



# MEDIA BRIEFING

## The new “PUBLIC CHARGE” Rule and Impact on Texans

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# Presenters

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# 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:
    - undocumented
    - legal immigrants
    - green-card holders
    - citizens.

# New Rule changing “Public Charge” definition will Discourage Health Care Access 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.”
- Since 1999: only cash assistance, or residential care (e.g. nursing home) by the applicant was counted against them.

# Public Charge: Timeline



Leaked Executive Order

Changes to the Foreign Affairs Manual (FAM)

DHS published a proposed rule for a 60 day comment period.

The final rule went back to OMB for final review

A final rule posted to the Federal Register

There is a 60 day waiting period before the rule is in effect

**The new DHS public charge changes are in 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

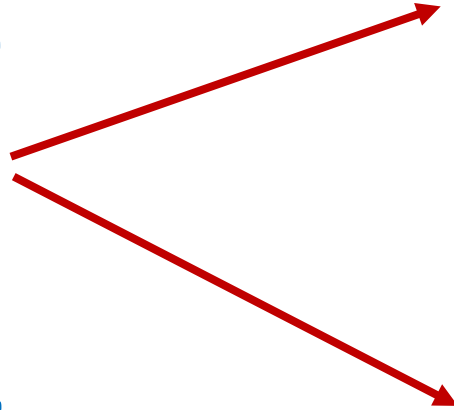
\*\* Medicaid (with exceptions)

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 Rule  
has TWO  
Important  
and Distinct  
Impacts**



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

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

# Things to Keep in Mind

- **The rule is not in effect yet.**
  - Applies only to applications submitted on or after October 15, 2019.
  - Newly named benefits used prior to that date will not be considered.
- **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.
- **Positive factors can be weighed against negative factors** in this forward-looking test.
- **Every situation is different.**
  - You can consult with an immigration attorney if you have questions about your own case.



Learn more about the PIF Campaign | [protectingimmigrantfamilies.org](https://protectingimmigrantfamilies.org)



# The new 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

# Who IS affected? It's Complicated.

## Here are some Texans who might be directly affected:

- All programs: Lawful permanent residents (LPRs, green card holders) who leave the U.S. for more than 6 months and attempt to re-enter the country can be subject to an inadmissibility determination, which could include a public charge test. LPRs may also be subject to an admissibility determination if they have abandoned their residency, committed certain crimes, or left the country while in removal proceedings.
- Medicaid/SNAP: Some people granted humanitarian statuses (e.g., “parole”, withholding of removal, and a subset of Cuban/Haitian entrants) may have a pathway to permanent status (such as a family-based petition) that subjects them to public charge.
- SNAP: In addition to the groups listed above, some members of the Hmong and Lao communities that helped the U.S. during the Vietnam War may be subject to a public charge test if they seek LPR status through, e.g. a family-based visa petition.
- Public Housing or Section 8: Some people granted parole or withholding of removal are eligible for housing programs and may be subject to public charge if they seek lawful permanent resident status through, e.g. a family-based visa petition. Citizens of Micronesia, Marshall Islands or Palau could be subject to public charge determinations if they leave the U.S. and attempt to reenter, or if they seek a green card through a family-based visa petition or another pathway where public charge is applied.

# 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.<sup>1</sup>
- 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**

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

<sup>2</sup> 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

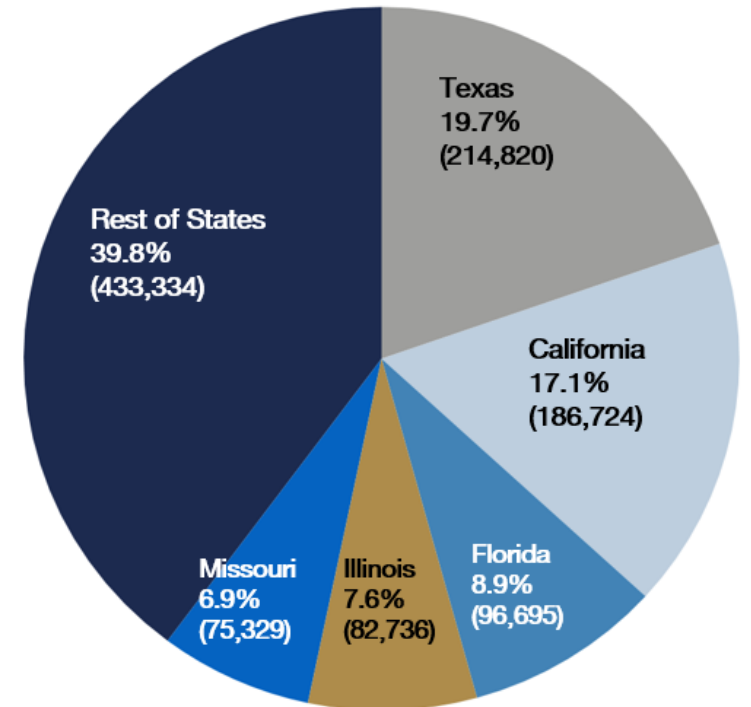
**Struggling families:** ECHOS (Houston community clinic/food pantry group) saw BIG declines: 31% in Children’s Medicaid, 60% in adult Medicaid/CHIP-P, 47% drop in SNAP enrollment, from 2017-2019. *Same time period: 460% increase in food pantry usage.*

