

## UPDATE

# The Administration's new "Public Charge" Rule: What Assisters Need to Know

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# Public Charge & Chilling Effect on Texans' 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:** This webinar focuses on what YOU need to know to support your vital assister work-- outreach, enrollment, eligibility.

As trusted people and institutions, assisters and their organizations—along with doctors, clinics, schools, churches, and food pantries—**have been proven to play a key role** in combatting fear-driven misinformation.

**HOW:** can you make a difference?

- **Make sure your organizations and colleagues are educated.**
- Share materials with your clients. **Ask them if they need information.**
- **Join your 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.
- **Encourage and ask our state agencies and officials to be part of the solution. For example, Texas HHSC can be an important part of correcting misinformation that is scaring families away from Medicaid and SNAP.**

# “Public Charge” concept in US Immigration law since 1800s, but New 2020 Rule Discourages Health, Food, Housing

- **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/institutional care (e.g. nursing home) by the applicant, and funded by government was counted against them. Federal immigration agencies actively educated families back then 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\*

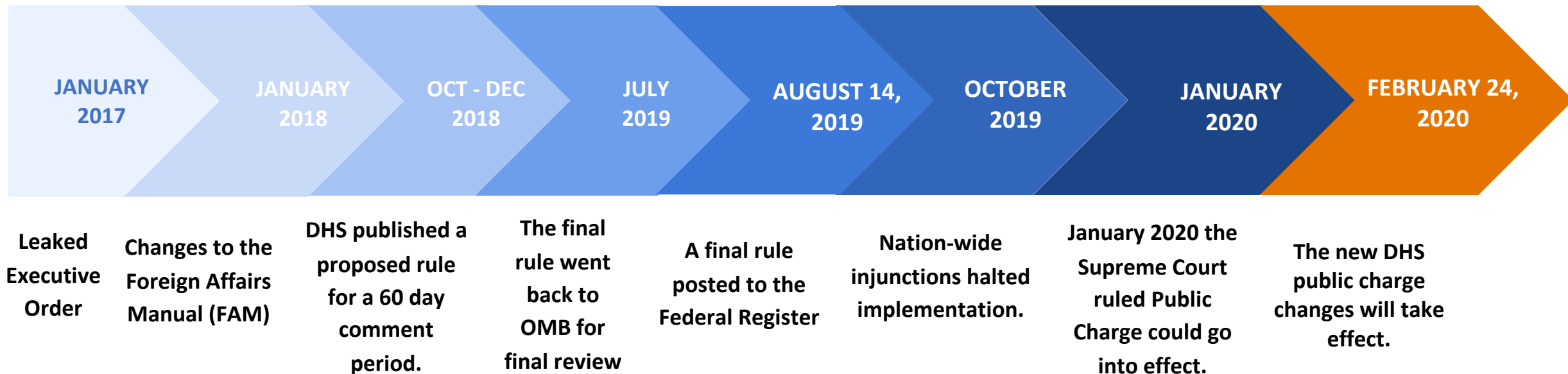
Many types of immigrants are exempt from the public charge “inadmissibility” test

The rule takes effect on 2/24/2020:

- Will apply only to green card or visa applications submitted on or after that date
- Newly-added benefits (health care, food, housing) used prior to 2/24/2020 will not be considered (distinct from “old” rule benefits: cash assistance or institutional care)
- 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.*”
- Lifting the injunctions **does not end the legal challenges** to the DHS public charge rule’s legality: those cases are moving on, and some could be decided within a couple of months.

