



How to Protect Families from the Proposed Public Charge Rule

October 30, 2018 – 2:00 pm EST

Agenda

The Current Public Charge Test & How This May Change Under the Proposed Public Charge Rule (10 minutes)

Ways to Counter the Chilling Impact (15 minutes)

The Whys and Hows of Submitting Comments: Strategies & Resources for Anti-Hunger and Nutrition Groups (20 minutes)

Q &A

Speakers



Alex Ashbrook
FRAC

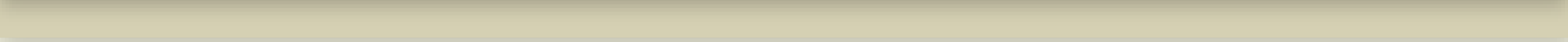
Madison Hardee,
CLASP



Robert Campbell
Feeding America

Brian Dittmeier
National WIC Association





The Current Public Charge Test

Public charge today

Definition

“Public Charge” is a term used by U.S. immigration officials to refer to a person who is considered likely to become primarily dependent on the government for subsistence.

Totality of Circumstances Test

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

Benefits Currently Considered

Test only triggered in 2 situations:

1. Cash assistance for income maintenance
2. Institutionalization for long-term care

Who is exempt from public charge determination?

Public charge 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 (Applicants/ recipients of U or T visa)
- Special Immigrant Juveniles
- Certain Parolees, and several other categories of non-citizens

When does the public charge test 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)
- A green card holder leaves the U.S. for more than 180 consecutive days (6 months) and reenters

Foreign Affairs Manual Changes

- **Revisions to FAM instructions** (Jan. 2018). The public charge definition has not changed, but:
 - Affidavit of support no longer sufficient
 - Look to 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
- **NOTE: Only affects decisions made by consular officials abroad**

How would the public charge test change under the proposed rule?

Summary: Why the proposed policy is a radical change

Definition Change

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

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.

Additional Benefits

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

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 is asking for input on inclusion of CHIP, but the program is not included in the regulatory text