**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.

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

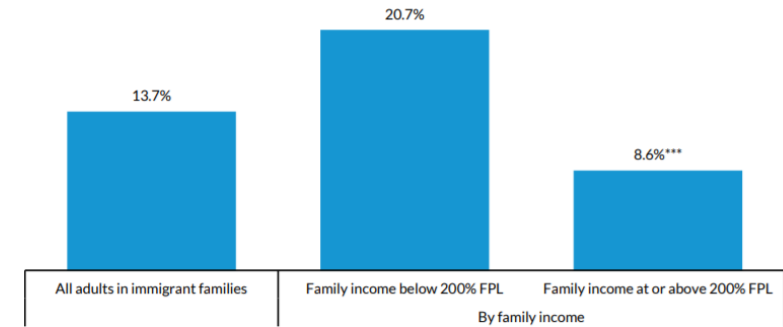


# Evidence of Chilling: National Data

**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.<sup>2</sup>
  - Even parents who are LPRs or naturalized US citizens avoided benefits
- 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).

# Important Context for Media Coverage

- Focus on programs; lifting families out of poverty is their aim
- Rule intent = to eliminate low-income families from the citizenship pool
- Not designed to effectively address any known policy issue or problem.
- Targets the immigrants most likely to work hard and contribute to our country
- Rests on questionable legal grounds

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

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

1. Not necessary to engage a private attorney immediately; many questions can be answered for 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. Another online resource to find local help: <https://www.justia.com/lawyers/immigration-law/texas/legal-aid-and-pro-bono-services>
4. The [Houston Immigration Legal Services Collaborative](#) offers a help line and has [information online](#); 1-833-468-4664 (M-F, 9-5). They also have a good 1-page referral sheet for free and low-cost help.

# **An Immigration Attorney's View from the Community**

**Pooja Sethi, Esq.**



# How the Public Charge Rule impacts our community:

**Parents** are not going to get their United States Citizen children proper medical care due to fear instilled by the new rules.

**United States Citizens** are not going to bring their senior family members to live in this country, thus creating new levels of stress of how to care for Senior Citizens overseas.

**Victims of assault and family violence** are not going to get the help and resources they need to leave their abusive partners because:

- They will be too scared to document their assault,
- They will not leave their violent spouses out of fear of not being eligible for a green card based on a lack of employment,
- They are scared their children will not be able to get the resources and care they need if they leave their abusive United States Citizen partners.

# This rule is another barrier created by the Administration for Immigrants

**The Immigration process in America is already one of frustration, exhaustion, and fear for many Clients as they anxiously await for their cases to be adjudicated.**

Over the past two years, there has been fear mongering and “subtle” barriers added to the process that have increased anxiety among our Immigrant population as well as their United States Citizen sponsors. In addition to the Public Charge Rule, some of the barriers and fear mongering techniques that we have seen from the Department of Homeland Security include:

- **Longer wait times on cases,**
- **Unnecessary Requests for Evidence** that were not required prior,
- **Taking away the Info pass option** at many service centers to make requests about cases,
- **Spending two hours on the phone with USCIS** to inquire about their case,
- **Constant threats on a person’s Immigration status** such as the public charge rule to create anxiety and fear,
- **Making it more difficult for Attorneys** to access Immigrants in Detention centers,
- **Placing Immigrants who have lived peacefully in this country for years into removal proceedings** thereby increasing the financial burdens on them and creating anxiety among families about their futures.

# Recap: Advocates' Essential Community-Facing Talking Points

- This public charge test does not apply to every immigrant.
- Use of public benefits alone will not make you a public charge.
- The public charge test does not consider benefits used by family members.
- The rule does not consider benefits used before October 15, 2019.
- Your personal information is protected.

*Ultimately, health care, nutrition, and housing programs can help you and your children remain strong, productive, and stable. The best thing a family can do to fight back is keep meeting their children's needs - keep taking them to the doctor, keep feeding them, keep a roof over their heads.*

- **Fight fear with facts - KNOW YOUR RIGHTS.**
  - The public charge rule was designed to be confusing, complicated, and scary on purpose. You have rights in this country no matter where you were born.
- **It's not over - we still have a chance to stop the rule.**
  - Advocates are using every tool at their disposal to stop this rule from taking effect - including in the courtroom.

# Public Charge: Opposition may still stop this harmful rule

Get Texas Updates:  
email

[Dunkelberg@cphp.org](mailto:Dunkelberg@cphp.org)

This policy disproportionately harms Texans of color, is dangerous, and many organizations and state and local governments are fighting it.

**Public statements opposing the rule are being issued by** organizations and public officials, with examples of how the rule will hurt children, schools, businesses, and communities, and will shift costs to local governments.

**Congressional Legislation is already pending** to de-fund the rule. (HR 3222 - “No Federal Funds for Public Charge”)

**Multiple Legal Challenges have been filed in the Courts, more to come.** (CO, CT, DE, IL, MA, MD, ME, MI, MN, NV, NJ, NM, NY, OR, PA, RI, VA, VT A.G.s filed; Also SF and Santa Clara County in CA; 4 Legal Rights groups on behalf of patients in CA, including Community health centers, as of 8/23/2019)



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# Historical Context for Public Charge Policy

- 1882: first passage of a “public charge” law.
- 1915 Supreme Court defines public charge
  - “by reason of poverty, insanity, disease or disability would become a charge upon the public.”
- 1996: Welfare Reform Act.
  - totality of circumstances
- 1999: INS clarifies the meaning of “public charge.”
  - “primarily dependent”: SSI, TANF, cash assistance
- 2019: Latest changes