

Primary Healthcare for All

# Public Charge Update

October 10, 2018

700 E. Jefferson St. | Suite 100 | Phoenix, AZ 85034 | Main: 602.253.0090 | Fax: 602.252.3620 | www.AACHC.org

## Today's conversation

- Defining public charge
- Proposed rule released
- Learning who is affected
- Timeline
- Talking points
- More resources





## What is public charge?

- Public Charge is a term used in immigration law to refer to a person who is likely to become primarily dependent on the government for support. A public charge assessment is made:
  - When a person **applies to enter** the U.S. or
  - Applies to adjust status to become a Lawful Permanent Resident (LPR), NOT when applying to become a U.S. citizen



## Current policy

- Under current policy, in effect since 1999, only two types of public benefits may be considered:
  - Cash assistance for income maintenance
  - Institutionalization for long-term care at government expense



## Factors in totality of circumstances test

- Immigration agents are **required by statute** to consider:
  - Age
  - Health
  - Financial resources
  - Dependents
  - Education
  - Skills and work experience
- Other relevant factors may be considered:
  - Including whether the person has a sponsor



## Public charge definition

- Current definition:
  - "primarily dependent on the Government for subsistence."
- New (proposed) definition:
  - Public charge means someone "who receives one or more public benefit, as defined in paragraph (b) of this section."



## Definition of public charge benefit

Public Benefit Defined As:

- Non-Emergency Medicaid\*
- SNAP
- Medicare Part D Low Income Subsidy
- Housing Assistance (public housing or Section 8 housing vouchers and rental assistance)
- DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text.

\*Note: Exception for certain disability services offered in school, and for Medicaid benefits received by children of U.S. citizens who will be automatically eligible to become U.S. citizens



## Excluded benefits

- Emergency and disaster relief
- Services available to the community as a whole
- School-based nutrition services
- Public education, including Head Start
- WIC
- ACA tax credits
- EITC
- Benefits used by members of the military, Ready Reserve, and their spouses and children





#### **Community Health Centers**

#### The proposed rule **DOES NOT** penalize immigrants for accessing FQHC services, including the use of the Sliding Fee Scale discount.



#### The rule is NOT retroactive

 Other than cash and long-term care, benefits used *before* rule final and effective will **not** be considered in the public charge determination.





## Thresholds

- The proposal sets strict thresholds for how much an individual can receive over the previous three year\* before becoming a public charge
  - Roughly \$1,815 in benefits with a clear cash value (e.g., SNAP)
  - 12 months of eligibility for Medicaid and some housing supports
  - Lower thresholds for individuals who use multiple programs

\*For newly-added programs, they won't look at use prior to the effective date of the final rule



#### Income consideration

- Requires that the immigrant (not just the sponsor) earn at least 125% of FPL
- Weighs as "heavily positive" a household income of 250% of FPL
  - To avoid scrutiny under the public charge test, a family of 4 would need to earn nearly \$63,000 annually.



## Family member's use of benefits

- The proposed rule does not directly look at use of benefits by family members
  - However, any benefits which are seen as benefitting the whole family will count against each individual
- The receipt of public benefits by U.S. citizen children will not directly be a factor in a parents' public charge test.
- If a child is an immigrant, his/her own use of benefits counts toward his/her own public charge determination.





## Exemptions

- Many immigrants permitted to enter or remain in the U.S. for humanitarian reasons are exempt from Public Charge, including:
  - Refugees and asylees
  - Survivors of trafficking (T visa) and other serious crimes (U visa)
  - Self-petitioners under the Violence Against Women Act (VAWA)
  - Special immigrant juveniles
  - People applying for Temporary Protected Status



#### Expected Timeline





## Comment period

- Comments must be submitted via www.regulations.gov
- Template comments are counted as one, so submit your own, unique comment
- The Protecting Immigrant Families (PIF) Campaign has a goal of 100,000 comments
  - The more comments we submit, the longer it will take the department to review each one!
- AACHC, as well as partner organizations, will provide talking points to help you compose your unique comment
  - <u>https://aachc.nationbuilder.com/publiccharge</u>



#### Remember:

- The public charge test **does not** apply to everyone.
- The current draft **does NOT** change current law. It is still a proposal to change the rules.
- At this point, there is no reason for people to stop benefits that they or their families currently receive legally.
- Immigrants who are concerned about the impact of using public benefits on their immigration case should get advice from an immigration attorney or accredited representative.



#### Resources

- AACHC
  - <u>https://aachc.nationbuilder.com/publiccharge</u>
- NACHC
  - <u>http://www.nachc.org/health-center-issues/emerging-issues-resources/caring-immigrant-patients/</u>
- National Immigration Legal Services Directory
  - <u>https://www.immigrationadvocates.org/nonprofit/legaldirectory/search?state=AZ</u>
- Protecting Immigrant Families
  - <u>https://protectingimmigrantfamilies.org/</u>

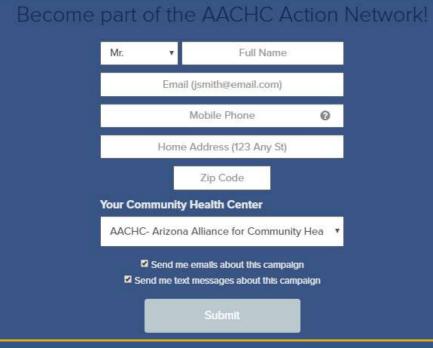


Join the AACHC Action Network for more updates!

- 1. Visit aachc.org/advocacy
- 2. Click on 'Take Action'
- Click on 'Join the AACHC Action Network'
- 4. Submit your information

	Home	Resources	Take Action CHC Funding	Sea Un Defenso
Take Action CHC Funding Cliff Current Actions Join the AACHC Action Network		n Network Re		
Share Your Story			Join the AACI Action Netwo	
Join the AACHC Action Network		Request to Sp (RTS) Program		
			Share Your St	orv

Thank you for your interest in becoming part of our Action Network to advocate for healthcare in our communities. Please complete the information below to join us in our advocacy efforts and for the latest information on healthcare issues throughout our state.





Primary Healthcare for All

## Thank You

Erika Mach

Grassroots Coordinator 602.288.7542 | erikam@aachc.org

