



Proposed Public Charge Rule: The Threat to Immigrant Families

Wednesday, November 28, 2018

PRESENTED BY:
National Community Action Partnership
www.communityactionpartnership.com

Community Action Program Legal Services
www.capl原因.org

National Association for State Community Service Programs
www.nascsp.org

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Community Action Partnership
CAPLAW

Agenda

- What is “public charge”?
- What is the current public charge test?
- What would change under the proposed public charge rule?
- How does the proposed rule impact Community Action?
- How can we weigh in on these changes?

What is “public charge”?

■ Federal immigration law

- Test used to identify people who may become dependent on the government for their main source of support
- Individuals applying to enter the U.S. or to become a Legal Permanent Resident (green card holder) are **inadmissible** if they are likely to become a **public charge** at any time (8 U.S.C. § 1182(a)(4))

■ New proposed “public charge” rule

- On October 10, 2018, the Department of Homeland Security (DHS) **proposed a new rule** for determining who would be found inadmissible as a public charge



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When does the public charge test apply?

A public charge assessment
is made when a person:

- Applies to enter the U.S.
- Applies to adjust immigration status to lawful permanent resident (i.e., green card)
- Who is a green card holder leaves the U.S. for more than 180 consecutive days and reenters

A public charge assessment
is NOT made when a person:

- Applies to become a U.S. citizen
- Falls under certain categories of immigrants, including refugees, asylees, and victims of domestic violence or other violent crimes



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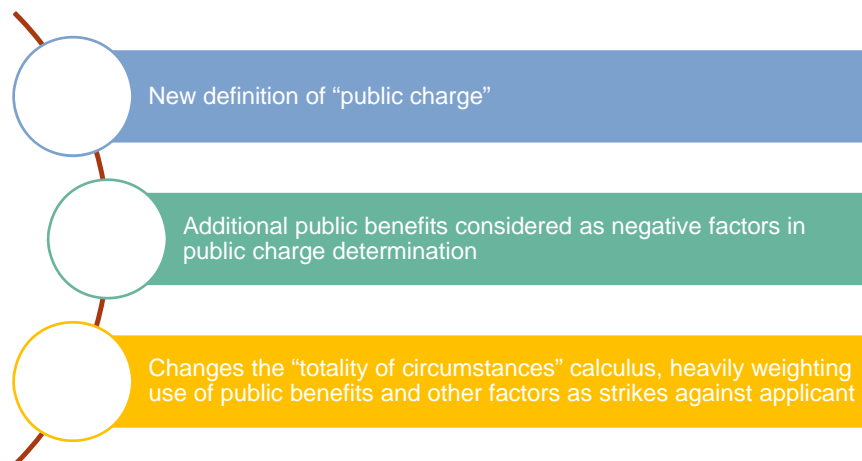
What is the current public charge test?

Definition	Public Benefits Considered
A person who is considered “likely to become primarily dependent on the government for subsistence”	Only two types of benefits considered: <ol style="list-style-type: none"> 1. Cash assistance for income maintenance (e.g., <i>SSI, TANF</i>) 2. Institutionalization for long-term care at government’s expense

What is the current public charge test?

- **Totality of circumstances considered**
 - Age
 - Health
 - Family status
 - Assets, resources, and financial status
 - Education and skills (including English language proficiency)
 - Affidavit of support
- **Forward-looking test:** Is the person likely to become a public charge in the future?
 - No one factor is determinative
 - Positive factors can outweigh negative factors

What would change under the proposed public charge rule?



New Definition of "Public Charge"

Currently

An immigrant "likely to become **primarily dependent** on the government for subsistence"

Proposed

An immigrant "likely at any time in the future to receive **one or more** public benefit"

Additional Public Benefits Considered

TANF	SSI	Other federal, state, or local cash assistance programs
Government-funded long-term institutional care	SNAP	Medicaid <i>Exceptions for emergency services & certain disability services offered in schools under IDEA</i>
Medicare Part D low-income subsidy	Housing assistance (public housing or Section 8 vouchers)	CHIP (Children's Health Insurance Program)

Already counted under current rule
 DHS asking for public input on whether to count CHIP as a public benefit

