



UPDATE:

The Administration's proposed changes to "PUBLIC CHARGE" Rule, Impact on Texans, and Best Practices for Providers, Assisters, and Agencies....

(template presentation)

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Public Charge and the Chilling Effect on Texas children's well-being

WHY Care? More than 1 in four Texas children has a parent who is not a U.S. citizen. Texas' future prosperity depends on our community-wide commitment to every child having the chance to compete and succeed in life.

Fears of negative immigration consequences—some factual, others inaccurate—have already caused hundreds of thousands of Texans, especially children, to drop out of health care coverage and hunger prevention benefits like Medicaid, CHIP, SNAP, and WIC.

WHAT: can you add to this cause? Trusted people and institutions—doctors, clinics, churches, food pantries-- can play a key role in combatting fear-driven misinformation.

HOW: can you make a difference?

- **Make sure your staff and colleagues are educated.**
- Share materials with your clients. **Ask them if they need information.**
- **Join in the local conversation** to reassure and inform mixed-immigration families in your community; to make sure the health and social service players are “on the same page” and are giving out accurate and consistent information.
- **Ask our state agencies and officials to be part of the solution.** Texas HHSC can be an important part of correcting misinformation that is scaring families away from Medicaid and SNAP.

The Invisible Wall: many policy changes are reducing lawful immigration, and discouraging access to health care, nutrition, and other basic needs

- **Public Charge rule** is just one of many “chilling” factors reducing lawful immigration and discouraging families in U.S. from accessing health care, hunger, housing assistance.
- **Multiple Rules and “sub-regulatory” guidance have targeted and intimidated every status of non-citizens and citizens:** undocumented, green-card holders, refugees, asylum-seekers, naturalized US citizens, and the US-born family members of non-citizens.



Learn more about the PIF Campaign | protectingimmigrantfamilies.org

“Public Charge” concept in US Immigration law since 1800s, but New Rule Public Charge Definition Discourages Health, Food, Housing for Immigrants & Family

- **Basic Idea:** Immigrants seeking U.S. “green card” (Lawful Permanent Resident) status, and immigrants outside U.S. seeking entry visas, may be denied green card or U.S. entry visa, if found to be *“likely in the future to rely on the government for subsistence,”* or a **“Public Charge.”**
 - **This screening for a green card or entry visa often referred to as the “public charge test.”**
- Since 1999: only cash assistance, or residential care (e.g. nursing home) by the applicant, and funded by government was counted against them. Federal Immigration agencies actively educated families that health care and hunger assistance were SAFE to use.
- The proposed new rule would add use of Medicaid, SNAP, housing as negative factors (*and makes additional fundamental changes to **reduce** family immigration*).

Things to Keep in Mind, before we dive in

- Many types of immigrants are exempt from the public charge “inadmissibility” test ground.
- The rule is not in effect yet.
 - Since Friday 10/11, 3 different federal courts issued **nation-wide injunctions, that halted the rule from taking effect. (2 other injunctions are statewide)**
- If the rule ever takes effect:
 - **Will apply only to green card or visa applications submitted on or after ~~October 15, 2019~~ the effective date of the rule**; that date is now uncertain--or may even never come, if the courts reject the rule.
 - Newly-added benefits (health care, food, housing) used prior to the effective date will not be considered.
 - **Benefits used by family members will not be counted.***
 - Using Medicaid, SNAP, or housing does not mean an automatic green card denial: Positive factors can be weighed against negative factors in this test: they look at “*totality of circumstances.*”

****(More later in presentation)***

Things to Keep in Mind, before we dive in, (2)

Key Tips to help families:

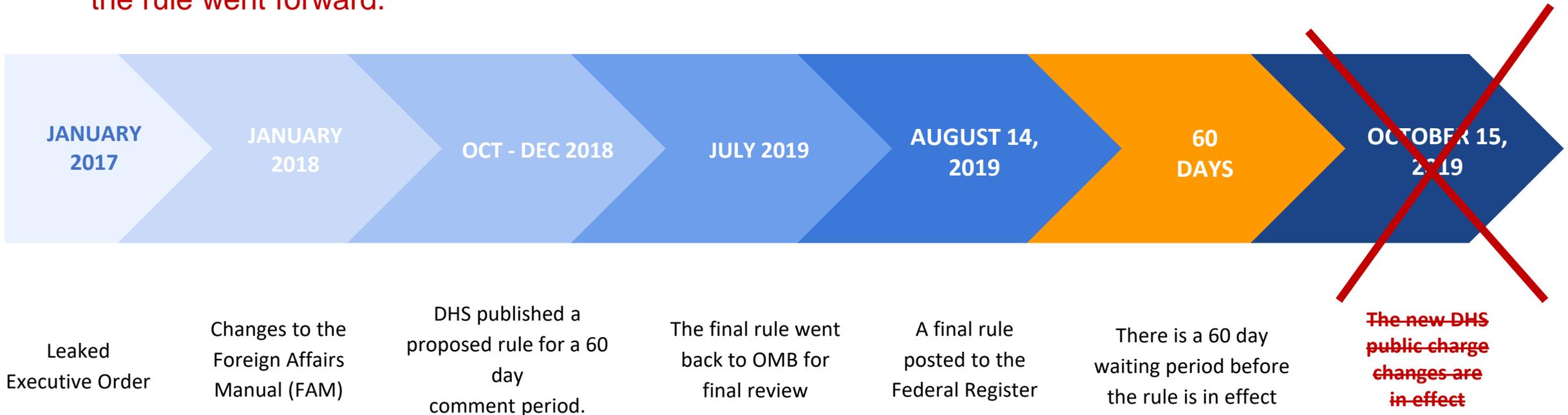
1. First, **find out if the rule applies to you**: an immigration legal services agency can tell you for free or very low cost.
2. If the rule may affect your family, the immigration legal services agency or immigration attorney can help you decide what is best for your family.

Public Charge Rule would have 2 Important and Distinct Impacts:

1. **Suppression of use of health, hunger, & housing benefits (with extensive ripple effects)**
2. **Dramatic increase in income required to lawfully immigrate. Much greater exclusion based on health status, disability, age, skills. Sweeping reduction in family-based immigration without any input from US Congress would result.**

Public Charge: Timeline

Friday 10/11: Federal court judges in New York and Washington granted nationwide preliminary injunctions against the public charge rule scheduled to go into effect next week. Both judges found that families would suffer irreparable harm if the rule went forward.



- **9 court challenges to the rule across U.S.; 10/11 injunctions from 3 courts.**
- **Injunctions are not permanent and Trump Admin expected to challenge.**
- **Therefore, not possible to pinpoint when/if rule will take effect.**

Public Charge Rule: Income and other Factors

Most of the attention in the media and in the public awareness is on benefits use, but if the new Public Charge rule takes effect, it would be based on **TOTALITY OF CIRCUMSTANCES**, including:

- Income and assets (“wealth test”): 125%/250%
- Education
- Age (18/61)
- Health
- Skills, employment

Final Public Charge Rule: Effects on Benefits

ONLY the use of Benefits listed below by the green card/visa applicant would be considered under the new Public Charge Rule

Long-standing Policy

*Cash Assistance for Income Maintenance

Long Term Institutional Care at Government Expense

Newly Finalized Rule

Supplemental Nutrition Assistance Program (SNAP or Food Stamps)

Federal, State, Local and Tribal Cash Assistance

** Medicaid (with exceptions)

Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance)

* Included under current policy as well

**** Exceptions for emergency medical conditions, & coverage of children < 21 and pregnant women.**

Public Charge test does **NOT** apply to everyone!

The public charge ground of inadmissibility does NOT apply to every type of immigrant. Here are some examples of persons public charge does NOT apply to:

- Lawful Permanent Residents (“green card holders”) applying for citizenship
- LPRs renewing their “green cards”
- Refugees and Asylees
- VAWA Self-petitioners
- Survivors of Domestic Violence, Trafficking, or Other Serious Crimes (U or T visa applicants/holders)
- Special Immigrant Juveniles
- Humanitarian “parolees”, and several other categories of non-citizens

BUT, fears that benefit use will affect green card or citizenship, or that federal benefits info will be used to locate and deport are VERY WIDESPREAD

Whose use of benefits could affect their green card application under new PC Rule? It's Complicated.

