

# Public Charge & Immigrant Health

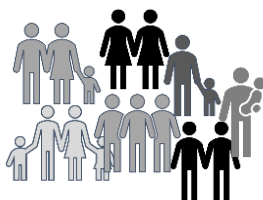
## Train the Trainer Presentation



**What is Public Charge?**

# What is Public Charge?

Is it how the government can find out where I am?



Does it mean that if my children use health care, I will be deported?

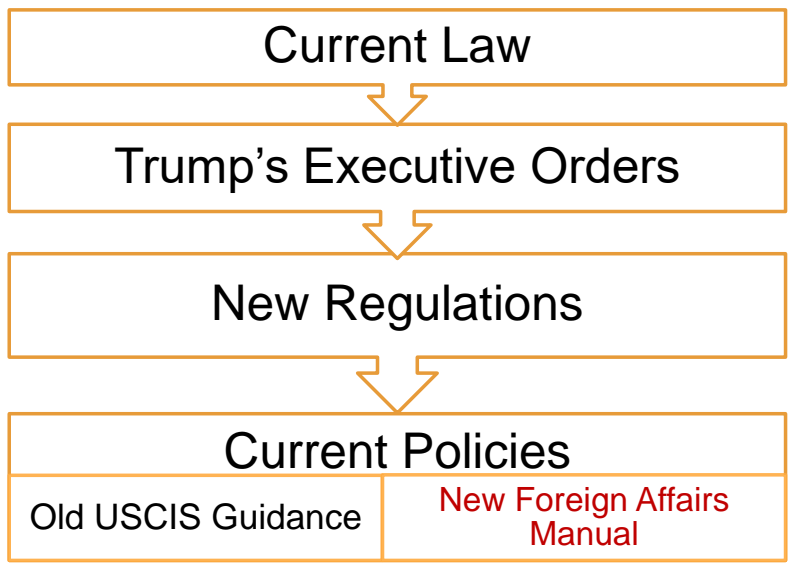
What is it?  
I think it means I should get off of benefits now.

Does it mean that if use public benefits, I won't qualify for naturalization?

I think it means my family cannot access any benefits.

## Changing Times-- Lots of information!

- Fee Waivers
- Child Separation
- Ending TPS?
- Restricting Asylum
- Border control- Zero tolerance



## Accessing Services and Immigration



## What is Public Charge?

It's a test to determine whether someone is likely to depend on public benefits in the future

→ The governments wants to change how an officer thinks about this question



## What are the immigration goals? (What status is the person applying for?)

Many immigration paths or statuses have no public charge test.

- Refugee and asylee
- Special Immigrant Juvenile
- Victims of certain crimes (U visa)
- Victims of human trafficking (T visa)
- DACA renewal
- TPS
- Naturalization
- Getting a green card through cancellation of removal
- Getting a green card through special statuses, like asylee, SIJS, VAWA, U, T
- **Others** (Amerasians, Afghan and Iraqi military translators, certain Cuban and Haitian adjustment applicants, certain Nicaraguans and Central Americans under NACARA, registry applicants, Soviet and Southeast Asian Lautenberg parolees)

## Takeaway:



**Many immigrants  
are not even subject  
to public charge**



## What is Public Charge?

- Public Charge only applies to the two situations:
  - When someone applies to enter the United States
  - When someone applies to become a lawful permanent resident (green card holder) through a family-based petition or employment
- An immigrant must affirmatively submit an application or ask to enter for public charge to apply!

## Takeaway:



Public charge mainly impacts people who hope to immigrate through a U.S. citizen or lawful permanent resident family member

What the immigration law says:

“Any alien who, .. at the time of application for admission or adjustment of status, **is likely** at any time **to become** a public charge is inadmissible.”



This is a future looking test.

