



UPDATE: The new “PUBLIC CHARGE” Rule and Impact on Texans

Dallas Coalition for Hunger Solutions and
Dallas Welcoming Communities and Immigrant Affairs
October 15, 2019

ANNE DUNKELBERG

Associate Director, Center for Public Policy Priorities; dunkelberg@cPPP.org; 512-627-5528

The Invisible Wall: many factors reducing lawful immigration and discouraging access to health care, nutrition

- Public Charge rule is just one of many “chilling” factors reducing lawful immigration and discouraging families in U.S. from accessing health care, hunger, housing assistance.
- Two components of Invisible Wall:
 - Legal and regulatory maneuvers
 - Escalating attacks on every status of non-citizens and citizens: undocumented, green-card holders, refugees, asylum-seekers, naturalized US citizens and US-born family members of non-citizens

New Rule “Public Charge” definition Discourages Health, Food, Housing help for Immigrants & Family

- Immigrants seeking U.S. “green card” (Lawful Permanent Resident) status, and immigrants outside U.S. seeking entry visas, may be denied green card or U.S. entry visa, if found to be “*likely in the future to rely on the government for subsistence,*” or a “Public Charge.”
 - This screening for a green card or entry visa referred to as the “public charge test.”
- Since 1999: only cash assistance, or residential care (e.g. nursing home) by the applicant was counted against them.
- The new rule would add use of Medicaid, SNAP, housing as negative factors (and more).

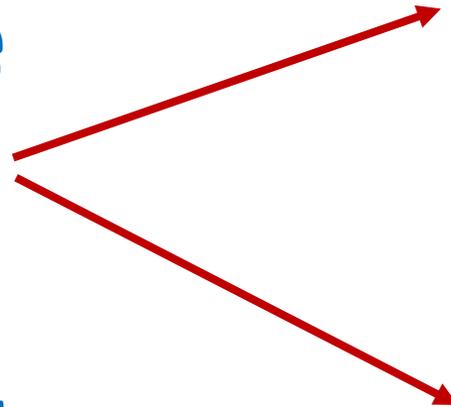
Things to Keep in Mind

- **Not everyone is subject to the rule.**
 - Many immigrants are exempt from the public charge inadmissibility ground.
 - **Benefits used by family members will not be counted.**
- **The rule is not in effect yet.**
 - Applies only to applications submitted on or after ~~October 15, 2019~~ the effective date, **now uncertain because multiple nation-wide injunctions have halted taking effect.**
 - Newly-added benefits used prior to the effective date will not be considered
- **Using Medicaid, SNAP, or housing does not mean an automatic green card denial: Positive factors can be weighed against negative factors** in this test.
- **Every situation is different.**
 - First, find out if the rule applies to you: an immigration legal services agency can tell you.
 - If it does, you can consult with the immigration legal services agency or immigration attorney about your own case.