- **Because:**
 - TX doesn't allow many adult immigrants to access public benefits, and
 - Most benefits that are available to non-citizens require that they already HAVE a green card, and
 - The public charge test by definition is nearly always for persons who are trying to GET a green card..
- **Therefore, relatively FEW Texans' Green Card applications will be affected by their use of benefits.**
- **There are some limited situations when a Texans' Green Card application might be directly affected by their own use of benefits.**
- **BUT- while relatively FEW Texans' individual Green Card applications will/would be affected by their use of benefits,**
 - *the impact of the new, much more stringent standards for income, health and disability status, job skills, age, etc. will make it much harder to qualify for Lawful Permanent Residence.*

Combined Effect of “Invisible Wall” MUCH larger than # Individuals Affected if Final Rule takes effect

Texas:

- 5.6 million Texans live in a family that includes at least one non-U.S. citizen (of any immigration status);
 - About 1.9 million of these are kids age 17 or younger, of whom the great majority—about 1.65 million—are U.S. citizen children. **That’s more than one in every four Texas children (26%).**
 - 3.9 million of those Texans have family incomes targeted by the new rule (under 250% of the federal poverty income, which is less than \$65,000 a year pre-tax income for a family of four in 2019).

U.S.:

- As many as **26 million** people in families with immigrants might be chilled from participating in programs that make their families healthier and stronger.¹
- There is already a chilling effect.



1 in 4 U.S. children has an immigrant parent; in Texas more than 1 in 4 has a non-US citizen parent

¹ “Public Charge Proposed Rule: Implications for Non-Citizens and Citizen Family Members Data Dashboard,” Manatt Health, October 2018

² Samantha Artiga and Anthony Damico, “Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies” Kaiser Family Foundation, 2018

Evidence of Chilling: Texas Reports and Data

Children's Health Coverage: Texas children enrolled in Medicaid and CHIP dropped by more than 201,700 children (about 6%) between December 2017 and April 2019. *Chilling is likely main factor.*

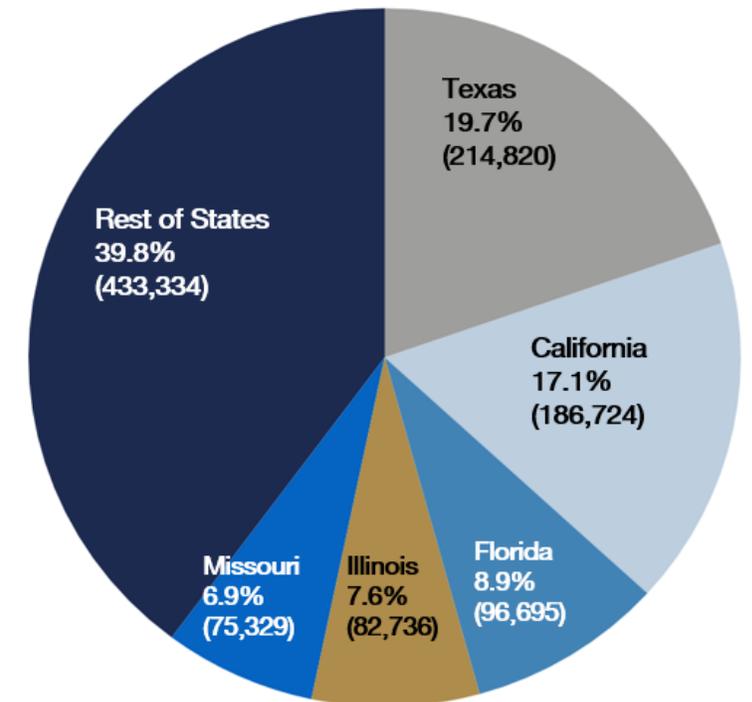
SNAP (food stamps) Enrollment: Enrollment has dropped from 3.9 million Texans per month in 2015 to 3.5 million in 2019 (13% decline through 9/2019). *Chilling is a major factor, not the only one.*

Struggling families: ECHOS (Houston community clinic/food pantry group) saw BIG declines: 31% in Children's Medicaid, 60% in adult Medicaid/CHIP-P, 47% drop in SNAP enrollment, from 2017-2019. *Same time period: 460% increase in food pantry usage.*

Working-class families: Foundation Communities (Austin) saw 16.9% drop in immigrant families seeking health coverage enrollment assistance in OE2017-OE2018. *(Only a 5.4% reduction in non-immigrant clients.)*

Special Needs Kids: VELA (Austin agency serving mixed-status families with children with disabilities) has seen an 80% drop in families using SNAP.