Proposed to be counted

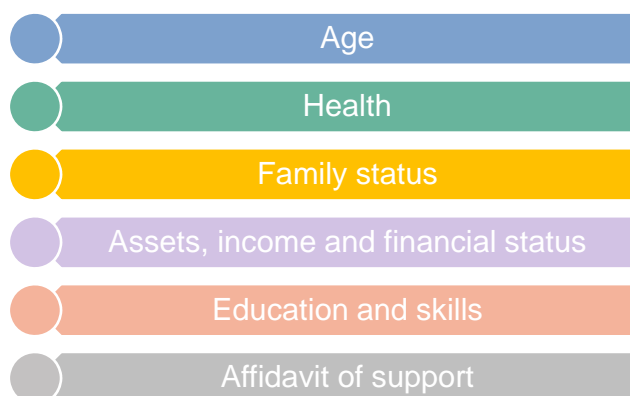
Public Benefits NOT Considered

Any benefit not specifically listed in the regulation would not be counted

- **CSBG**
- **LIHEAP**
- **Head Start**
- **Weatherization (WAP)**
- **Women, Infants, and Children (WIC)**
- **Employment or job-training (e.g., WIOA)**
- School breakfast and lunch
- Transportation vouchers or non-cash transportation services
- Non-cash TANF benefits
- Federal Earned Income Tax Credit and Child Tax Credit
- Disaster relief
- Emergency medical assistance
- Entirely state, local, or tribal programs (other than cash)
- **CHIP** (*DHS requests input on whether to include CHIP, but it is not included in proposed rule*)
- Benefits received by immigrant's family members