\* (More on all this, later in presentation)

# Public Charge: Timeline



# 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

## Newly Finalized Rule

Cash Assistance for Income Maintenance

Supplemental Nutrition Assistance Program (SNAP or Food Stamps)

Medicaid \*\*  
(with exceptions)

Long Term Institutional Care at Government Expense

Federal, State, Local and Tribal Cash Assistance

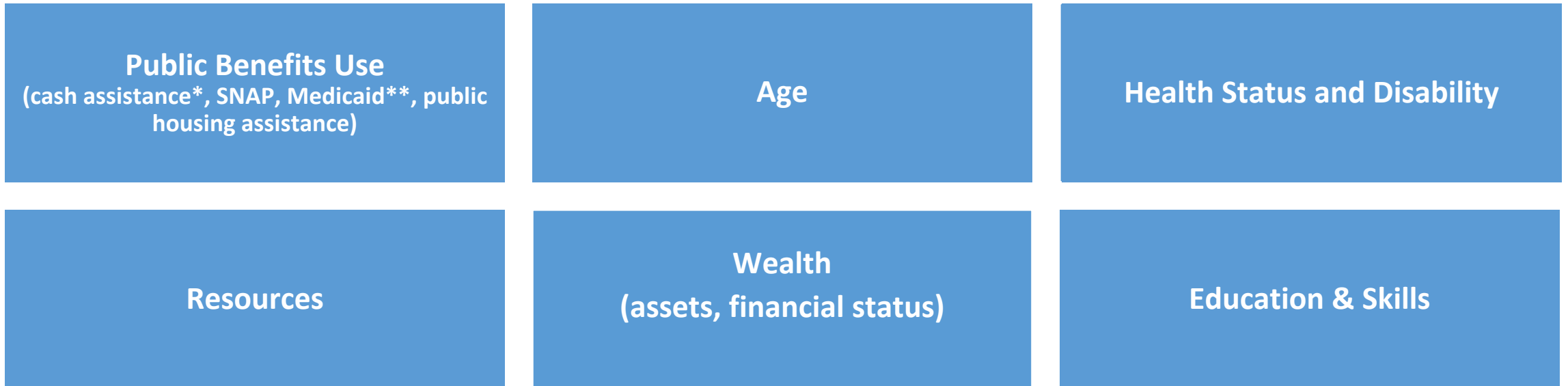
Housing Assistance  
(Public Housing or Section 8 Housing Vouchers and Rental Assistance)

These are not affected: local programs, FQHCs, WIC, Head Start, School Meals, CHIP and CHIP Perinatal, Family Planning, Healthy Texas Women (& more)

**\*\* Medicaid Exceptions: emergency medical conditions, coverage of children < 21, and pregnant women.**

# Public Charge Rule: Totality of Circumstances

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.*”



\* Included under former (current) policy as well

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

# Which categories of immigrants are eligible for the programs in the rule, AND also potentially subject to public charge grounds of inadmissibility?

Although most immigrants who are eligible for the listed programs are not subject to public charge determinations, a small group of individuals could be penalized for using benefits for which they are eligible.

Here is an overview of the groups that could be harmed by their use of benefits in the final rule. Examples include:

All programs: Lawful permanent residents (green card holders) who leave the U.S. for more than 6 months and attempt to re-enter the country can be subject to an inadmissibility determination, which could include a public charge test. LPRs may also be subject to an admissibility determination if they have abandoned their residency, committed certain crimes, or left the country while in removal proceedings.

Medicaid/SNAP: Some people granted parole, withholding of removal, and a small subset of Cuban/Haitian entrants may have a pathway to permanent status (such as a family-based petition) that subjects them to public charge.

SNAP: In addition to the groups listed above, some members of the Hmong and Lao communities that helped the U.S. during the Vietnam War may be subject to a public charge test if they seek status through, e.g. a family-based visa petition.

Public Housing or Section 8: Some people granted parole or withholding of removal are eligible for housing programs and may be subject to public charge if they seek lawful permanent resident status through, e.g. a family-based visa petition. Citizens of Micronesia, Marshall Islands or Palau could be subject to public charge determinations if they leave the U.S. and attempt to reenter, or if they seek a green card through a family-based visa petition or another pathway where public charge is applied.