States with Largest Decline in Child Enrollment in Medicaid and Chip
(December 2017 - April 2019)



Evidence of Chilling: National Data

National studies find substantial numbers already avoid benefits over fear they will lose ability to proceed thru lawful immigration process.

1 out of 5 low-income immigrant families (<200% FPL) were afraid to access public benefits.

[One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018](#) (Urban Institute)

- Even parents who are LPRs or naturalized US citizens avoided benefits
- Of the adults in immigrant families reporting chilling effects, nearly half (46.0 percent) reported that someone in their family did not apply for or dropped SNAP, making it the most common program for which chilling was reported.

Undocumented parents of U.S. citizen children far less likely to get care for their children: emergency and preventive healthcare services, free immunization services, or free or reduced-price school meals. [The Impact of Changes to the Public Charge Rule on Undocumented Immigrants Living in the U.S.](#) (U.C. San Diego, Tom K. Wong, PhD, Jeremiah Cha, Erika Villarreal-Garcia, August 2019).

New from the Kaiser Family Foundation: [“Impact of Shifting Immigration Policy on Medicaid Enrollment and Utilization of Care Among Health Center Patients,”](#) October 2019. Almost half (47%) of community health centers report that immigrant patients declined to enroll themselves in Medicaid, and 38% reported immigrants were either declining to enroll, disenrolling, or deciding not to renew Medicaid coverage **for their children**. They report immigrant pregnant women refusing WIC services, and note that their WIC caseloads are down. **Nearly all respondents that provide obstetric care noted that immigrant pregnant women are initiating prenatal care later in their pregnancies.**

Caveats: Why it's hard to give simple answers we wish we had (1)

- U.S. has **different** policies for immigrants whose green card interview is **inside** the U.S. (through the **Dept. of Homeland Security**) versus those having the interview **outside** the U.S. (through U.S. **Dept. of State** consulates).
 - Applicants interviewing **inside** the U.S. are subject to the Public Charge policy put in place in 1999, and if the final rule takes effect would be subject to the new policies we have been discussing.
 - Applicants interviewing from **outside** the U.S. are subject to different policies that the Trump administration *already changed* (in January 2018) and are reflected in the “Foreign Affairs Manual” that governs DOS staff at U.S. consulates.
 - Those FAM changes are in effect right now and have already been increasing the number of public charge denials compared to past years, rejecting more immigrants based on income, relationship to their sponsor, or other factors like their health status or disability.
 - The DOS proposed a rule to align the PC policy at consular offices abroad with new public charge policy in the U.S. **under the final DHS rule, originally planned** to go into effect the same day as the DHS rule (Oct. 15, 2019).
 - The DHS rule injunctions do not technically affect the DOS practices abroad, so for now, the public charge policy in the FAM is still different from the DHS policy. **Latest report: DOS rule will not take effect until some future date, but we do not know how long this will take.**
- **Take-Away:**
 - We CAN'T give mixed-status families a simple “use of benefits by your family members won't affect your legal immigration.”
 - We MUST qualify and say it depends on whether the individual seeking the green card is interviewing for green card inside or outside the U.S. (for the time being).

Caveats: Why it's hard to give simple answers we wish we had (2)

- In general, the public charge test is only applied to a green card applicant once, as part of their approval process to become a Lawful Permanent Resident.
 - However, if an LPR goes abroad for more than 6 months, then they may be subject to PC test again on re-entry.
 - **Take-away:** We can't simply say, "if you have a green card already, the new Public Charge rule will never affect you."