Totality of Circumstances Test: Heavily Weighed Factors

Heavily Weighed
Positive Factor

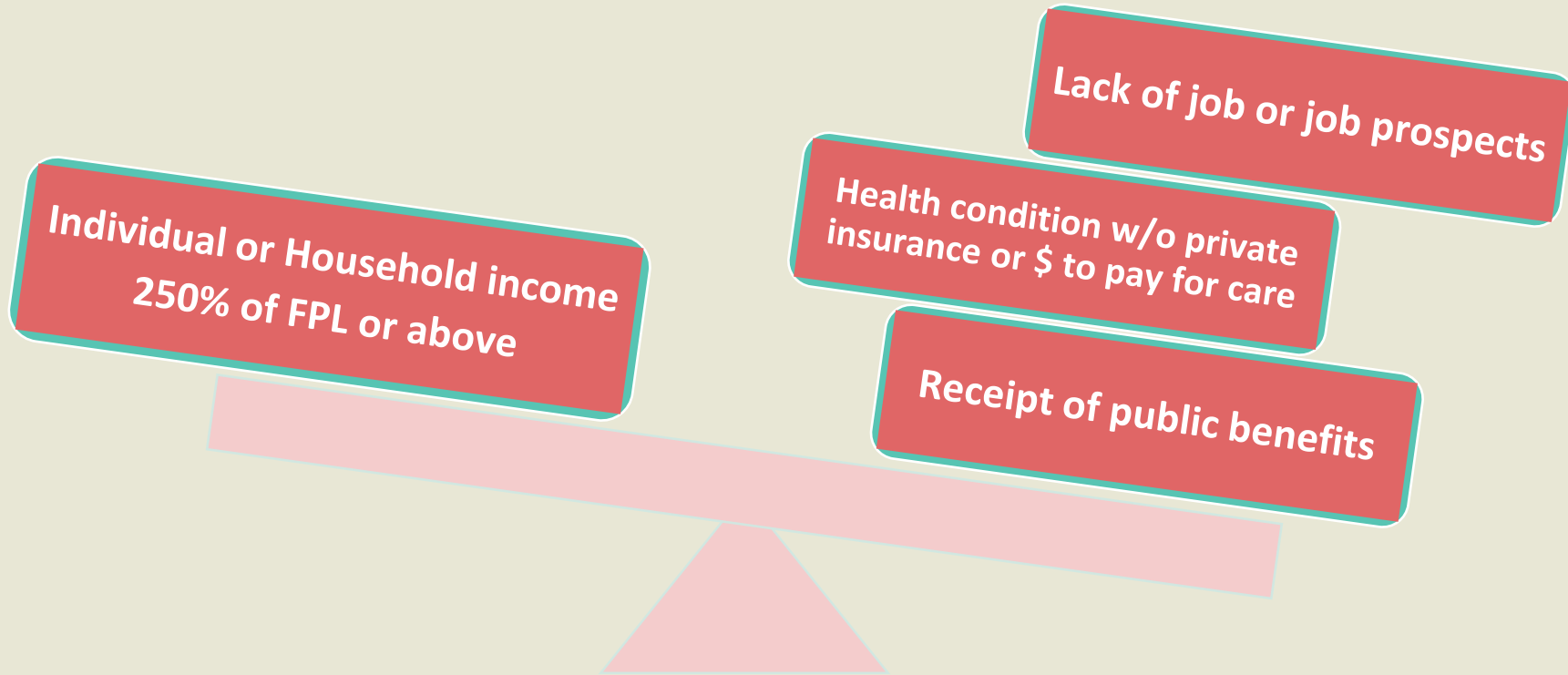
Heavily Weighed
Negative Factors

Individual or Household income
250% of FPL or above

Lack of job or job prospects

Health condition w/o private
insurance or \$ to pay for care

Receipt of public benefits



Totality of Circumstances Test: Family Status

- Receipt of benefits by dependents (including U.S. citizen children) will not directly be a factor in applicant's public charge test.
- If a child or family member is an immigrant, his/her own use of benefits counts toward his/her own public charge determination.
- Dependents are included in the calculation of household size and may make it harder for immigrants to meet the income test.



Changes are not retroactive

Under NPRM, benefits:

- received before the proposed rule is finalized
- that are currently excluded from the public charge test
(Anything other than cash or long term care)

Will not be considered in the public charge determination

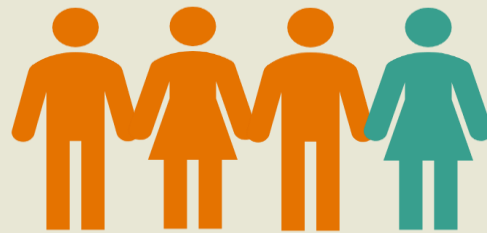
Quiz

1. True or False: A lawful permanent resident (green card holder) is NOT subject to a public charge test when they apply to become a U.S. citizen.
2. True or False: WIC is not considered in the public charge determination under current law and is also not considered under the proposed rule.
3. True or False: There is time to oppose the rule so that it is delayed or withdrawn.

