

Proposed "Public Charge" Rules: Threats to Texans—and What We Can Do!

Updated October 10, 2018

On September 22, 2018, the Trump Administration released proposed harmful changes to what's known as the "public charge" rule. The proposed changes would strongly prejudice immigration pathways toward higher-income people, while raising new high barriers for prospective immigrants if they are poor or have used government benefits like Medicaid, SNAP (food stamps), Medicare's sliding-scale "Extra Help" with prescription medication costs for seniors, or housing subsidies.

If the government anticipates that an immigrant might need benefits in the future, an immigrant could also be denied a Green Card for that reason. The new policy would also create higher barriers for people with a chronic illness or disability to documented immigration status. All in all, the proposed changes to a little-known but critically important federal rule would be a deeply harmful re-structuring of longstanding U.S. immigration policy.

Read more about the top implications for Texans at <http://bettertexasblog.org/harsh-policy/>

- Here are links to the Federal Register posting and the comment portal on [regulations.gov](https://www.regulations.gov)
- The comment period runs through December 10, 2018.
- The Federal Register publication on October 10, 2018, started a 60-day period when the public can submit comments opposing this rule change.
- Here is a link to the Protecting Immigrant Families campaign's easy tool for submitting comments: bit.ly/submitcomment

1. What is the "public charge" regulation, and how does it work now, before this proposed change?

Under current rules, immigrants can lose their ability to become a lawful permanent resident (LPR) only if they are entirely dependent on cash assistance benefits or long-term care in an institution. This currently applies to very few immigrants.

Since 1999, U.S. immigration policy has told immigrants seeking a Green Card that their previous or future use of public benefits would **not** be used to deny them a Green Card or visa to enter the U.S., **unless** they were reliant on the government for:

- Cash assistance (i.e., Supplemental Social Security (SSI), Temporary Assistance for Needy Families (TANF), or
- For long-term care (e.g., nursing home) at government expense.

2. Who is subject to the "Public Charge" review?

There are two general situations when a prospective immigrant is "tested" or screened to exclude those likely to rely principally on the government for their support:

1. People inside the U.S. lawfully who are seeking to "adjust their status" to lawful permanent resident (Green Card holder); and
2. People outside the U.S. seeking a visa to enter the U.S. with authorization. This can include when a Green Card holder has traveled abroad for over six months and is seeking re-entry into the U.S.

Two important situations in which the government **cannot** penalize people in the legal immigration system under this rule:

1. Refugees, asylum-seekers, domestic violence and human trafficking survivors and some other types of humanitarian immigrants are not subject to the “public charge” exclusion.
2. Government officials **do not apply** the screening for reliance on government support when a Green Card holder goes through the process to naturalize and become a U.S. citizen,* under the assumption that they already passed their screening in order to earn a green card.

* A lawful permanent resident can apply for citizenship after 5 years in LPR status.

3. How would the proposed regulation change things?

The “public inspection” version of the rule released by the Department of Homeland Security on September 22, 2018 would alter the current “public charge” policy in several important ways:

- Immigration officials **could** deny lawful permanent residency (Green Card) to immigrants if they have low incomes and a history of using certain public benefits, including **health care** (Medicaid, and Medicare’s “Extra Help” subsidies for prescription medications); **food** (the Supplemental Nutrition Assistance Program SNAP, formerly “food stamps”); and **housing** (Section 8 vouchers/subsidies).
- The proposed rule specifically asks for public comments on whether past or future use of the critically important Children’s Health Insurance Program (CHIP) should penalize people in the immigration process. This could affect some children who must apply for Green Cards. This could also affect non-citizen mothers in Texas (both those with authorized immigration status and the undocumented) who get prenatal care from Texas’ CHIP-Perinatal (“CHIP-P”) program. Inclusion of CHIP in the Public Charge rule would push even more women to skip prenatal care, resulting in more high-risk pregnancies and Texas babies born with conditions and special needs that could have been avoided.
- Just like today, the likely future reliance of government cash assistance or institutional care could also be grounds for denial of a Green Card.
- In addition, the proposed rule would create new hurdles for immigrants with family incomes below 250 percent of the federal poverty income line (about \$63,000 annual income for a family of four), and especially high hurdles for families with incomes below 125 percent of the poverty income level (about \$31,000 for a family of 4). Green Card applicants in lower-income families, or who have a disability or serious medical condition may be forced to pay for “bonds” of \$10,000 or more to get Legal Permanent Resident status.
- If an immigrant has a large family size, or major illness or disability likely to “require extensive medical treatment or institutionalization, those could also be considered negative factors toward whether they can get a Green Card.
- The U.S. Department of Justice is considering changing its rules to more closely monitor Green Card holders to make sure they have not hidden health status or financial conditions that cause them to need benefits within 5 years of getting their permanent resident status. This will have a dramatic effect on extending the number of Texans subject to the “fear factor” discouraging access to health care and food security programs.