Fears are Widespread, Cannot simply be dismissed

Health Care Providers Report: *Parents who are refusing or withdrawing from benefits for their kids cite "fear and uncertainty related to immigration and customs enforcement agents potentially showing up and carting them away as they enter or leave the building, or the federal government getting the information they provide us." (Health Center President, MO)*

Approximately 10% of those foreign born women who were pregnant will tell us they do not intend to, they do not want to apply for Medicaid... because they are afraid. Their fears range from being deported, to future opportunities for residency or citizenship. It's a wide range of things they are afraid of, but ultimately it's jeopardizing their status. (Health Center Vice President, MO)

Good materials available:

The PIF Campaign | protectingimmigrantfamilies.org



SHOULD I KEEP MY KIDS ENROLLED IN HEALTH AND NUTRITION PROGRAMS?

October 2019

Programs like Medicaid, CHIP, Marketplace Coverage ("Obamacare"), School Breakfast & Lunch, WIC and SNAP ("food stamps") can help your children lead healthier and stronger lives. You may have questions about whether your child's use of these health and nutrition programs will affect your immigration status or your application for a green card. This document provides some facts to help you make good decisions for your family. Below are answers to frequently asked questions.

If my child receives health or nutrition assistance, will that make it more difficult for me to get a green card in the U.S.? No. Benefits your children receive will not count against you if your green card application is processed in the U.S. 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.

If I apply for benefits for my child, will I have to give information about myself? Yes, some. The application requires income information for everyone in your family, even if they are not applying for benefits for themselves. However, you will not have to provide a social security number or information about your immigration status if you are only applying for benefits for your children. You can leave these sections blank.

Will I need to repay the government for benefits used by my U.S. Citizen child? No. If your U.S. Citizen child is eligible for and receiving benefits now, your family will not be responsible for repaying those benefits in the future.



Will information that I put on an application for my child be used for immigration enforcement? No. Any information you give on the application will be used only to determine your child's eligibility for the program. This information is not used for immigration enforcement. You should make sure you provide only the information needed and should not provide any false information.

What if I am undocumented? If you are undocumented and applying for your child or another family member, you should not provide any information about your immigration status. Instead you may say or write, "I am not applying for this program for myself."

If my child receives health or nutrition assistance, will that make it more difficult for our family members who need to go to their green card interview outside of the U.S.? Different rules apply to people who have



PUBLIC CHARGE: GETTING THE HELP YOU NEED

UPDATED SEPTEMBER 2019

WHAT IS PUBLIC CHARGE?

"Public charge" or the "public charge test" is used by immigration officials to decide whether a person can enter the U.S. or get a green card (lawful permanent resident or "LPR" status). In this test, officials look at all of a person's circumstances, including income, employment, health, education or skills, family situation and whether a sponsor signed a contract ("affidavit of support") promising to support the person. Officials can also look at whether a person has used certain benefit programs (in the past, only cash assistance and long-term care were counted).

CHANGES TO PUBLIC CHARGE

The government is changing how it makes public charge decisions. Immigration officials will look more closely at factors like health, age, income, skills (including English language skills), and use of more public programs, including:

- Supplemental Nutrition Assistance Program (SNAP, "EBT" or "Food Stamps")
- Federal Public Housing and Section 8 assistance
- Medicaid (except for emergency services, children under 21 years, pregnant women, and new mothers)
- Cash assistance programs (like SSI, TANF, General Assistance)

***Services that are not listed above will not be counted in the new public charge test. This includes WIC, CHIP, school lunches, food banks, shelters, and many more - these programs are safe to get if you are eligible.

MAKING THE RIGHT CHOICE FOR YOUR FAMILY

Every family is different, and the programs that help your family might not even be part of the new changes. We know that you are worried given our current political climate -- but the more we know about our rights, the harder it is for Trump to intimidate us. There are lots of people and organizations that can help you. An immigration attorney familiar with this issue can give you advice based on your specific situation. Local non-profits may also be able to provide help and legal advice. For free or low cost options visit: <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>.

CHANGES ARE NOT IN EFFECT YET

The new changes will not be used by immigration officials until October 15, and will apply only to applications that are postmarked or submitted electronically on or after October 15. If you are applying for a green card in the U.S. right now, use of the non-cash benefits listed above will not be counted in a public charge test. And, it's possible that the rule will be blocked or delayed further with legal challenges.

- The rule will also not count any programs (other than cash or long-term care) used before October 15, 2019. You still have time to make a decision about whether or not to stay enrolled in critical public programs.
- Programs used by your U.S. citizen children will not be used against you.