Learn more about the PIF Campaign | protectingimmigrantfamilies.org

**Public
Charge Rule
has TWO
Important
and Distinct
Impacts**

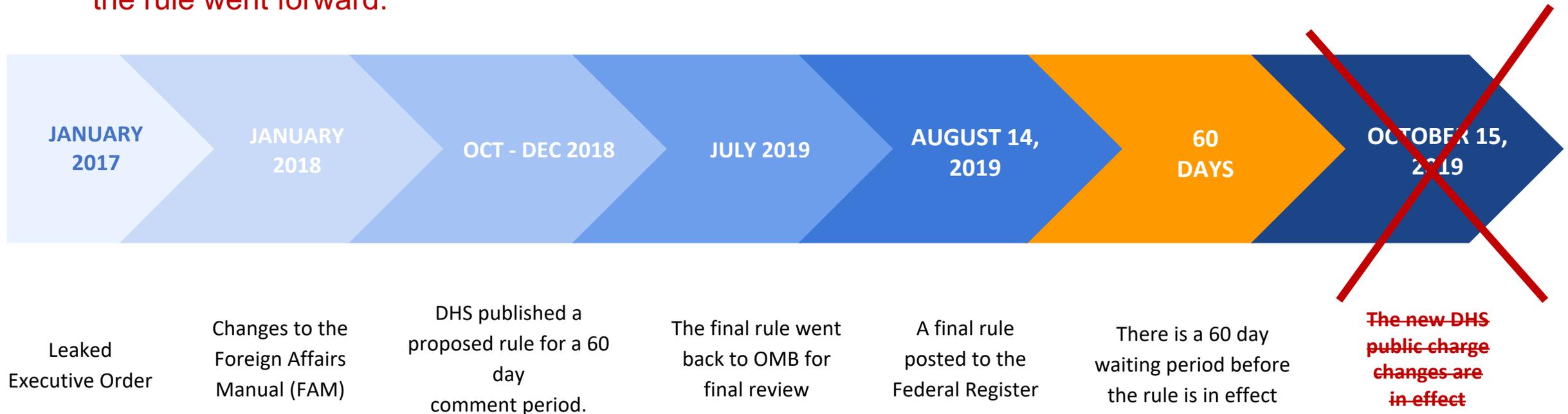


**Suppression of use of health,
hunger, & housing benefits
(with extensive ripple effects)**

**Dramatic increase in income
required to lawfully
immigrate. Much greater
exclusion based on health
status, disability, age, skills**

Public Charge: Timeline

Friday 10/11: Federal court judges in New York and Washington granted **nationwide** preliminary injunctions against the public charge rule scheduled to go into effect next week. Both judges found that families would suffer irreparable harm if the rule went forward.



- **9 court challenges to the rule across U.S.; 10/11 injunctions from 3 courts.**
- **Injunctions are not permanent and Trump Admin expected to challenge.**
- **Therefore, not possible to pinpoint when/if rule will take effect.**

Final Public Charge Rule: Effects on Benefits

Long-standing Policy

*Cash Assistance for Income Maintenance

Long Term Institutional Care at Government Expense

Newly Finalized Rule

Supplemental Nutrition Assistance Program (SNAP or Food Stamps)

Federal, State, Local and Tribal Cash Assistance

** Medicaid (with exceptions)

Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance)

* Included under current policy as well

** **Exceptions for emergency medical conditions, & coverage of children < 21 and pregnant women.**

Public Charge test does **NOT** apply to everyone!

The public charge ground of inadmissibility does **NOT** apply to every type of immigrant. Here are some examples of persons public charge does **NOT** apply to:

- Lawful Permanent Residents (“green card holders”) 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
- Humanitarian “parolees”, and several other categories of non-citizens

BUT, fears that benefit use will affect green card or citizenship, or that federal benefits info will be used to locate and deport are VERY WIDESPREAD

Whose use of benefits IS affected? It's Complicated.

- **Because:**
 - TX doesn't allow many immigrants to access public benefits, and
 - Most benefits that are available to non-citizens require that they already HAVE a green card, and
 - The public charge test by definition is nearly always for persons who are trying to GET a green card..
- **Therefore, relatively FEW Texans' Green Card applications will be affected by their use of benefits.**
- **There are some limited situations when a Texans' Green Card application might be directly affected by their own use of benefits.**
- **BUT- It's important to remember that while relatively FEW Texans' Green Card applications will be affected by their use of benefits, *the impact of the new, much more stringent standards for income, health and disability status, job skills, age, etc. will make it much harder to qualify for Legal Permanent Residence.***

Combined chilling effect of “Invisible Wall” MUCH larger

Texas:

- 5.6 million Texans live in a family that includes at least one non-U.S. citizen (of any immigration status);
 - About 1.9 million of these are kids age 17 or younger, of whom the great majority—about 1.65 million—are U.S. citizen children. **That’s more than one in every four Texas children (26%).**
 - 3.9 million of those Texans have family incomes targeted by the new rule (under 250% of the federal poverty income, which is less than \$65,000 a year pre-tax income for a family of four in 2019).

U.S.:

- 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
- There is already a chilling effect.



**1 in 4 U.S. children
has an *immigrant*
parent; in Texas
more than 1 in 4
has a *non-US citizen*
parent**

¹ “Public Charge Proposed Rule: Implications for Non-Citizens and Citizen Family Members Data Dashboard,” Manatt Health, October 2018

² 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

Evidence of Chilling: Texas Reports and Data

Struggling families: ECHOS (Houston community clinic/food pantry group) saw BIG declines: 31% in Children’s Medicaid, 60% in adult Medicaid/CHIP-P, 47% drop in SNAP enrollment, from 2017-2019. *Same time period: 460% increase in food pantry usage.*

