

# Public Charge Rule

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What does it mean for Early Care and Education

# What is Public Charge?

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The “public charge” test is a longstanding provision in immigration law designed to identify people who may depend on government benefits as their main source of support in the future.



# What is Public Charge

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If the government determines someone is likely to become a “public charge,” it can deny them admission to the U.S. or refuse their application for lawful permanent residency (a green card).



## Who DOES It Apply To?

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- Immigrants who are living in the US legally and applying for lawful permanent resident status (Green Card)
- This includes non citizen children of these immigrants who are applying to adjust their status.



This does NOT apply  
to:

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- People who already have a green card
- People here lawfully who are applying for citizenship
  - Refugees
  - Asylees
- US Citizen Children of Immigrants
- Survivors of Domestic Violence
  - Other protected Groups



# So What Changed?

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- October 9, 2018 Department of Homeland Security published a “Notice of Proposed Rulemaking (NPRM)” in the Federal Register.
- The NPRM is the administrations notice to the public that they intend to change the rules that govern the program.
- The proposed new rules were also posted.
- The proposed rules make significant changes to the determination of “public charge” that are of great concern to the Early Care and Education field.



# Redefinition of Being a “Public Charge”

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## **Current definition**

Primarily dependent on government assistance as his/her main source of support

## **New definition**

A person who uses one or more public benefits

# Other Significant Changes

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Broader range of public benefits usage can be considered

Some things can be weighted as more important than others

More things can be reviewed and considered (ex. Credit history)

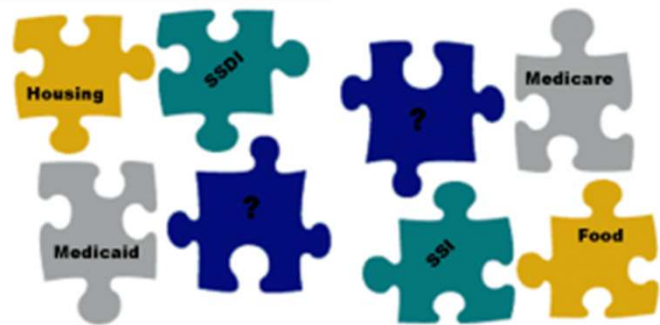




## How Is It Currently Determined?

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- Several factors considered equally
  - Age
  - Health
  - Family Status
  - Assets
  - Resources
  - Financial Status
  - Education and Skills



## Which public benefits do they consider?

- Cash assistance
  - Supplemental Security Income (SSI)
  - Temporary Assistance for Needy Families (TANF)
- Government funded long term care



# Under the New Law

- Current or PAST receipt of one or more of the following
  - Cash Assistance
  - Government funded long OR short term care
  - Supplemental Nutrition Assistance Program (SNAP/Food Stamps)
  - Housing Assistance (Section 8, public housing, rental assistance)
  - Non-emergency Medicaid
  - Low income subsidy for prescription drugs (Medicare Part D)



# Under the New Law

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- NOT INCLUDED

- Head Start
- Child Care and Development Block Grant (CCDBG, child care subsidy)
- Public Education Services (pre-K etc.)
- Home Visiting Programs
- WIC
- School Lunch/Breakfast
- Energy Assistance
- Non cash TANF
- Federal Earned Income Tax Credit and Child Tax Credit
- Student Loans



## PLEASE NOTE:

- DHS is also considering adding to the list of benefits. The proposed rule requests public comments on whether to include the Children's Health Insurance Program (CHIP) in the list of benefits to be considered in a public charge determination.



# Helpful Information

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- They will only consider benefits received by the person applying.
- The rule is clear that benefits received up to the date the rule goes into effect do not count.
- FAMILIES SHOULD NOT AVOID USING BENEFITS NOW!!
- Despite this, many families are already dropping services out of confusion and fear.



# Why is it important for Early Childhood?

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- Immigrant families are a huge share of the US population
- The chilling effect may scare families away from services needlessly
- The health and safety of the family impacts the child



# Don't take my word for it....

- Worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence;
- Increased use of emergency rooms and emergent care as a method of primary health care due to delayed treatment;
- Increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated;
- Increases in uncompensated care in which a treatment or service is not paid for by an
  - Insurer or patient; and
- Increased rates of poverty and housing instability; and
- Reduced productivity and educational attainment.
- **(DHS, 8 CFR, RIN 1615-AA22, Inadmissibility on Public Charge Grounds, pgs. 370-371)**



## So what happens next?

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- 60 day public comment period ends December 10, 2018
- The Department is required to read and consider ALL submitted comments
- They will revise and create a final rule that must be posted prior to any changes being implemented.
- New rule will go into effect
- The timeline is highly dependent on the amount and type of public comment they receive

# What can we do?

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- Stay Informed on the subject
- Don't change the way you are delivering services
- Encourage families to continue to seek out services that they need
- Help alleviate fear in the families you serve
- Refer to resources
- Send in public comments!! Goal is 100,000 by December 10.



# If you submit comments...

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- You can use a template, but you must personalize it. Only unique comments will be counted
- It **MUST** be in English
- Don't offer corrective language
- If you are a subject matter expert, say so
- Commenting on a public rule is **NOT** considered lobbying under federal law
- Comments **MUST** be received by December 10, 2018

# Questions?

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