PROPOSED CHANGES TO FEDERAL "PUBLIC CHARGE" IMMIGRATION REGULATIONS

What we know and what we can do

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What is going on?

- Federal regulatory proposal to change long standing immigration policy on determining who is a "public charge"
- The new rules would replace family immigration policies in favor of policies that favor richer, healthier and better educated immigrants
- Families are reported to be avoiding health care, vaccines, education and social services for themselves and their children to preserve their rights to become legal permanent residents and citizens
- Remember, half of California children have at least one immigrant parent

What is "public charge?"

- "Public charge" is a ground of inadmissibility that can bar a person's admission to the US on a visa or adjustment of status to that of a lawful permanent residence (LPR, "green card")
- After looking at the "totality of circumstances," a person can be determined to likely become a public charge and be denied entry or an adjustment of status

What are the current rules?

- Only 2 types of social and health benefits affect a public charge determination
  - Cash aid – TANF, SSI, General Assistance
  - Government funded long term care

What is being proposed?

Proposed new federal regulations will:

- Expand the programs that can lead to a public charge determination to include:
  - Health (Medicaid/Medi-Cal – except emergency and state only services)
  - Nutrition (SNAP/CalFresh)
  - Housing (Section 8 vouchers)
  - Pharmacy (Medicare Part D subsidies)
- Establish a balancing test that favors richer, better educated and healthier persons over those with family ties

What is being proposed?

Benefits Included for Public Charge	Benefits Excluded from Public Charge
Benefits included: • Cash Support for Income Maintenance* • Long Term Institutional Care at Government Expense* • Non-Emergency Medicaid** • Supplemental Nutrition Assistance Program (SNAP or Food Stamps) • Medicare Part D Low Income Subsidy • Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance) ** Included under current policy as well* *** Exception for certain disability services offered in school. DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text* Source: Protecting Immigrant Families, *Proposed Changes to Public Charge: Analysis and Frequently Asked Questions*, 10/10/18	*ANY benefits not on the included list will not be applied toward the public charge test, such as:* • Disaster relief • Emergency medical assistance • Entirely state local or tribal programs (other than cash assistance) • Benefits received by immigrant's family members • CHIP** • Women Infants and Children (WIC) • School Breakfast and Lunch • Energy Assistance (LIHEAP) • Transportation vouchers or non cash transportation services • Non-cash TANF benefits • Federal Earned Income Tax Credit and Child Tax Credit • Student Loans

What is being proposed?

Negative factors leaning to Public Charge determination	Positive factors leaning against Public Charge determination
• Income under 125% federal poverty level ($31,375 family of 4) • Children • Seniors • Limited English proficiency • Limited education • Large family • Poor credit history • Receipt of listed benefits during 36 months prior to applying for admission or "green card" (heavy negative) – prospective for newly listed programs • Health conditions that require extensive treatment or affect ability to work, go to school (heavy negative)	• Income over 250% federal poverty level ($63,000 family of 4) (heavy positive) • Having private health insurance • Affidavit of support from sponsor or "public charge" bond

Who does this affect?

- Rule directly affects immigrants who are applying to become a lawful permanent resident (LPR or green card holder) or to extend or change the category of a nonimmigrant visa

- Does not directly affect:
  - Current "green card" holders or applicants for citizenship
  - Refugee and asylum applicants – various programs
  - Applicants for temporary protected status, victims of crime and domestic violence
  - DACA renewals
  - Family members of applicants

What are families hearing and doing?

- Public charge has always been a misunderstood, hot-button issue
- Prior leaked proposals included many more programs and all family members (including citizens)
- Conflicting and confusing messages
- Reported drop in accessing health care, vaccines, WIC, food programs, educational services and other social services for all family members

What do we tell families?

- It's only a proposal at this point
- The public charge test looks at all the person's circumstances, weighing positive against negative ones.
- If the regulations go into effect as proposed, they will:
  - only affect use of listed public services after the implementation date – prospective rules
  - not count use of services by family members
  - only affect applications for adjustment of status and legal permanent residence and entry visas. Not LPR renewals or citizenship
  - not affect refugees; asylees; survivors of trafficking, domestic violence, T or U visa applicants/holders; VAWA self-petitioners; and certain others

What do we tell families?

- Eligible family members who are LPRs and citizens should continue to use health, social and educational services
- Using benefits now can help you or your family members become healthier, stronger, and more employable in the future.
- Families need to make decisions based on their unique circumstances and needs.
- Get help; consult with an immigration attorney or BIA-accredited representative about your own situation

What is the process moving forward?

- Proposed regulations were published in the Federal Register on October 10, 2018
- 60 day public comment period expires December 10, 2018
- Publication of final rule must address submitted comments
- Implementation 60 days after publication of final rules
- Determinations are prospective

What can you do now?

- Submit comments directly to USCIS or through Protecting Immigrant Families
- Encourage others to submit comments
- Issue a public statement on the proposed rule and impacts on children and families
- Sponsor public presentations for families, family workers and policy makers
- For individual cases, consult immigration attorney or specialist

Questions? Comments?

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