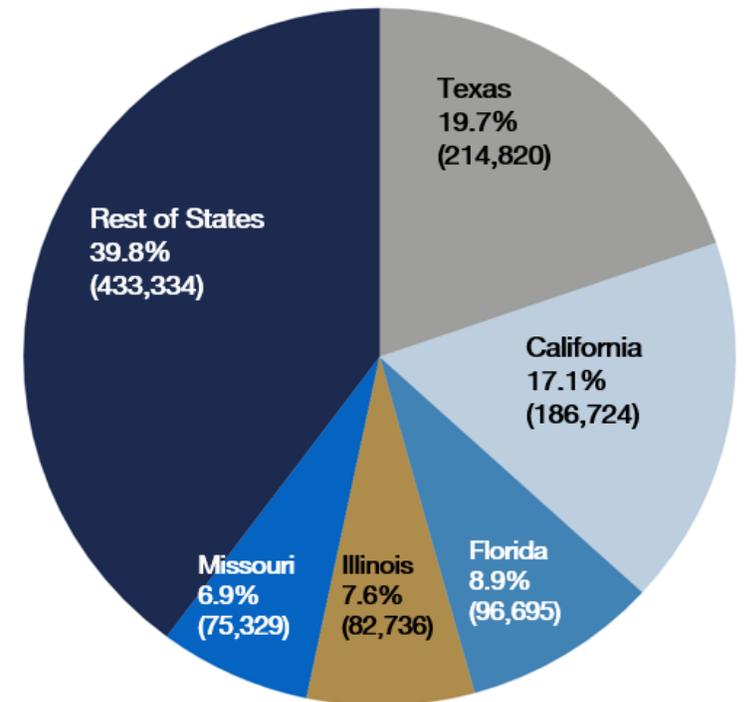
Working-class families: Foundation Communities (Austin) saw 16.9% drop in immigrant families seeking health coverage enrollment assistance in OE2017-OE2018. *(Only a 5.4% reduction in non-immigrant clients.)*

Special Needs Kids: VELA (Austin agency serving mixed-status families with children with disabilities) has seen an 80% drop in families using SNAP.

Children’s Health Coverage: Texas children enrolled in Medicaid and CHIP dropped by more than 201,700 children (about 6%) between December 2017 and April 2019.

SNAP (food stamps) Enrollment: Enrollment has dropped from 3.9 million Texans per month in 2015 to 3.5 million in 2019 (13% decline through 9/2019)

States with Largest Decline in Child Enrollment in Medicaid and Chip (December 2017 - April 2019)

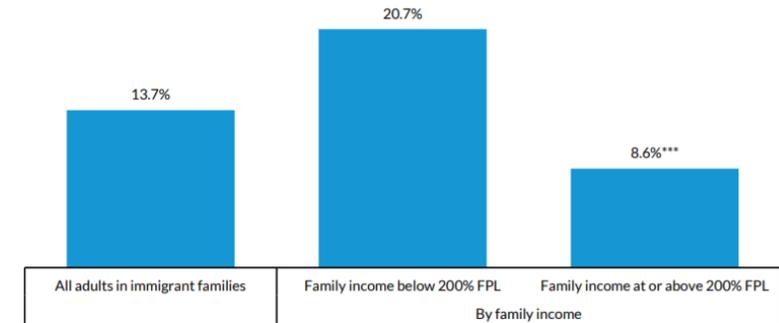


Evidence of Chilling: National Data

National studies find substantial numbers already avoid benefits over fear they will lose ability to proceed thru lawful immigration process.

- 1 out of 5 low-income immigrant families (<200% FPL) were afraid to access public benefits.²
 - Even parents who are LPRs or naturalized US citizens avoided benefits
 - Of the adults in immigrant families reporting chilling effects, nearly half (46.0 percent) reported that someone in their family did not apply for or dropped SNAP, making it the most common program for which chilling was reported
- Undocumented parents of U.S. citizen children far less likely to get care for their children: emergency and preventive healthcare services, free immunization services, or free or reduced-price school meals

Share of Adults in Immigrant Families That Avoided Noncash Public Benefits in the Past Year Because of Green Card Concerns, Overall and by Family Income, December 2018



Source: Well-Being and Basic Needs Survey, December 2018.

Notes: FPL = federal poverty level. Adults are ages 18 to 64. Respondents reported that either they or someone in their family did not apply for or stopped participating in noncash public benefits because they worried it would disqualify them or a family member from obtaining a green card.