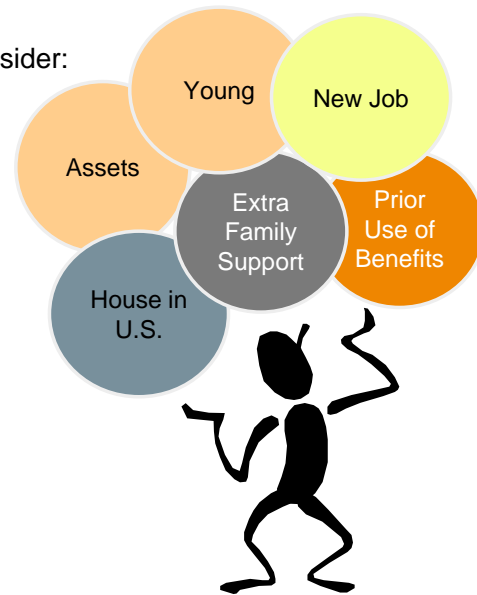


## Public Charge- assessing future likelihood

Immigration agents are **required** by law to consider:

- age
- health,
- Financial resources
- family status,
- education and skills
- affidavit of support
- other factors may be considered

**DHS must consider the  
totality of circumstances**



## Public Charge Current Policy (still current due to court orders)

**Public Charge=**  
**primarily dependent** on the government for income support.

Programs that currently “count” as public charge:

- Cash assistance
- Long term institutionalization

Programs that do not “count” as public charge concerns:

- Health and nutrition programs
- Any non-cash assistance

Use of benefits by family members do not count against the person who is applying



## Benefits that count

### CASH ASSISTANCE for income maintenance

- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- Other cash assistance programs, such as “General Assistance”

### INSTITUTIONALIZATION for long-term care paid by the government

- Medi-Cal *IF* used for long-term institutional care, like nursing home or mental health institution

Immigrants  
that qualify to  
receive cash  
aid for  
income  
maintenance

Immigrants  
subject to  
public charge  
test

## AFFIDAVIT OF SUPPORT

- Contract signed by immigrant's sponsor
- Agreement to support new immigrant
- Must show income or assets to support immigrant and their own household at 125% of poverty guidelines
- Immigrant may have more than one sponsor to meet the requirements



### Takeaways:

- Not all benefits count



- Even if you've used benefits, there are other factors to be considered

- Family members' use of benefits don't count

**Caution!**  
**Different at consulate**

## Who goes to the consulate?

1. **People already outside the United States** who apply for a visa or green card to come to the United States
2. **People in the United States**, applying to become permanent residents, but **who do not qualify to go through the process in the United States**. Some people have to leave the country to finish the process to become a permanent resident.

## At the Consulates

Under FAM: More questions to investigate sponsor's ability to support immigrant

- Questions about the relationship with the sponsor
- Questions about the sponsor's family, job
- Questions about benefits the sponsor might use

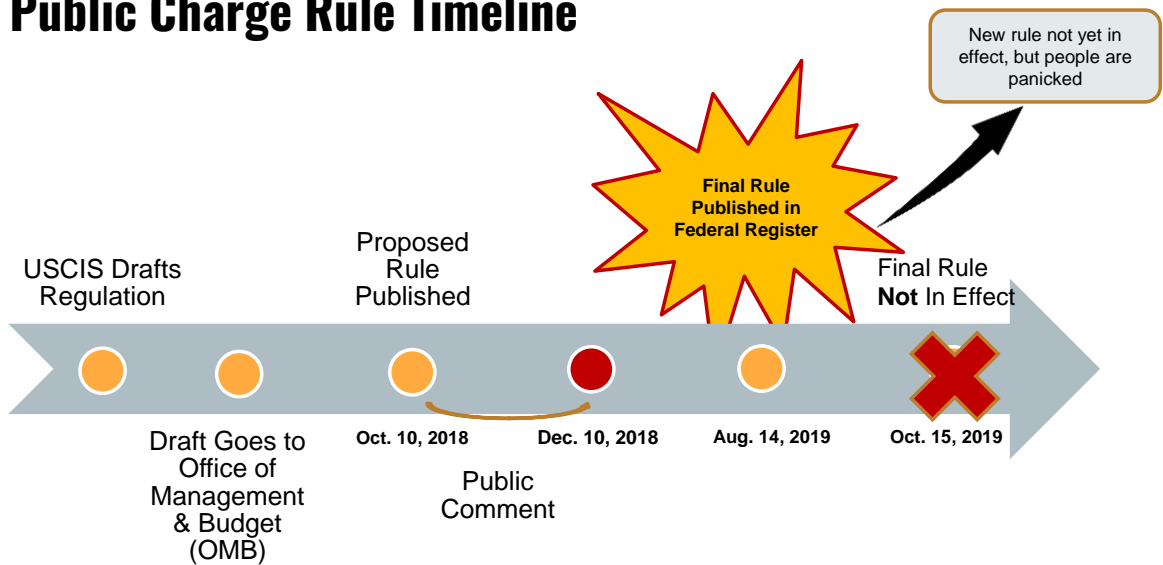
Under New Rule: Use of benefits by family members can't count

