What is Public Charge?

“Public Charge” is a term used by U.S. immigration officials to refer to a person who is considered likely to become primarily dependent on the government for subsistence.

An immigrant who is found likely to become a “public charge” may be denied admission to the U.S. or lawful permanent resident status.

When is Public Charge Assessed?

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

A public charge assessment is NOT made when a Legal Permanent resident is applying for Citizenship.

What is considered?

Currently, determination is based on assessment of all relevant factors

- Totality of the circumstances test: Officers look at applicants: Age, Health, Family status, Financial status, Education and skills and Affidavit of Support

And only two types of benefits are currently considered in public charge determination

- Cash Assistance for income maintenance
- Institutionalization for long-term care

Things to keep in mind

Exemptions: Certain immigrants, including refugees, asylees, survivors of trafficking, domestic violence and other serious crimes are NOT subject to the “public charge” test nor are people applying for citizenship.

Forward Looking: the decision is forward looking and can’t be based ONLY on what happened in the past

Draft Proposed Rule: Content

DHA/USCIS allow to consider a broader array of services and benefits in the public charge determination

- TANF (Temporary Assistance for Needy Families)
- SSI (Supplemental Security Income)
- Medicaid
- Medicare Part D
- SNAP (Supplemental Nutrition Assistance Program)
- Medicaid Long-Term Care
- Housing Assistance (Public Housing, Section 8)

It will NOT look at:

- EITC (Earned Income Tax Credit)
- APTC (Advanced Premium Tax Credit, or the Obamacare subsidies)
- Emergency Medicaid (for immigrants without documentation)
- WIC (Women, Infants, & Children)
- CHIP/CHP+ (Children’s Health Insurance Program, although the rule specifically requests comments on whether this should be moved to the “INCLUDE” category)
Proposed Rule: Timeline

- March 2018 – Proposal to Office of Management and Budget
- September 2018 – Proposed rule published in Federal Register
- Next – 60-day opportunity for Public Comment starting when rule is published in the Federal Register
- Next – Department of Homeland Security reviews and responds to all comments
- Next – Final rule published

Messaging to immigrant families

- The public charge rule has been released, but not yet published in the Federal Register or changed. Once the draft is published, the federal agency must accept and respond to comments on it. This process will take time.
- Continue to use any benefits you are currently using and eligible for that help you and your family members become healthier, stronger, and thrive in the future. If the rule becomes final, it will not be retroactive, meaning the benefits you are using now will not count against you.
- The Public Charge test does not impact people who entered the United States as refugees, asylees, survivors of trafficking, domestic violence, and other serious crimes, VAWA self-petitioners, or special immigrant juveniles.
- This only applies to use of Federal programs and state or local income maintenance programs. It doesn’t apply to other types of state or local public benefit programs.

Rights and Protections

- Individuals in a household can qualify for public benefits, even if some members of the household don’t qualify because of their immigration status.
- Personal information provided in a public benefit application can only be shared in ways that help run the public benefit programs – not for immigration enforcement.
- You can provide only the information necessary and should not misrepresent anything when completing public benefit applications or dealing with any government agency.

What you can do

- The Public Charge rule has not yet changed. There is no advantage to disenroll from programs now.
- Plan to comment when the rule is published. You will have 60 days to enter a comment.