URBAN INSTITUTE

[One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018](#) (Urban Institute)

[The Impact of Changes to the Public Charge Rule on Undocumented Immigrants Living in the U.S.](#) (U.C. San Diego, Tom K. Wong, PhD, Jeremiah Cha, Erika Villarreal-Garcia, August 2019).

Immigrant families can seek basic answers from Free or Low-Cost Immigration Legal Services groups

Not possible for most community based organizations, health/hunger/housing providers to try to be immigration experts!

Things we CAN tell families to help them:

- 1. Not necessary to engage a private attorney immediately.** Important questions— like whether the public charge rule, or use of public benefits affect you at all-- can be answered free or very low cost by non-profit immigration legal services organizations.
2. Statewide List of Texas Immigration Legal Services Providers
<https://www.immigrationadvocates.org/nonprofit/legaldirectory/search?state=TX>
- 3. Critical need: Local/regional lists of providers trained on the new rule and willing to assist families who are unsure if public charge affects them**
 - E.g., Catholic Charities Dallas, RAICES, Immigrant Legal Resource Center, Workers' Defense Project

Essential Community Talking Points



- **The public charge test only applies to legal immigrants seeking a green card or visa.**
- If you or a family member are applying for a visa from outside the US, you may need to work with a qualified legal services provider to determine your best options.
- **If you are applying for a green card FROM WITHIN THE UNITED STATES, it is safe to apply for benefits for kids and family members who are U.S. citizens or lawfully present immigrants. The public charge test does not consider benefits used by family members.**
- **Public charge only affects the individual who is seeking a green card. It will not help your green card application if your US citizen family members drop Medicaid, CHIP, or SNAP.**
 - Be sure to remind parents: when they APPLY for benefits for their children, it is NOT the same as applying for or getting benefits for themselves.
- **The rule does not consider benefits used before October 15, 2019 the rule takes effect, which will be in the future depending on when courts across the U.S. make decisions.**
- **Your personal information is protected.**
- Not necessary to engage a private attorney immediately; many questions can be answered for free, or very low cost, by qualified non-profit Immigration Legal Services organizations.
- Taking legal advice into account, each family must consider: health care, nutrition, and housing programs can help you and your children remain strong, productive, and stable.



Support for Public Charge briefings:

CENTER FOR PUBLIC POLICY PRIORITIES, CPPP.org; @CPPP_TX
CHILDREN'S DEFENSE FUND–TEXAS, cdfutexas.org; @CDFTexas

CHEASTY ANDERSON, PH.D., SENIOR POLICY ASSOCIATE, CHILDREN'S DEFENSE FUND–TEXAS;
canderson@childrensdefense.org; 919-621-2083

ANNE DUNKELBERG, ASSOCIATE DIRECTOR, CENTER FOR PUBLIC POLICY PRIORITIES; dunkelberg@cphp.org; 512-627-5528

Get Texas Public Charge Updates: email Dunkelberg@cphp.org

For more details or to be more active—Join the Protecting Immigrant Families Campaign !

<https://protectingimmigrantfamilies.org/>

**Extra Slides – for Responding to Questions,
and if time permits**

Several different regulatory processes related to Public Charge, from different federal agencies, are underway

#1 The most **prominent**: rules affecting how the **US Department of Homeland Security (DHS)** conducts a public charge test when an immigrant within the U.S. applies for a green card. Many of you commented on the DHS *proposed* rule version which was published LAST year in October 2018. The *final* rule ([read more here](#)) published in August 2019 was to take effect on 10/15/19, but is now **delayed indefinitely** because more than one federal court ordered a nation-wide injunction to stop it from taking effect before the courts make final rulings.

#2 A different-but-related proposed rule from the **US Department of Justice (DOJ)**, related to *under what circumstances a lawfully present immigrant with a green card might be deported later on*—that is, **AFTER** they have passed a public charge test and gotten their green card—has been expected for some time. A draft rule is “in the pipeline” being reviewed at the Office of Management and Budget (OMB); POSSIBLY designed to align with the DHS final rule (e.g., adding the same benefits that the final DHS rule would add when (if) it takes effect). Experts say deporting an LPR based on the immigrant having made fraudulent statements related to public charge has been “incredibly rare,” and that the process for that type of deportation is “long and detailed.”

Several different regulatory processes related to Public Charge, from different federal agencies, are underway

#3 The US Department of State (DOS) published an interim final rule on public charge. The DOS rule attempts to align “public charge” policy at *consular offices abroad* with public charge policy in the U.S. under the final DHS rule. This **DOS rule was scheduled to go into effect the same day as the DHS rule, ~~Oct. 15, 2019~~ but may be delayed.** The DOS rule will have a 30 day comment period, starting 10/11.