# Public Charge test does NOT apply to everyone!

The public charge “test” does NOT apply to every type of immigrant. Here are top 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 (foster care)
- 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 among these groups.**

# Whose use of benefits could affect their green card application under new PC Rule?

- **An individual who used SNAP, federal housing, or who used Medicaid as an adult **AFTER 2/24/2020****
  - Maternity Medicaid, CHIP Perinatal, CHIP, children's Medicaid NOT a negative factor
  - SNAP and housing use as a child COULD be a negative factor
  - TX doesn't allow many adult immigrants to access public benefits, and
- **BUT REMEMBER -- use of benefits by your family members won't affect your legal immigration.**
- 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.
  - This is not a new policy, but we can remind applicants to check with their trusted immigrant legal services provider before leaving the US for a long period.
  - **Take-away:** We can't simply say, "if you have a green card already, the new Public Charge rule will never affect you."
- **NEW: persons applying for entry from outside the US at a consulate will be subject to the same policies as those applying from inside the U.S.** The US Department of State will have its Foreign Affairs Manual policies consistent with the DHS rule on **2/24/2020**.

# Evidence of Chilling: US and Texas

Most Texas assisters and service providers have 3 years of first-hand experience of families dropping benefits out of fear. This problem is documented and real--*but we also know that good information and community education makes a difference!*

**Public Charge rule is just one of many federal policies reducing lawful immigration and “chilling”/discouraging families in U.S. from accessing health care, hunger, housing assistance.**

**Children’s Health Coverage:** Texas children enrolled in Medicaid and CHIP dropped by more than 234,000 children (about 6%) between December 2017 and November 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.*

Houston and Austin agencies documented large declines in mixed-immigration families seeking health care and SNAP. But in late 2019, they also reported that after more than a year of local and national conversation on the issue, clients were starting to understand that health care and SNAP were still safe for the great majority, and were returning.

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

# 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.
- **Privacy of Information:** 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.

# What help can assisters offer?

**Assisters are often a first point of contact for immigrants and mixed-status families. You and your organizations can offer reassurance and resources.**

- 1. Make sure your staff know the “critical points” (previous slide) so they can reassure families that their information is private, and will not be shared with ICE (barring fraud on applications). Make information about data privacy available, obvious, and multi-lingual.**
- 2. Identify local/regional immigrant legal services providers (see next slide) for referrals.**
- 3. Hand out consumer fact sheets (Spanish and English now; more languages available soon).**

# 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 community should develop a local/regional list of immigrant legal services providers trained on the new rule and willing to assist families unsure if public charge affects them**
  - Houston already has a good one: [HILSC](#) help line, information online; 1-833-468-4664 (M-F, 9-5); a good 1-page referral sheet for free and low-cost help via HILSC
  - E.g., for Dallas., Catholic Charities Dallas, RAICES, Immigrant Legal Resource Center, Workers' Defense Project
  - **Contact CPPP if you don't have a referral list and we can help you build a list for your area!**
- Statewide List of Texas Immigration Legal Services Providers  
<https://www.immigrationadvocates.org/nonprofit/legaldirectory/search?state=TX>



# Good materials available:

The PIF Campaign | [protectingimmigrantfamilies.org](https://protectingimmigrantfamilies.org)




for a deeper dive:

1. recently updated [Fact Sheet for Advocates](#).
2. information on what's in the final rule: [Public Charge FAQ Document](#).

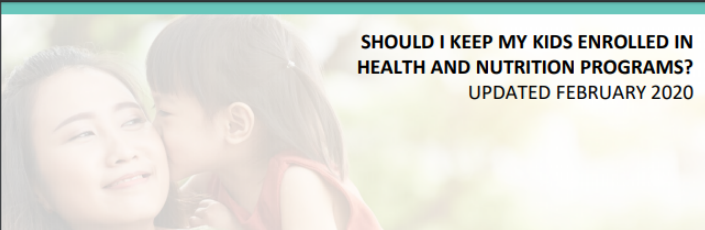
**PUBLIC CHARGE: DOES THIS APPLY TO ME?**  
UPDATED FEBRUARY 2020

**MAKE THE RIGHT CHOICE FOR YOU AND YOUR FAMILY**



Public charge does not apply to all immigrant family is different, and the programs that help family might not be part of new changes to the law. **There are lots of people and organizations that help you.** An immigration attorney familiar with the issue can give you advice based on your specific situation. Local non-profits may also be able to help and legal advice.