Chilling Effect of the Proposed Rule

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 parent



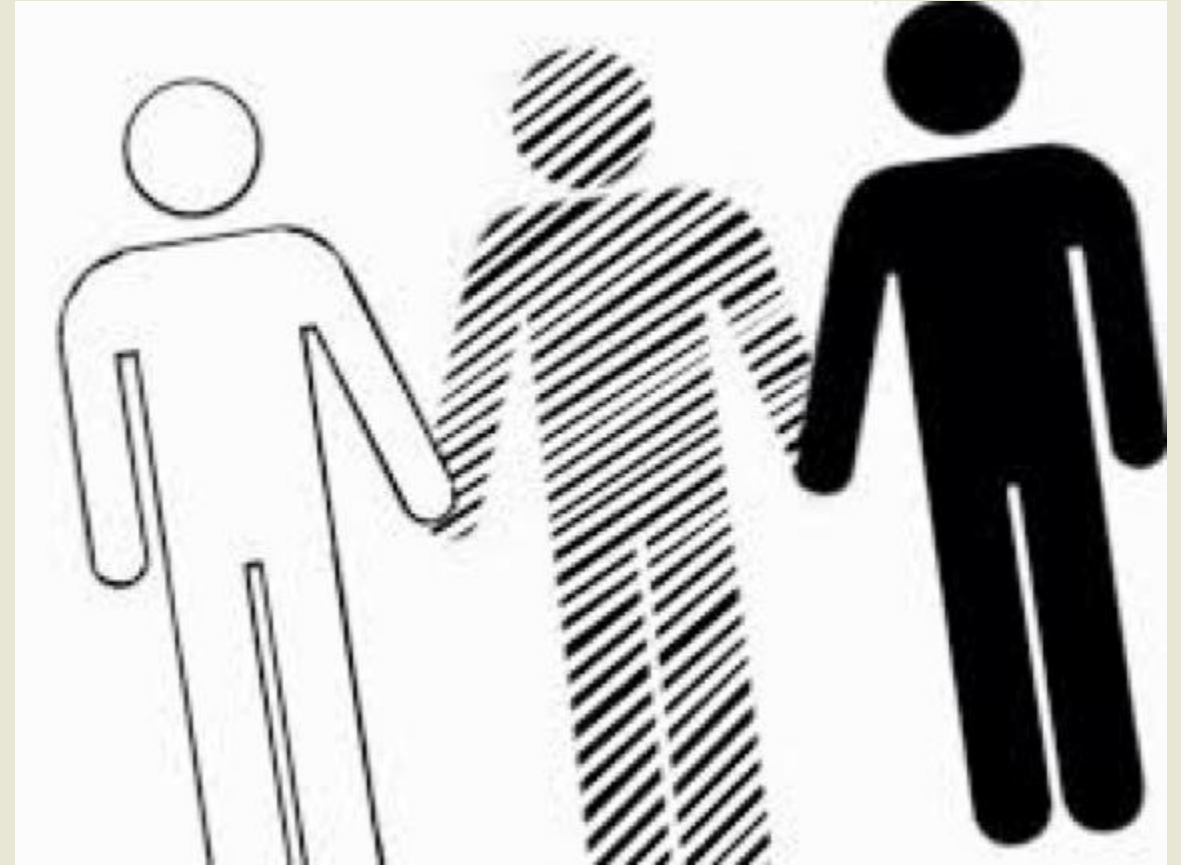
Source¹ “Public Charge Proposed Rule: Implications for Non-Citizens and Citizen Family Members Data Dashboard,” Manatt Health, October 2018

Source: Samantha Artiga and Anthony Damico “Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies” Kaiser Family Foundation, 2018

Impacts of the proposed regulation

Impacts by race and ethnicity

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





Ways to Counter the Chilling Effect

How can you talk to immigrant families about this?

1. The public charge rules **in the US** have not yet changed
2. The proposed regulation would not consider any newly listed benefits before it is final
3. The regulation does not apply to all immigrants
4. The privacy of your personal information is protected by law
5. You are not alone, and you can fight back!

For more information on talking with immigrant families about public charge, check out this [FACT SHEET](#)

Chilling Effect: Other Programs Not Listed

- WIC, Head Start, EITC, LIHEAP, and other programs were – at one point – considered in leaked drafts of public charge
- Steady chilling effect on other programs as immigrants fear any access to federal programs. **That has not changed with the narrower proposed rule.**
- WIC participants continue to disenroll, return food instruments, and refuse breastfeeding support.

Chilling Effect: Other Programs


- **January 2018 in Colorado:** a mother returned her Symphony breast pump to the WIC clinic. She was a DACA recipient who was not able to renew her permit. She did not want any services linking back to her.
- **February 2018 in California:** a mother with two children on WIC walked in and pleaded to “stop her WIC.” She came to the US when she was a child, but was instructed by her lawyer to cancel her participation in government programs, including WIC and Medicaid.
- **February 2018 in Kansas:** a pregnant woman married to a doctoral student discontinued her WIC benefits, claiming that she was fearful that her receipt of services would impact her ability to obtain citizenship in the future.
- **April 2018 in Washington:** a mother came into a WIC clinic after being pulled over by a police officer and three ICE patrol cars. She was terrified and asked if she was pulled over because she participated in WIC.
- **April 2018 in New York:** a mother with two children on WIC returned food checks after learning about public charge through Spanish-language news. The mother is applying for citizenship (which isn’t affected by public charge) but still fears it will impact her petition.