Who is affected? The DOS rule affects non-U.S. citizens who go **through a US consulate in their home country** before entering the U.S.. This includes people seeking “nonimmigrant visas” (e.g., tourist or employment-based visas), people seeking to be admitted to the U.S. as lawful permanent residents, and some green card applicants who are required to leave the U.S. to seek status through consular processing. **(In contrast, the DHS rule (#1) affects immigrants applying for admission to the country or lawful permanent resident (LPR) status from inside the US.)**

#4 #1-#3 above *are all distinct from* the Presidential Proclamation issued 10/4/2019, that will deny visas to immigrants **without health insurance coverage**. Effective November 3, new immigrants will be denied entry to the United States unless they prove they can obtain eligible health insurance within 30 days of arrival, or will have sufficient resources to pay for foreseeable medical costs. It is estimated that **the policy could block two-thirds of those who apply for legal permanent residence from abroad**, or approximately 375,000 intending immigrants each year. This restriction would operate independently of the “public charge” determination, but like that rule would curtail legal immigration pathways for people who cannot pass a wealth test.

Who is affected? People outside US seeking family-based immigrant visas (and some others). Read more here: <https://www.nilc.org/issues/health-care/health-insurance-proclamation-oct2019/>

Year	Number of Uninsured Texans (all ages)	Share of Texans Uninsured
2013	5.7 million	22.1%
2014	5.0 million	19.1%
2015	4.6 million	17.1%
2016	4.5 million	16.6%
2017	4.8 million (+272,000)	17.3% (+0.7 percentage point)
2018	5.0 million	17.7%
Increase from 2017	+186,000	+0.4 percentage point

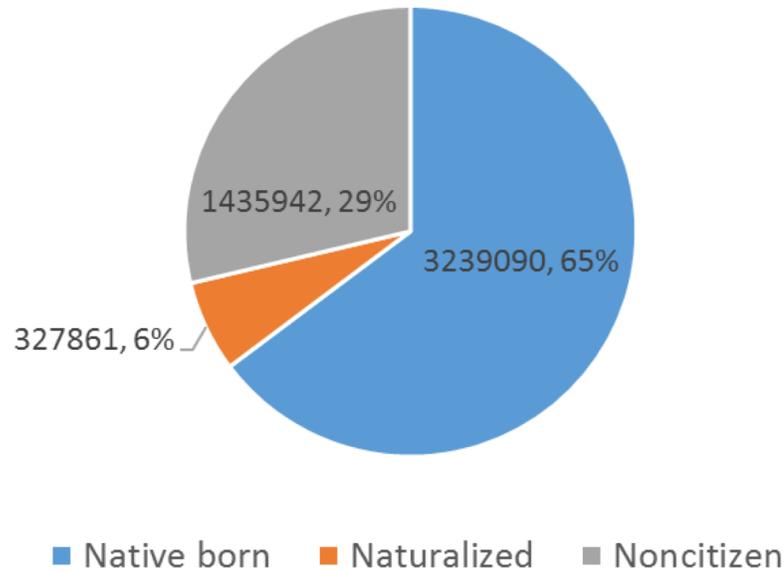
5.0 Million Uninsured Texans (2018)

Texas has the highest # and % of uninsured, after 3 years of historic progress

~750,000 fewer uninsured Texans in 2018 than in 2013, due to the Affordable Care Act (ACA).

- From 2013 to 2016, Texas uninsured dropped 5.5 percentage points;
 - *Previously, Texas never had a 1-year improvement of even a single percentage point.*
- **But Texas lost ground in 2017 and 2018 (Newest Census estimates from 9/2019)**
- Texas kids are far less likely than adults to be uninsured: in **2018**, 11.2% of children (873,000 children), versus 24% of adults 19-64.
 - About 38,000 more than in 2017, and an increase to 11.2% in 2018 (from 10.7% in 2017).
 - *This is due in large part to Medicaid-CHIP coverage available to many low-income Texas kids; Texas adults do not have comparable access to Medicaid.*
 - Still, the Texas children's uninsured rate leaves us at the bottom of U.S. rankings with the worst uninsured rate and numbers for children and teens in the country.

