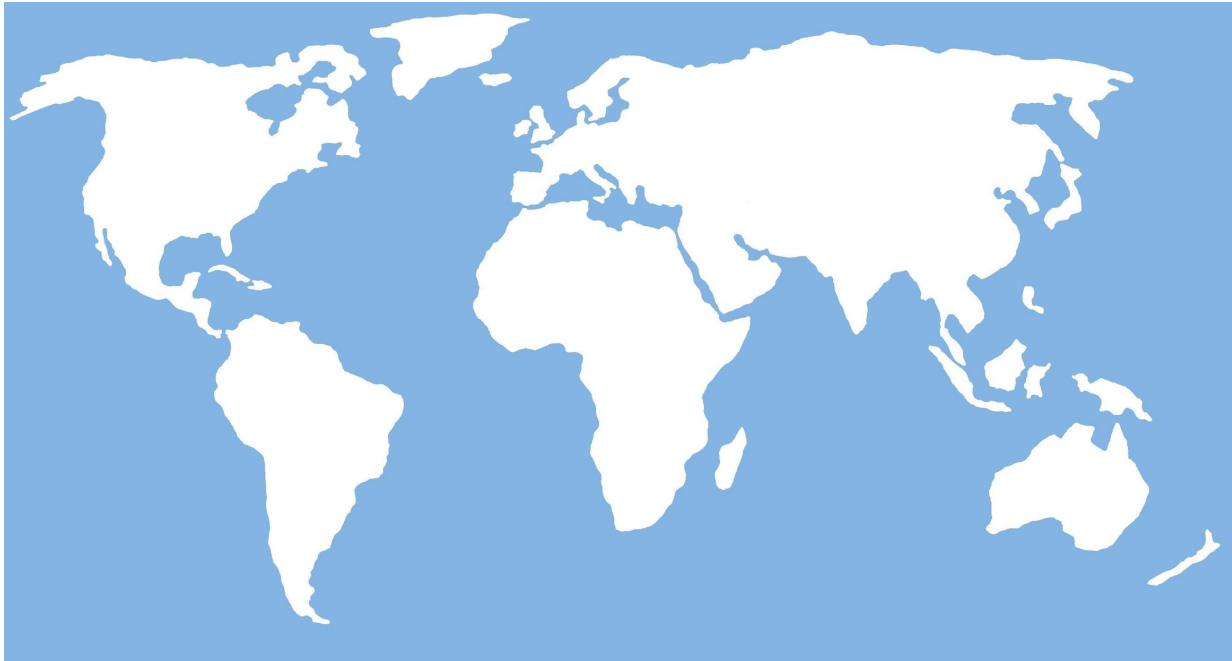
The public charge assessment is forward looking

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

Public charge is different for immigrants applying from abroad

Foreign Affairs Manual



Officials in U.S. consulates abroad use the Department of State's Foreign Affairs Manual (FAM) to make decisions about whether to grant people permission to enter the U.S.

For loved ones applying from abroad

These rules only apply to people applying to enter the U.S from abroad.
This could be a husband, mother, or other family member of your client.

- Affidavit of support no longer sufficient in and of itself
- Look broadly at applicant's age, health, family status, financial resources, skills.
- "Totality of Circumstances" test now considers:
 - Use of non-cash benefits
 - Benefits used by sponsors or family members

**How would the public charge
test change under the
proposed regulation?**

Changes in proposed regulation

NEW DEFINITION

A dramatically different definition of public charge

TOTALITY OF CIRCUMSTANCES

New weighted factors of the totality of circumstances test designed to make it harder for low and moderate income people to pass

ADDITIONAL BENEFITS

Additional public benefits programs can be considered by immigration officials.

Definition of public charge

CURRENT DEFINITION AND BENEFITS CONSIDERED

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

- Cash assistance for income maintenance
- Institutionalization for long-term care at government expense

PROPOSED DEFINITION AND BENEFITS CONSIDERED

An immigrant who is likely to “receive **one or more** public benefits”

- Cash assistance for income maintenance
- Institutionalization for long-term care
- SNAP
- Most Medicaid program
- Federal housing assistance
- Medicaid Part D