- But consider more benefits in the test, such as likelihood to use federally funded Medicaid in the future

State Department Says new rule NOT implemented

# What Are the New Changes?

## Public Charge Rule Timeline



## New Attempted Changes

New definition of “public charge”

Additional public benefits included

Totality of circumstances test has new detailed negative factors that make it harder for low and moderate income people to pass

## Public Charge

**Current:** Someone who is likely to become primarily dependent on the government to support themselves.



**New Rule:** An immigrant “who receives one or more public benefits . . . for more than 12 months in the aggregate within any 36-month period.”

## Benefits Considered in New Rule

- **Medicaid (federally funded Medi-Cal),**  
NOT including:  
 Emergency services  
 School-based benefits to children  
 Medicaid used by immigrant children under 21 years of age  
 Medicaid used by immigrants during a pregnancy and up to 60 days after the end of a pregnancy  
 (State-only Medi-Cal)
- **Food Stamps- SNAP (federally funded CalFresh)**
- **Section 8 housing assistance**
- **Subsidized and public housing (federally funded)**
- Long-term care
- Cash assistance: SSI, TANF, General Assistance

*\*New additions in red, cash assistance and long-term care continue to be considered*

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## Benefits that are NOT considered

- BENEFITS USED BY FAMILY MEMBERS!!
- Children's Health Insurance Program (CHIP) and Medicaid used by children under 21
- Medicaid used by pregnant people during and up to 60 days after the pregnancy
- Medicare Part D subsidies (was in draft rule but taken out in final rule)
- Emergency and school-based Medicaid
- Emergency and disaster relief
- Services available to the community as a whole (no income requirement)
- WIC
- Public health services
- School-based nutrition services and public education, including Head Start
- Earned benefits, such as unemployment, social security retirement, workers compensation
- Tax credits
- Any other federal, state, or local benefit that is not listed on the prior slide
- Benefits used by members of the military, Ready Reserve, and their spouses and children

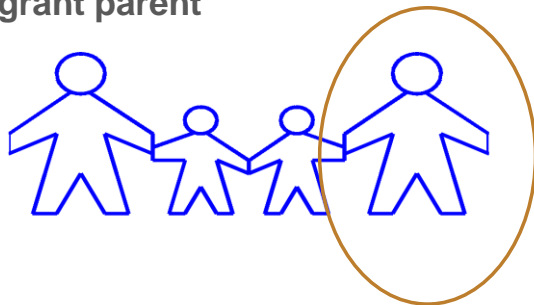
## Benefits used by Applicant's Family



- Receipt of benefits by dependents (including U.S. citizen children) will **not** directly be a factor in applicant's public charge test.
- Dependents are included in the calculation of household size and may make it harder for immigrants to meet the income test.

## Public Charge- Impact

- 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 in 4 children have an immigrant parent



**THANK YOU!**