AUGUST 14, 2019
Final rule published in the Federal Register

AUGUST 14, 2019 – October 15, 2019 (60 DAY PERIOD)
Legal challenges are being put forward to stop the rule. You also have time to speak to an expert about your situation. Fight fear with facts – KNOW YOUR RIGHTS!

OCTOBER 15, 2019
Effective date of the new changes



PUBLIC CHARGE: DOES THIS APPLY TO ME?

Do you and your family members already have green cards?

Public charge and any changes under this rule **WILL NOT** impact you. However, if you plan to leave the country for more than 6 months, it is a good idea to talk with an immigration attorney.



Are you applying for or have one of the following statuses?

The public charge test does **NOT** apply to some immigrants, including the categories listed here. If you already have or are



Immigrant families can seek basic answers from Free or Low-Cost Immigration Legal Services groups

Not possible for most community-based organizations, health/hunger/housing providers to try to be immigration experts!

Things we CAN tell families to help them:

- **Not necessary to engage a private attorney immediately.** Important questions—like whether the public charge rule, or use of public benefits affect you at all-- can be answered free or very low cost by non-profit immigration legal services organizations.
- **Every Texas city should develop a local/regional list of immigrant legal services providers trained on the new rule and willing to assist families who are unsure if public charge affects them**
 - Houston already has a good one via HILSC
 - E.g., for Dallas., Catholic Charities Dallas, RAICES, Immigrant Legal Resource Center, Workers' Defense Project
- Statewide List of Texas Immigration Legal Services Providers
<https://www.immigrationadvocates.org/nonprofit/legaldirectory/search?state=TX>

Critical Points Every Family Needs to Know

Mixed-immigration-status families applying for children's benefits



Parents who are not citizens, and are applying for Medicaid, CHIP, or SNAP for their U.S. citizen children, or their children with green cards or other lawful immigration statuses, need to know:

- **You should not provide any false information on the application.**
 - If a parent provided false information (e.g., income) to enroll a child in Medicaid, Texas HHS COULD report that to immigration authorities.
 - Parents may have heard true stories of deportation of a parent who was either accused of, or actually committed fraud.
- **You do not have to provide a social security number or immigration documents for any parent or child in the family who is NOT seeking the benefits for themselves.** Federal laws do require Medicaid and CHIP agencies to keep benefit application information private. Information a parent puts on an application for their child will NOT be used for immigration enforcement, unless the parent committed fraud in the application.
- **When parents APPLY for benefits for their children, it is NOT the same as applying for or getting benefits for themselves.** You need to understand the difference, and when dealing with immigration authorities be clear about which benefits your family members received, as distinct from benefits you received for yourself.

Essential Community Talking Points



- Courts have blocked the Trump Administration from using rules that make it harder for low-income immigrants in the U.S. to get green cards.
- Immigrants can continue to receive the key health care, nutrition, and housing programs that help them and their families thrive.
- The public charge test only applies to immigrants seeking a green card or visa, and only affects the individual who is seeking the green card or visa. **It will not help your green card application if your US citizen (or green card holder) family members drop their own Medicaid, CHIP, WIC or SNAP.**
- Different rules may apply to immigrants seeking visas from outside the U.S.
 - If you or a family member are applying for a visa from outside the US, you may need to work with a qualified legal services provider to determine your best options.
 - If you are applying for a green card FROM WITHIN THE UNITED STATES, it is safe to apply for benefits for kids and family members who are U.S. citizens or lawfully present immigrants. The public charge test does not consider benefits used by family members.
- To find out if the Public Charge rule will affect your family, you don't have to engage a private attorney immediately; many questions can be answered for free, or very low cost, by qualified non-profit Immigration Legal Services organizations. Then taking legal and medical advice into account, each family must consider what to do to keep your whole family strong, productive, and stable.

Support for Public Charge briefings:

CENTER FOR PUBLIC POLICY PRIORITIES, CPPP.org; @CPPP_TX
CHILDREN'S DEFENSE FUND–TEXAS, cdfutexas.org; @CDFTexas

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Get Texas Public Charge Updates: email Dunkelberg@cphp.org

For more details or to be more active—Join the Protecting Immigrant Families Campaign !

<https://protectingimmigrantfamilies.org/>