

Proposed Changes to the Public Charge Determination and the Lasting Impact on Immigrant Families

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What does “public charge” mean?

The term “public charge” refers to someone who is considered “primarily dependent on the government for subsistence.”¹ An immigrant who is considered to be a public charge may be denied admission to the United States or deemed ineligible to become a lawful permanent resident. The public charge determination has been a part of U.S. immigration law for over a hundred years. The Administration has just released a rule that would significantly alter how immigrants are determined to be a public charge.

What are the current rules concerning who is determined to be a potential public charge?

When an individual is seeking a visa to come to the U.S., the government reviews their application to test their likelihood of becoming a public charge. Various factors such as the applicant’s age, health, family status, financial status, education, skills, and affidavits of support are all taken into consideration when deciding whether the applicant is likely to be primarily dependent on the government if their application is accepted. This scrutiny also applies to individuals who already have a visa in the U.S. and are looking to change their status. None of these factors is disqualifying individually; rather, all of the factors are reviewed together and taken into consideration when making the determination. This scrutiny also applies to current visa holders who may seek renewal of their immigration status. Usage of two types of public benefits, which immigrants are eligible for after five years of living in the U.S., may also be considered: cash assistance such as Supplemental Security Assistance (SSI) and Temporary Assistance for Needy Families (TANF) and institutional long-term care (like Medicaid coverage of nursing home care).

What are the administration’s proposed changes to the public charge rule determination?

The current administration is proposing to make a few major changes, including:

1. Changes to the definition of public charge to define a public charge as “an alien who receives one or more public benefits” rather than the current definition of an immigrant who is primarily dependent on governmental aid or relies on the government for subsistence.
2. Changes to allow a broader array of benefits to be considered when making the determination such as non-emergency Medicaid, nutrition programs including the Supplemental Nutrition Assistance Program (SNAP) and the National School Lunch and School Breakfast program, the Medicare Part D Low Income Subsidy, and housing assistance, such as public housing or Section 8 housing vouchers and rental assistance.
3. Changes to the income threshold to say families must make at least 125% of the federal poverty level, and to avoid scrutiny or negative consideration must have a household income of at least 250% of the federal poverty level. For a family of four, this is nearly \$63,000 annually, higher than the median income in the United States as a whole². Under the current rule, it is only required that most legal immigrants have *sponsors* with incomes over 125% of the federal poverty line. This sponsor is the one currently held liable for the costs of any welfare benefit used by the immigrant.³

What are the consequences and impacts of these potential changes?

¹ <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>

² <https://www.census.gov/newsroom/press-releases/2017/income-poverty.html>

³ <https://www.brookings.edu/research/welfare-benefits-for-non-citizens/>



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The proposed changes to the public charge rule will have numerous long-term consequences on the well-being of immigrants and their families. The rule would essentially force immigrants to do the impossible: to choose between utilizing public benefits they and their children may need, such as food assistance and health care, and obtaining permanent legal status in the United States in order to keep their family together long-term. Benefits that could now be considered in a public charge determination include key programs that help participants meet their basic needs and become established in the U.S., forcing immigrants to make extremely difficult decisions about their health, especially whether seeking health care is worth the risk of future deportation. This greatly impacts the well-being of all immigrants as well as society at large, and will result in a sicker, hungrier, poorer nation.

The changes would also have a significant impact on families seeking to reunite. We are already seeing an increased number of denials of visa and green card applications under the current administration, and the changes to the public charge rule would be used to curb legal immigration numbers even further. Even though the rule has not been formally imposed as of October 1st, the proposal is already having a chilling effect on legal immigrants accessing these services for themselves and their children, with decreasing numbers of immigrants, regardless of their status, seeking governmental assistance even though they are eligible. If the rule is finalized in its proposed form, it would mark a significant and harmful departure from the current policy.

Is this rule change final?

Not yet. When the administration publishes the proposed rule in the Federal Register, it will have to go through both a 60-day public comment period and a formal review of those comments before it will be officially published and implemented. The rule will not be formally implemented until several months after that public comment period ends.

Does the proposed public charge rule impact all categories of immigrants?

A few categories of immigrants are specifically excluded from the public charge determination. Refugees, asylees, and survivors of domestic violence and human trafficking are among those groups statutorily exempt from the determination public charge is also not a consideration when lawful permanent residents (green card holders) apply to become U.S. citizens.

What does Episcopal Church policy say about the issue?

The Church, through policies approved by the Executive Council and at General Convention, has several policies concerning U.S. immigration reform and Church support of migrants and refugees. These resolutions include repeatedly advocating for compassionate and just immigration reform and urging the government to “ensure that needy immigrants are not unfairly denied access to essential services and benefits” (1997: D081⁴). Our faith calls us to help the strangers in our midst by guiding us to respect the dignity of every human being and ensure that all people receive the help and assistance they need regardless of their immigration status.

What can I do to help?

Sign up for the Protecting Immigrant Families Campaign to stay up to date on events surrounding the public charge rule and to get more resources at <https://protectingimmigrantfamilies.org/>. Make sure to comment on the need to reject the proposed changes and protect immigrants and their families during the public comment period on regulations.gov, when the rule is in the federal register. Resources on how to format your comments will be available through <https://protectingimmigrantfamilies.org/>.

⁴ https://www.episcopalarchives.org/cgi-bin/acts/acts_resolution.pl?resolution=1997-D081