Proposed Changes: Totality of Circumstances Factors

Age

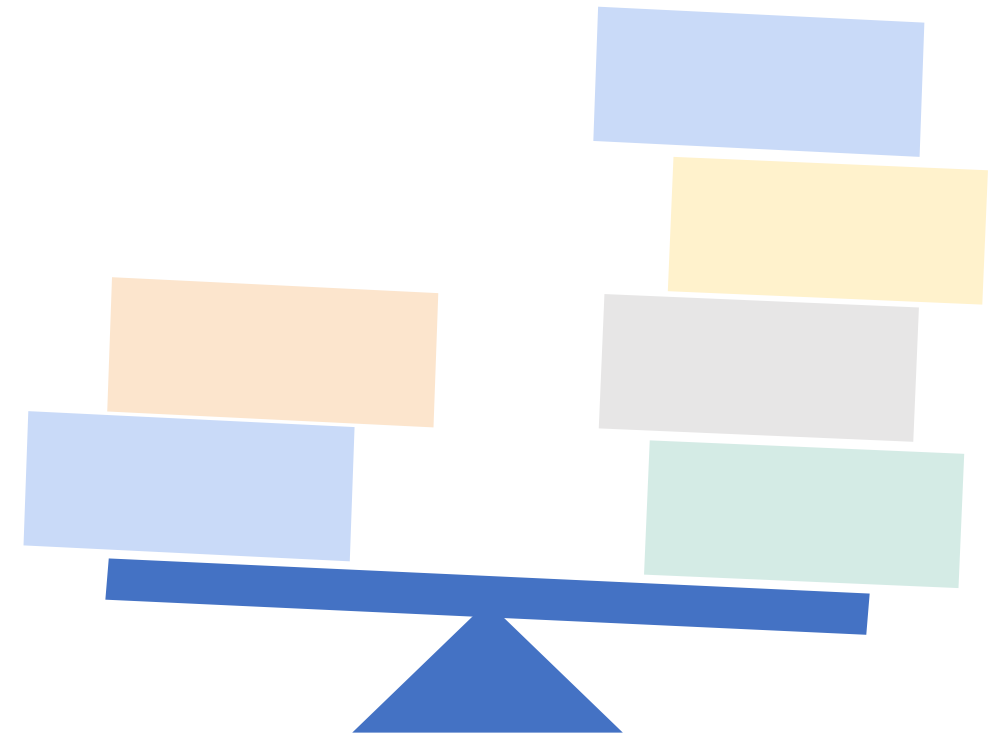
Income and
Financial Status

Health

Education and Skills

Family Status

Affidavit of Support



Public benefits included in NPRM

***Cash Support for Income Maintenance**

***Long Term Institutional Care at Government Expense**

****Most Medicaid Programs**

Supplemental Nutrition Assistance Program (SNAP or Food Stamps)

Medicare Part D Low Income Subsidy

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

Changes will not be not retroactive

If you receive any of the newly proposed additional benefits before the rule is final - the use of these benefits will not be considered in future public charge determinations.

Under the new proposal, DHS cannot judge:

- Public benefits received before the proposed rule is finalized
- Proposed program additions to the public charge test (previous slide **BLUE**)
- Any other benefits that are not cash or long term care (see next slide)

Remember*DHS current policy considers use of cash and long-term care. That element of the policy will remain the same (Previous slide **ORANGE**)

Public benefits not included in the proposal

Any benefit not *specifically listed* in the regulation will not be considered

- Benefits received by immigrant's family members
- Disaster relief
- Emergency medical assistance
- Entirely state, local or tribal programs (other than cash assistance)
- CHIP
- Special Supplemental Nutrition for Women Infants and Children (WIC)
- School Breakfast and Lunch
- Energy Assistance (LIHEAP)
- Transportation vouchers or non cash transportation services
- Non-cash TANF benefits
- Federal Earned Income Tax Credit and Child Tax Credit
- Student Loans

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

Keep in Mind

- The existing 1999 public charge guidance is still in place until a new rule is finalized.
- The final regulation could look different from the proposed regulation.
- Even before it is finalized, this rule is causing people to disenroll from benefits programs. ***This includes mixed-status families where this rule would not apply.***
- The proposed regulation may never be finalized.

How can you talk to immigrant families about public charge?

Speaking to immigrant families...

- Use of public benefits alone will NOT make you a public charge.
- The public charge determination is a forward-looking test.
- Some immigrants are exempt by law from the public charge test.
- The proposed rule is NOT retroactive.
- Your personal information is safe.
- We are continuing to fight this attack on immigrant families.

View this [FACT SHEET](#) for more info on talking with immigrant families about public charge

Examples of conversations and questions about public charge

Speaking to immigrant families...

I was just granted asylum status a few months ago, now I'm worried that using health benefits is going to stop me from getting my green card.

Response: 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 7.*



Speaking to immigrant families...

I'm scared to stay enrolled in WIC, I know that WIC is a public benefit.

Answer: Yes, you are correct that WIC is a public benefit but it is NOT considered in the public charge test. You should have no fear staying enrolled in WIC. ***This also applies to ACA, SNAP, and the other benefits listed on slide 19.*



Speaking to immigrant families...

I've heard about this rule for a long time now. Are you sure it's not already in effect?

Answer: For public charge decisions made in the U.S., **nothing has changed yet.** We recommend that you continue to get the help you need.



Speaking to immigrant families...

My friend says public charge will apply to her and so she disenrolled from MediCal. She said I should too.

Response: **Everyone's situation is different.** Before you make any decisions that may impact you and your family's health, please seek advice from a knowledgeable source.



Speaking to immigrant families...

I keep seeing news articles that tell me different information about public charge. Who should I believe?

Answer: News outlets sometimes get information wrong so it's important to get expert advice. Seek advice from a knowledgeable source. This may be a legal services attorney or a social service organization that serves immigrant communities.



Speaking to immigrant families...

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

Answer: 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.



**Where can I get
more information?**

Community Resources on The PIF Website

Immigrant Self Sufficiency Fact Sheet:



National WIC Association

PUBLIC CHARGE AND IMMIGRANT PARTICIPATION IN WIC:
FREQUENTLY ASKED QUESTIONS

1. Is

How to Talk About Public Charge with Immigrants and Their Families

NO
de
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inc

Fr

topline Protecting Immigrant Families (PIF) Campaign messag
ing public charge concerns with immigrant communities. The
PIF Campaign knows to date and is not legal advice. For inform
igration expert. Visit www.immigrationadvocates.org/nonprofit

**YOU HAVE RIGHTS - PROTECT YOUR HEALTH
- GOING TO THE DOCTOR -**

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**Will using benefits hurt my chances of getting a
Green Card or becoming a U.S. Citizen?**

DO NOT have a green card yet?

RIGHT



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A Guide to Creating "Safe Space" Policies for Early Childhood Programs

Rebecca Ullrich | April 2019

This guide provides practitioners, advocates, and policymakers with informa
implement "safe space" policies that safeguard early childhood programs ag
It includes three parts:

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>

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

Questions & Answers