



Public Charge Update

October 10, 2018

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
 - <https://aachc.nationbuilder.com/publiccharge>

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

Join the AACHC Action Network for more updates!

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

The screenshot shows the top navigation bar of the Arizona Alliance for Community Health Centers (AACHC) website. The navigation bar includes links for Home, Resources, Take Action, and Sea Un Defensor. A dropdown menu is open under 'Take Action', showing options like CHC Funding Cliff, Current Actions, Join the AACHC Action Network, Request to Speak (RTS) Program, and Share Your Story. Below the navigation bar, there is a section titled 'Join the AACHC Action Network' with a form to register. The form includes fields for Full Name, Email, Mobile Phone, Home Address, and Zip Code. It also has a dropdown for 'Your Community Health Center' and checkboxes for 'Send me emails about this campaign' and 'Send me text messages about this campaign'. A 'Submit' button is at the bottom of the form.

Arizona Alliance
FOR COMMUNITY HEALTH CENTERS
ACTION NETWORK

Home Resources Take Action Sea Un Defensor

CHC Funding Cliff

Current Actions

Join the AACHC Action Network

Request to Speak (RTS) Program

Share Your Story

Take Action CHC Funding Cliff Current Actions Join the AACHC Action Network Re
Share Your Story

Join the AACHC Action Network

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.

Become part of the AACHC Action Network!

Mr. Full Name

Email (jsmith@email.com)

Mobile Phone ?

Home Address (123 Any St)

Zip Code

Your Community Health Center

AACHC- Arizona Alliance for Community Hea

☒ Send me emails about this campaign

☒ Send me text messages about this campaign

Submit



Thank You

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