Chilling Effect: Other Programs

- Significant driver: **immigration attorneys** offering bright-line advice to separate from all federal benefit programs
- This advice comes from an abundance of caution:
 - The rule is not final yet.
 - There will be a 60-day grace period after issuance of a final rule.
 - The proposed rule will not apply retroactively.
- Topline advice: provide accurate, timely information and encourage participants to have nuanced conversations with their attorneys.

Chilling Effect: Other Programs

- Arm participants with information, including handouts that they can bring to attorneys
- Actively reach out to attorneys in the area and educate
- Keep an eye on local news sources as well!



National WIC Association

**PUBLIC CHARGE AND IMMIGRANT PARTICIPATION IN WIC:
FREQUENTLY ASKED QUESTIONS**

OCTOBER 1, 2018

1. Is WIC a public charge?

NO. WIC participation has not been considered in immigration determinations, including public charge review. After many rumors over the past year, current proposals by the Trump Administration no longer seek to include WIC in public charge.

However, DHS is actively soliciting comment on whether any additional programs should be included in the public charge rule. Even though WIC is no longer in the proposed rule, it is important for the WIC community to speak out during the public comment period to ensure that WIC is not included in a final rule on public charge.

BACKGROUND ON PUBLIC CHARGE

1. What is public charge?

Public charge is an element of immigration law that allows federal authorities to deny legal status to individuals who are determined to be primarily dependent on the government for subsistence. Recent efforts by the Trump Administration seek to redefine public charge in a way that would allow immigration officials to deny legal status for the use of one or more public benefits.

Public charge determinations are conducted according to a forward-looking

How Can You Fight Back?

Submit a Comment!
by December 10th

“Disenrollment or forgoing enrollment in a public benefits program by aliens otherwise eligible for these programs could lead to:

- **worse health outcomes**, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence;
- **increased use of emergency rooms and emergent care** as a method of primary health care due to delayed treatment;
- **increased prevalence of communicable diseases**, including among members of the U.S. citizen population who are not vaccinated;
- **increases in uncompensated care** in which a treatment or service is not paid for by an insurer or patient;
- **increased rates of poverty and housing instability**; and
- **reduced productivity and educational attainment.**” (p 51270)

Help reach the goal of 100,000 comments by December 10

High Quality Organizational Comments

- **Who?**
 - Nonprofits, direct service providers, local, state and national elected officials
- **What to say?**
 - Model comment and Templates for 40+ sectors available soon
- **Where to submit?**
 - [Federal Comment Portal](#) on Regulations.gov
- **When?**
 - Draft now and wait until second half of comment period to submit

High Quality Individual Comments

- **Who?**
 - You and your colleagues and friends and family
- **What to say?**
 - Text to edit on websites with a few clicks.
- **Where to submit?**
 - [FRAC.org/publiccharge](#)
 - [ProtectingImmigrantFamilies.org](#)
 - Other microsites available too!
- **When?**
 - Starting now and every day until December 10

Comment best practices

- **Do write comments in your own words!**
 - Templates are fine -- but we strongly encourage you to edit them!
 - Reflect your own thoughts and experiences
 - Explain why this matters to YOU and/or YOUR organization
- **Don't suggest corrective language.** We do not recommend suggesting ways that the agency can “fix” the proposed language.
- **Don't discuss programs that aren't specifically included in the NPRM.**
- **Do oppose the expansion of the rule to include *any additional programs*, not just the program that matters most to you.**

For more comment FAQs, check out this [FACT SHEET](#)



**Submitting a Comment is
NOT Lobbying**

Poll

Select all that apply: I am motivated to submit a comment in opposition to this proposed rule because (check all that apply)

I don't think people should have to choose between food and family

My family never would have come to the US if this proposed rule were in place


Someone I love would be harmed


Clients I work with would be harmed

Other


**Anti-Hunger and Nutrition
Stakeholder Resources to
Help You Submit a Comment**


Resources

 Campaign Resources

 Fact Sheets

 Research

 Partner Resources

 Community Education Resources

 State-Specific Materials

 Campaign Events

 Additional Comment Sites



Additional Comment Sites

Press **F11** to exit full screen

The main Protecting Immigrant Families campaign comment portal is available at ProtectingImmigrantFamilies.org. Many of our partners have set up comment sites as well. Please feel free to use whichever site best aligns with your viewpoint. Together, we are working to lift the voices of those affected by Trump's cruel "public charge" regulation. Ultimately, comments submitted through these sites are directly delivered to the Department of Homeland Security on regulations.gov.