**SHOULD I KEEP MY KIDS ENROLLED IN HEALTH AND NUTRITION PROGRAMS?**  
UPDATED FEBRUARY 2020



Programs like Medicaid, CHIP, Marketplace Coverage ("Obamacare"), School Breakfast & Lunch, WIC and SNAP ("food stamps") 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 answers to frequently asked questions to help you make good decisions for your family.

If my child receives health or nutrition assistance, will that make it more difficult for me to get a green card? No. Health and nutrition benefits your children receive will not count against

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

**KNOW YOUR RIGHTS!**  
Public Charge Messages for Community Members  
Updated February 2020

*Fight fear with facts. You encourage you to learn more about the rule or your family. Get the facts.*



Most  
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## YOU HAVE RIGHTS: PROTECT YOUR HEALTH GOING TO THE DOCTOR

Doctors and nurses care about your health, not your immigration status. Everyone should seek care with confidence that their information is private and they are not putting themselves at risk. Immigration agents should avoid arrests and other enforcement actions in hospitals, health clinics, urgent care, or doctors' offices.



Health care workers should not ask for immigration

Everyone has a right to an interpreter when

seeking health care or applying for health insurance. You have a right to an interpreter at the time of seeking care at a hospital or health center.

## Assister Update on "Public Charge" and Talking to consumers in mixed-immigration families

- ★ **What is the new public charge rule?** It's a new U.S. Department of Homeland Security rule that will make it harder for lower-income people to go through the lawful immigration process and get a green card (also known as Lawful Permanent Resident status or LPR). The rule governs when immigration authorities can turn down a person's application for lawful immigration status, if they "are likely to" rely too much on government support, what historically was known as being a "public charge."

Released as a *proposed* federal rule in October 2018, the new "*final*" version was published 8/14/2019 and was set to take effect on 10/15/2019, nationwide court injunctions delayed this effective date. On 01/31/2020 the U.S. Supreme Court lifted the last nationwide injunction and as a result, the rule is effective 2/24/2020. This does not mean the court fight is over, lawsuits opposing the rule continue through the court process.

- ★ Remember, **not all immigrants are affected by the public charge test**: refugees, asylees, survivors of domestic violence, human trafficking or other serious crimes, special immigrant juveniles, are not subject to this rule when they enter the U.S., or when they apply for a Green Card later on.

## Links to good materials:

- CPPP Fact Sheet for Assisters - [English](#) and [Spanish](#)
- [Public Charge: Does this apply to me?](#) Updated February 14, 2020\* (See how 'public charge' will impact you based on your immigration status, and what you should do – PIF)
- [Should I Keep My Kids Enrolled in Health & Nutrition Programs?](#) Updated February 14, 2020\* (Use this guide to help answer commonly asked questions about how to make good decisions for your family and their health – PIF)
- [KNOW YOUR RIGHTS! Public Charge Messages for Community Members](#) Updated February 14, 2020\* (Top messages to share with immigrant communities on the recent changes to public charge – PIF)



# CENTER *for* PUBLIC POLICY PRIORITIES

## Support for Public Charge briefings:

CENTER FOR PUBLIC POLICY PRIORITIES, [CPPP.org](https://cphp.org); @CPPP\_TX  
CHILDREN'S DEFENSE FUND–TEXAS, [cdftexas.org](https://cdftexas.org); @CDFTexas

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Get Texas Public Charge Updates: email [dunkelberg@cphp.org](mailto:dunkelberg@cphp.org)

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

<https://protectingimmigrantfamilies.org/>