4. Who will this impact in Texas?

Green Card holders (LPRs)

In the last decade, every year, between [90,000 and 110,000 new Lawful Permanent Residents have called Texas home](#). But this is just the tip of the iceberg. Family-based immigration is slow and complicated, with some immigrants waiting for many [years](#) “in line” for their turn to get the Green Card. So, at any given time, several hundreds of thousands of immigrants in Texas may be waiting for their chance to get a Green Card.

U.S. Citizen Children

Another measure of the broader reach of the proposed rule—the submerged portion of the iceberg—is the huge number of Texas families that include both U.S. citizens and non-citizens. More than one out of every four Texas kids has at least one parent who isn't a U.S. citizen, meaning this rule change could affect **1.8 million Texas children**. More than 9 out of 10 of these children are U.S. citizens.

Many of those children could lose public health and food assistance for which they lawfully qualify if a parent moving through the immigration system fears that access to any federal programs by their U.S. citizen family members will result in the parent being denied immigration. Health centers, food banks, and hospital districts all across Texas have already reported widespread dropping of Medicaid and SNAP in 2018 by U.S. citizens who fear jeopardizing a loved one's ability to lawfully immigrate.

5. What are the major changes in the proposed rule from the “leaked” drafts seen earlier in 2018?

The newest draft rule would dramatically undermine family immigration, and make immigration by low-income workers, necessary to our nation's economy, extremely difficult. The new rule is problematic in many ways, but it is important to note major changes from earlier drafts, as well as major exclusions that simply were not clear in early drafts, a reflection of the backlash from previous iterations:

- Lawful use of benefits by a Green-Card applicant's spouse or children will not be used as a “negative factor” to deny the applicant a Green Card. Only the applicant's own current or future use of benefits (Medicaid, SNAP, Medicare) can be considered.
- The draft rule would not penalize an applicant for a Green Card over their current or future use of Affordable Care Act Marketplace subsidies, the Women, Infant and Children program (WIC), Earned Income Tax Credits (EITC), Pell Grants for higher education, school-based services including the Individuals with Disabilities Education Act (IDEA), emergency and disaster services, educational services, or job training.

6. What can Texans (organizations and individuals) do to push back after the rule is published?

- **Submit unique comments.** The government must consider each comment. Unique comments, in your own words, can slow down or even stop the regulation, and get more Americans to speak out in opposition. Here is the link to the Protecting Immigrant Families campaign's easy tool for submitting comments: bit.ly/submitcomment
- **Help distribute the information and tools** to inform others and help them submit their own comments.
- **Make public statements of opposition to the proposed rule** (to the news media, through letters to editors, on social media).
- **Help identify families and children who will be affected by this ruling whose stories can be shared.** Stories can come from organizations, individuals, or families and can be anonymous. These stories can help make comments, news reports, and social media outreach more powerful and effective.
- **In Texas: Children's Defense Fund-Texas (CDF-TX)** is leading story collection on the impact of this proposed rule. Contact Cheasty Anderson (canderson@childrensdefense.org) to share or inquire about Texas stories.
- **National story bank: You can also share your story [here](#) with the national Protecting Immigrant Families campaign.**

Comments Matter! Here's Why:

CENTER *for* PUBLIC POLICY PRIORITIES

Commenting is NOT considered lobbying. Unlike asking a member of Congress to vote for or against a specific bill, submitting public comments to an agency is not considered lobbying under federal law.

Comments can:

- Later provide an opportunity to challenge the regulations in court, if a concern with the regulation was raised and not addressed.
- Help slow the process down, and shape the Administration's decisions.
- Help raise awareness among elected officials, policymakers, and the public. They show that this issue is important to hundreds of thousands of people across different sectors
- Force the Trump Administration to publicly justify its actions.
- Build democracy: they give people and communities who are affected by the rule a chance to raise their voice and tell their story to policymakers.

7. Need help? Have questions?

- Find many more resources at the national **Protecting Immigrant Families (PIF) campaign's** website. (<https://protectingimmigrantfamilies.org/>)
- Center for Public Policy Priorities (CPPP) has more information and tools for Texas groups and individuals to respond [here](#); or contact Anne Dunkelberg (dunkelberg@cphp.org).

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