Here are the additional sites we are aware of to date:

- [Anti-Hunger \(FRAC\)](#)
- [Young Adults \(Young Invincibles\)](#)
- [Asian & Pacific Islanders](#)
- [Child Advocacy \(FWD.us\)](#)
- [Immigrant Rights \(FWD.us\)](#)
- [Access to Health Care \(FWD.us\)](#)
- [Faith Traditions \(FWD.us\)](#)
- [Workers \(SEIU\)](#)
- MomsRising in [English](#) and [Spanish](#)

Family or Food? No One Should Have To Choose



HOME > FAMILY OR FOOD? NO ONE SHOULD HAVE TO CHOOSE



Don't Let the Trump Administration Spike Hunger, Sickness, and Poverty in Our Country

The Department of Homeland Security's (DHS) [proposed "public charge" rule](#) would fuel rates of hunger and food insecurity among immigrant families, including families with U.S. citizen children.

Join FRAC and the Protecting Immigrant Families Campaign in telling DHS how this rule would spike hunger in communities across our nation, and that it should be withdrawn. The Campaign has a goal of collecting 100,000 comments – submit your comment today.

Deadline to submit comments is on or before December 10, 2018.

Note: You will see the box enabling you to submit your comments after you fill out the boxes in the form below, click the privacy policy box, and click the "Submit" button.

Tell the Trump Administration the rule will:

- **Fuel rates of hunger and food insecurity** among immigrant families, including those with U.S. citizen children.
- **Increase fear and deter** eligible immigrant families from participating in SNAP, making hunger and poverty worse.
- **Sow confusion and chaos on how to interpret this complex rule** among immigrant families and government agencies, schools, social service providers, and charitable networks.
- **Restrict access to SNAP, Medicaid, Medicare Part D, and housing programs**, resulting in greater poverty and a sicker, poorer, and hungrier nation.
- **Harm the economy, grocery retailers, and agricultural producers** by reducing the amount of SNAP dollars available to spur local economic activity.

We ask that you modify the language to reflect your own thoughts and experiences so that each submitted comment counts as a unique comment.

Find additional resources to help you craft your message:

- [FRAC Public Charge Resource page](#)
- [Opposing the Public Charge Rule – A Comment Toolkit for People and Organizations Concerned About the Impact on Anti-Hunger Work](#)

* First Name

* Last Name

Organization (if applicable)

Address Line 1

Address Line 2

* City

* State

* ZIP Code

* Email Address

Any information (e.g., personal or contact) you provide on this comment form or in an attachment may be publicly disclosed and searchable on the Internet and in a paper dossier and will be provided to the Department or Agency issuing the notice. To view any additional information for submitting comments, such as anonymous or sensitive submissions, refer to the [Privacy Notice](#) and [User Notice](#) (of Regulations.gov), the Federal Register notice on which you are commenting, and the Web site of the Department or Agency.

I agree to the Privacy Policy

Submit



FAMILY OR FOOD NO ONE SHOULD HAVE TO CHOOSE



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Document

* Document ID
USCIS-2018-0013-001

* Document Comments
Re: DHS Docket No. USCIS-2018-0012, RIV 1815AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds
Dear Sir/Madam:
As the proposed public charge rule will fuel hunger, poverty, and food insecurity, strongly oppose it and urge that it be withdrawn.
(Customize your comment.)

Notes:
When You Click Submit, you'll also send the following information to the recipient:
Name (First and Last)
Address (Address, City, State, Zip Code)
City Address

Your Comments:

* Your Name:

Sincerely:

[Submit Message\(s\)](#)

Resource Library

[Home](#) > [RESEARCH & DATA](#) > [RESOURCES](#) > [PROPOSED PUBLIC CHARGE RULE RESOURCES](#)



Proposed Public Charge Rule Resources

 [ADVOCACY TOOL](#)

Submit your comment today

Resources to help craft messages opposing the Department of Homeland Security's proposed "public charge" rule:

- [Opposing the Public Charge Rule – A Comment Toolkit for People and Organizations Concerned About the Impact on Anti-Hunger Work](#)
- [The Hunger Impact of the Proposed Public Charge Rule](#)
- [FRAC Statement: Proposed Public Charge Rule Would Undercut Efforts to Address Food Insecurity and Poverty](#)
- [Infographic: Food or Family? No one should have to choose.](#)
- [Infographic: Submit a Comment](#)
- [Infographic: I Believe](#)
- [Sample social media](#)
- [Sample website blurb with graphic](#)
- [Sample Email/Newsletter text](#)
- [Protecting Immigrant Families Campaign resource page](#)
- [Protecting Immigrant Families Campaign FAQ page](#)

Research & Data

- [Resource Library](#)
- [Interactive Data Tools](#)

Featured Resources

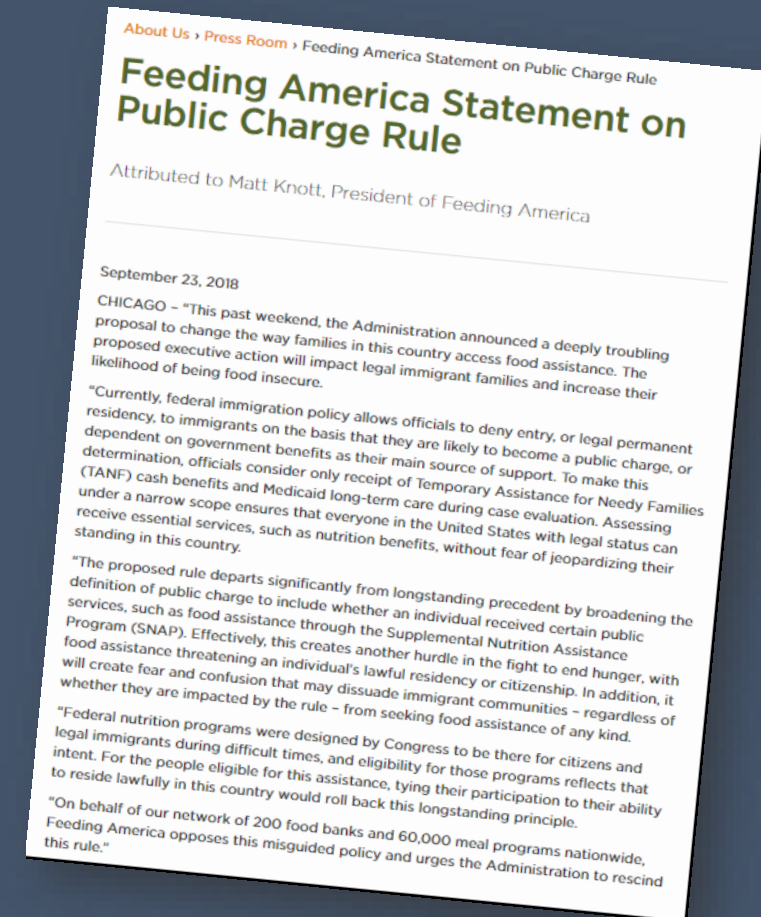
- [INTERACTIVE DATA TOOL](#)
[State of the States: Profiles of Hunger, Poverty, and Federal Nutrition Programs](#)
- [REPORT](#)
[A Plan of Action to End Hunger in America](#)

Feeding America Resources

https://secure.feedingamerica.org/site/Advocacy?cmd=display&page=UserAction&id=432&src=foodbank&s_subsrc=foodbank

Food Banks Impacted by Public Charge

- The new rule will create fear and confusion that may dissuade immigrant communities – regardless of whether they are impacted by the rule – from seeking needed food in the first place.
- Food banks in the Feeding America network are already reporting that immigrant families they serve are becoming fearful of receiving any food assistance.
- We are committed to feeding all who struggle with hunger, and this rule will make that task more difficult.



Feeding America Comment Collection Resources

Tell the Trump Administration that making immigrants afraid to seek food assistance is NOT an American value!

A new rule proposed by the Trump Administration, called "public charge," would punish immigrants who receive food assistance through the Supplemental Nutrition Assistance Program (SNAP) even though they are eligible for it by jeopardizing their ability to stay in the United States.

Don't let the Trump Administration force legal immigrants to choose between food for their family or their legal status.

Please remember to add a personal comment. The Trump Administration by law must review and respond to all unique comments! Please note that your information will be shared with Regulations.gov and your personal information related to the public comment will be available to view on the docket.