Fewer than 1/3 of Texas' uninsured are non-citizens
Uninsured Texans by Citizenship Status, 2018 ACS



Myth-Busting: Role of Non-US citizens in Texas' uninsured

- 1.4 million out of Texas' 5 million uninsured (~29%) in 2018 were non-U.S. citizens—a mixture of lawfully present and undocumented.
- **If you remove ALL noncitizens from Texas' uninsured data, Texas would still have the largest number of uninsured in any state at 3.6 million (12.6%)!**
 - Texas has far more uninsured than California, with 2.8 million uninsured (7.2%), and this is with all their non-citizens still included!

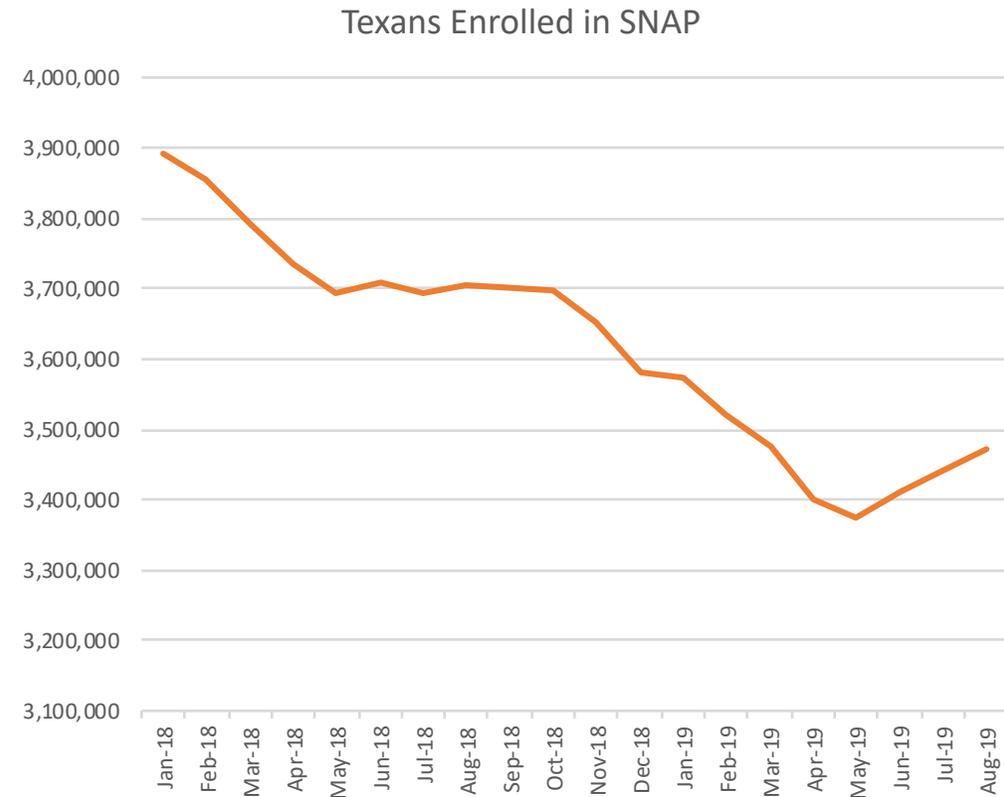
- In uninsured RATE (%), Texas would still tie only with OK and GA -- and again, that's with all their immigrants still included in their uninsured numbers.
- **The take-home point: non-U.S. citizens are a part of Texas' uninsured population for sure, but they are NOT the reason we are worst in the U.S. We have a lot of work to do in Texas!**

Closer look at Uninsured Texas Children & Teens:

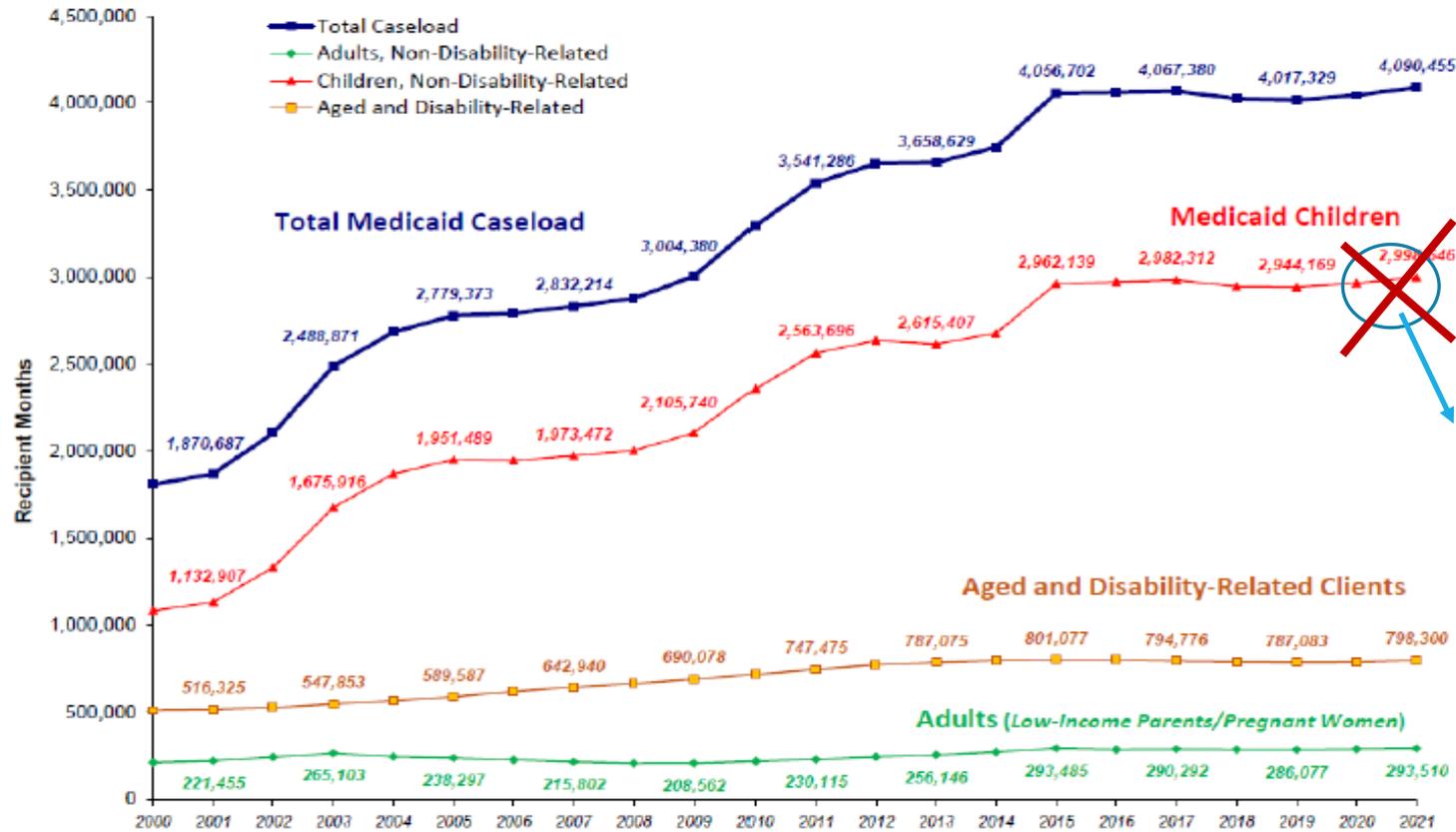
- Of the estimated nearly 873,000 uninsured TX kids in 2018, **AT LEAST 665,000** are U.S. citizen or authorized immigrant kids (using the best available estimates of undocumented kids in TX, about 207K)
- About 478,000 of the uninsured Texas kids in 2018 (about 55% of our uninsured kids) were in families below the income limit for Medicaid and CHIP (200% of the federal poverty income).
- So, even if we assume that 100% of all undocumented kids in Texas were both uninsured AND under 200% FPL, Texas would still be looking at 275,000 uninsured kids who COULD be enrolled in Medicaid or CHIP (i.e., because they are US citizens or lawfully present immigrants).
 - *And since that assumption is so conservative, the number eligible for CHIP or Medicaid is almost certainly higher.*

Why SNAP Matters for Texas

- 1.5 million households in Texas are food insecure (14 percent)
- # 1 program for helping struggling Texans to put food on the table
 - SNAP serves 3.5 million Texans living in 1.5 million households
 - Average monthly household benefit is \$261
 - Enrolled children are automatically eligible for free school meals
- Participation has dropped 11% since Jan 2018



Medicaid Caseloads by Group – FYs 2000-2021



Data for FY 2018 is estimated; FY 2019-21 is projected based on June 2018 forecasts;
 Non-Disability-Related Adults include TANF-level parents and Pregnant Women; Children are all non-disability-related children under age 19;
 Disability-Related clients include clients both over and under age 21.

