

Public Charge - Talking Points for PHSKC Employees

Background - What is “public charge”?

- The federal government is changing an immigration rule called the “public charge” test.
- **Public charge affects primarily people who are seeking to obtain a green card (legal permanent resident) or apply to enter the United States.**
- Public charge policy requires **immigrants applying for a green card (or for a visa to enter the U.S.)** to show they are not likely to depend on the government for subsistence. (The policy does not apply to refugees, asylees, or people with certain other special statuses.)
- In the past, the policy only considered *cash assistance* as evidence of being dependent on government, such as Temporary Assistance for Needy Families (TANF) or government funded institutional (nursing home) care.
- **The new rule** expands the list of what can be considered – to include some *noncash* benefits. It allows an immigration agent to deny green cards for some people who access Medicaid, SNAP (food stamps), and some types of housing assistance.
- **The new rule does not include WIC, medical benefits for children under 21, or pregnant women.**

Disclaimer: this is general information and is not legal advice. If someone has case-specific questions, they should seek a trusted immigration attorney or DOJ accredited representative. See p.2

Talking Points: What you can say to concerned clients

- The new Public Charge rule **will go into effect on February 24, 2020**. The rule is still being challenged in federal courts (and it could potentially be reversed at a later time).
- **Most immigrants (approx. 92%) will not be affected.** The regulation does not affect all immigrants – only those applying for certain visas or permanent status.
- The rule itself says that it applies *only* to people who use benefits *after* the effective date (Feb. 24, 2020). **Using benefits before Feb. 24 should not impact anyone’s future immigration status.**
- **Many programs are not included in the public charge test.** Public Health services such as WIC, First Steps and Pregnancy Medicaid are **exempt** from the rule (see p. 2) – thanks to more than 200,000 public comments that led to changes in the rule.

If a client asks about details in the rule: *Details related to the Final Rule are on page two and three.*

- **Each person’s situation is different:** Immigrants who are concerned about the impact of using public benefits on their immigration case should get advice from an immigration attorney or accredited representative (contact Northwest Immigrant Rights Project).
- Please know, our Public Health Centers are “**designated private areas.**” That means they are sensitive locations, and we do not allow immigration agents inside our clinics without a judicial warrant.

We welcome all, regardless of their race, ethnicity or immigration status. We protect the privacy of all clients, and we do not collect information about immigration status.

Additional Details

- The US Supreme Court has decided the new rule can go into effect while the legal battle continues in lower courts.
- The new rule applies *only* to benefits received *after the effective date* (the Supreme Court has allowed DHS to proceed with enforcement as of Jan. 27, 2020, but we don't know when the rule will start to be implemented). The rule does not apply to services received previously. It is not retroactive.
- **The rule does NOT INCLUDE WIC** (but it does include SNAP/food stamps).
- **The rule does NOT INCLUDE women and children in FIRST STEPS, Pregnancy Medicaid or Family Planning Only Medicaid** (but the rule does include other *adult* Medicaid services).
- **Benefits used by family members will not count in public charge decisions made in the U.S.** Family members (including children) who are U.S. citizens are entitled to use the nutrition, food, or housing programs that help them thrive. Benefits that you get for your children or other family members are different from benefits that you may receive yourself. Including your name on your child's application does NOT mean that you have applied for benefits for yourself.
- This proposal does **not** change eligibility requirements for public benefits programs.
- Families should consider carefully who is not included in the new rule before withdrawing from any benefits that they or their families currently receive legally.
- The rule does not apply to refugees, asylees, and people who have humanitarian visas.
- **Each person's situation is different:** Immigrants who are concerned about the impact of using public benefits on their immigration case should **get advice from an immigration attorney or accredited representative** (contact Northwest Immigrant Rights Project below).

Materials and resources for clients

(for these and other updated materials, please also see the [PH intranet](#)):

- "Know Your Rights" wallet-sized brochure available from the ACLU (multiple languages)
- For any **legal questions**, you may refer clients to Northwest Immigrant Rights Project (206-587-4009, <http://www.nwirp.org>), to the Immigration Advocates' resources (<https://www.immigrationadvocates.org/nonprofit/legaldirectory/search?state=WA>), or this Children's Alliance directory (<https://childrensalliance.org/sites/default/files/2019-08/FINAL%20PIF-WA%20legal%20resources.pdf>)
- Washington DSHS has **translated** a fact-sheet into 12 languages, available at DSHS website (last updated before the rule become final, but most details still apply) - <https://www.dshs.wa.gov/esa/office-refugee-and-immigrant-assistance>.
- City Of Seattle has a Public Charge webpage **for more information about Public Charge:** <http://www.seattle.gov/iandraffairs/issues-and-policies/public-charge>.

For reference, this list shows many public benefit programs' status under the new Public Charge rule

Benefits Considered for Public Charge

- Cash Assistance (SSI, TANF, other)*
- Institutional Long-Term Care (Medicaid funded nursing home care) *
- Some Medicaid health coverage (see exceptions!) **
- Food assistance (SNAP, Basic Food, Food Stamps, EBT Card)
- Housing Assistance (Federal Public Housing, Section 8)

** Included under previous Public Charge policy as well;*

*** Exception for coverage of children under 21, pregnant women (including 60 days post-partum), emergency medical*

Benefits Excluded from Public Charge (these are not included in the new rule)

Apple Health / Medicaid benefits received by children and adolescents under age 21	Pregnancy Medical	CHIP - Children's Health Insurance Program
Emergency Medicaid	WIC – Supplemental Nutrition	BCCHP – Breast Cervical and Colon Cancer Health Program
Tax Credits (such as ACA premium tax credit, earned income tax credit)	School nutrition services (such as free lunch and breakfast before the bell)	MSP– Medicare Savings Program / Medicare Part D Subsidies
Public health services (such as immunizations, TB and STD clinics)	Earned benefits (such as unemployment, social security retirement, workers compensation)	Military benefits used by members of the military, Ready Reserve, and their spouses and children