SEND MESSAGE

Contact

• Required fields

• Title:

• First Name:

• Last Name:

• Your Email:

• Address 1:

Address 2:

• City:

Message

DHS Docket No. USCIS-2010-0012, RIN 1615-AA22

Dear [Decision Maker],

• Personalize your message

I oppose the Department of Homeland Security's proposed rule change to "public charge." The new rule would punish immigrants if they receive food assistance through the Supplemental Nutrition Assistance Program (SNAP) by jeopardizing their ability to stay in the United States - hurting the ability of our friends and neighbors to put food on the table. Federal nutrition programs like SNAP were designed by Congress to be there for all citizens and eligible legal immigrants when they fall on hard times. This rule undermines congressional intent and our longstanding federal commitment to helping those who struggle to have enough healthy food.

Worse yet, the new rule will create fear and confusion that may dissuade immigrant communities - regardless of whether they are impacted by the rule - from seeking needed food in the first place. As a Feeding America supporter, I'm worried that food banks in the Feeding America network are already reporting that immigrant families they serve are becoming fearful of receiving any food assistance.

The Trump Administration should immediately withdraw its proposal. This proposal jeopardizes the futures of families working toward the

Sincerely,
[Your Name]
[Your Address]
[City, State ZIP]

NWA Resources for Commenting

- Key webpage:
www.nwica.org/immigration-resources
- NWA template comments are live
- NWA has also developed a template for participant comments, translated into eight other languages (Spanish, Chinese, Vietnamese, Korean, French, Russian, Amharic, and Arabic)
- NWA resources for participants – including FAQs, talking points, and webinars – are also available

Participants are Key!

Comment

My name is Phuong Vo and I am an immigrant concerned individual.

I strongly oppose the Public Charge rule proposed by the U.S. Department of Homeland Security. I am appalled and offended by this rule that will judge me or any immigrant by our wealth, status, education, and whether we have asked for public assistance.

I am now a successful story of how government help can give people like me opportunities for a better life. I am the first in my family to go to college, and graduated from the best liberal arts college this past May, Williams College. Had it not been for the government assistance to my family, it would have been extremely hard for me to go so far away from home to complete this education. Such opportunities should be available to everyone, regardless of where they were born.

I urge you to withdraw the public charge rule, which would undermine our nation's economic future.

Thank you for your consideration and allowing immigrant families and children to be successful in our country.

Sincerely,
Phuong Vo

NWA Arguments

- **Expansion of the rule will harm children:** Citizen children live with their immigrant parents
- **Do not include all programs through the totality test:** The proposed language would include WIC in public charge
- **Administrative burden:** WIC is tied to SNAP and Medicaid
- **Do not expand current programs:** Including Medicaid, SNAP, and housing subsidies will exacerbate poverty

In addition, DHS seeks public comments on whether an alien's receipt of benefits other than those proposed to be included in this rule as public benefits should nonetheless be considered in the totality of circumstances, either above the thresholds set forth in the proposed rule for public monetizable and non-monetizable public benefits, or at some other threshold. DHS could construct a process under which it provides appropriate notice for consideration of such benefits to the extent that they have a bearing on the public charge inquiry, *i.e.*, whether the alien is likely in the totality of the circumstances to receive the designated public benefits above the applicable threshold(s), either in terms of dollar value or duration of receipt. DHS welcomes comments and data on this potential alternative.

Spread the Word!

Announce that you submitted a comment in opposition to the rule: [Click to Tweet](#)

Educate your friends, family, and others in your network and encourage them to submit a comment opposing the rule.

Participate in raising awareness during PIF Campaign theme weeks:

Hunger, Poverty, and Housing week starts November 19th

Join the Protecting Immigrant Families Campaign to stay updated:
bit.ly/askPIFcampaign

Q&A

Please focus your questions on comment submission and mobilization

For questions on specifics of the proposed rule:
<https://protectingimmigrantfamilies.org/resources/>

Poll

Single select: To oppose this harmful public charge rule, I am ready to take action by submitting a comment and getting others to do so. I will work to get:

- 1- 25 people to submit a comment
- 26-50 people to submit a comment
- 51-100 people to submit a comment
- More than 100 people to submit a comment

Contact

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