Steady Children’s Medicaid Growth from 2000-2014, stopped in tracks with 2014 HHSC Policy Changes

Growth shown here in 20-21 was a budget projection. Enrollment is actually dropping.

Close-up: Texas Children's Medicaid 2014-2019

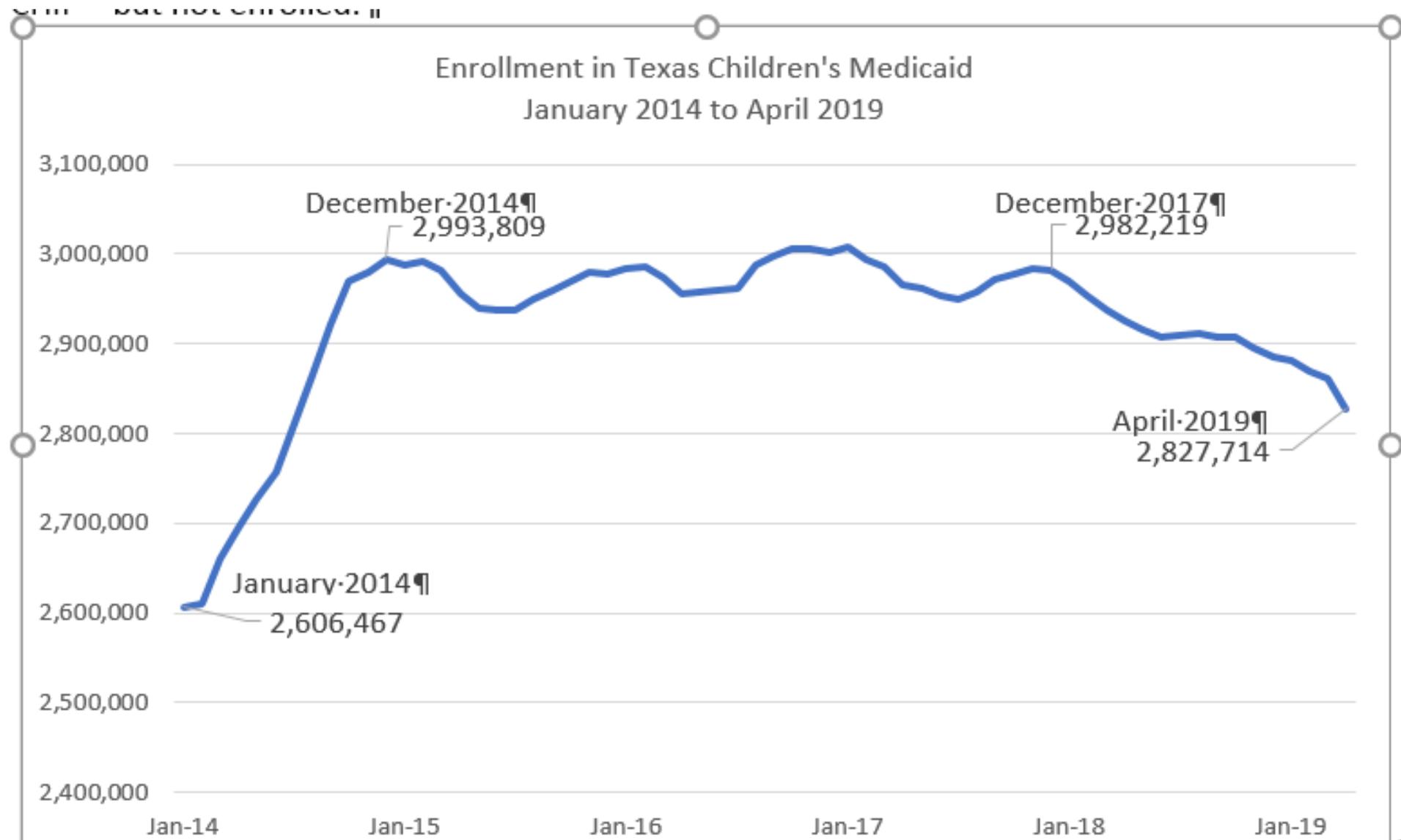


Figure 1: [Medicaid and CHIP Monthly Enrollment by Risk Group](#)... CPPP analysis of Texas HHSC data accessed August 5, 2019.