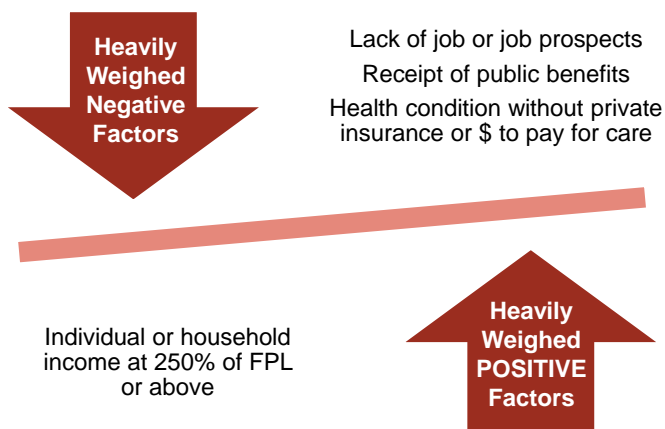
Totality of Circumstances Test

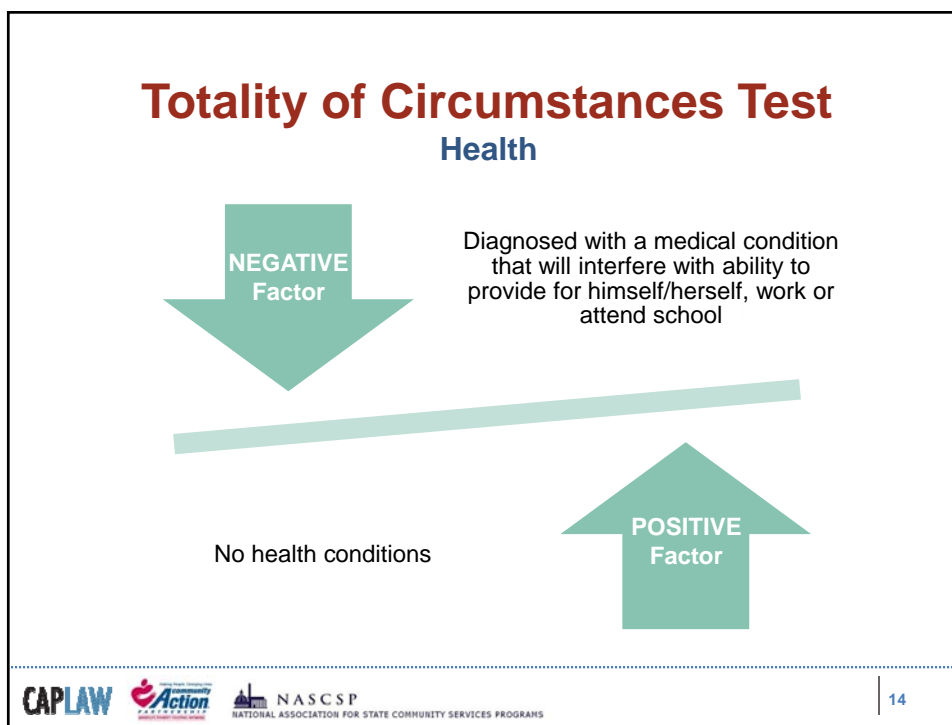
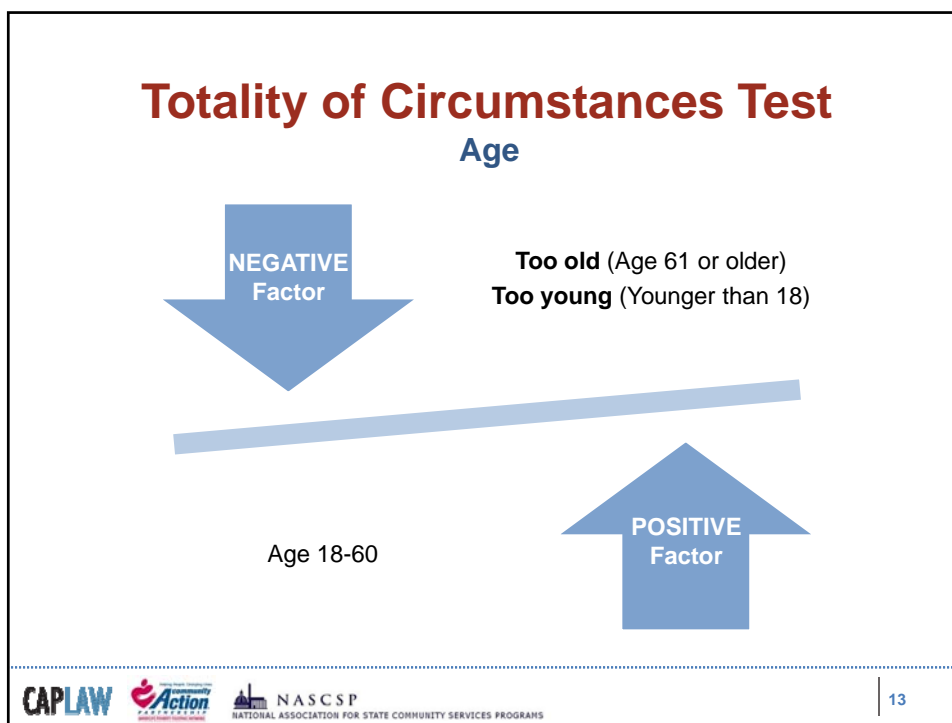
- Proposed rule continues to use the **totality of circumstances test**



Totality of Circumstances Test

Heavily Weighed Factors





Totality of Circumstances Test

Family Status

- Whether the individual's **household size** makes him/her more or less likely to become a public charge
 - Receipt of benefits by dependents (including U.S. citizen children) will not directly be a factor in individual's public charge test
 - If a child or family member is an immigrant, his/her own use of benefits counts toward his/her own public charge determination

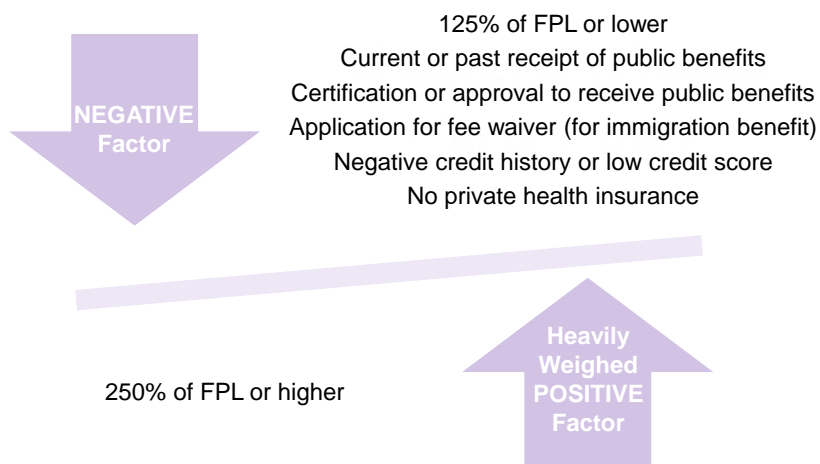


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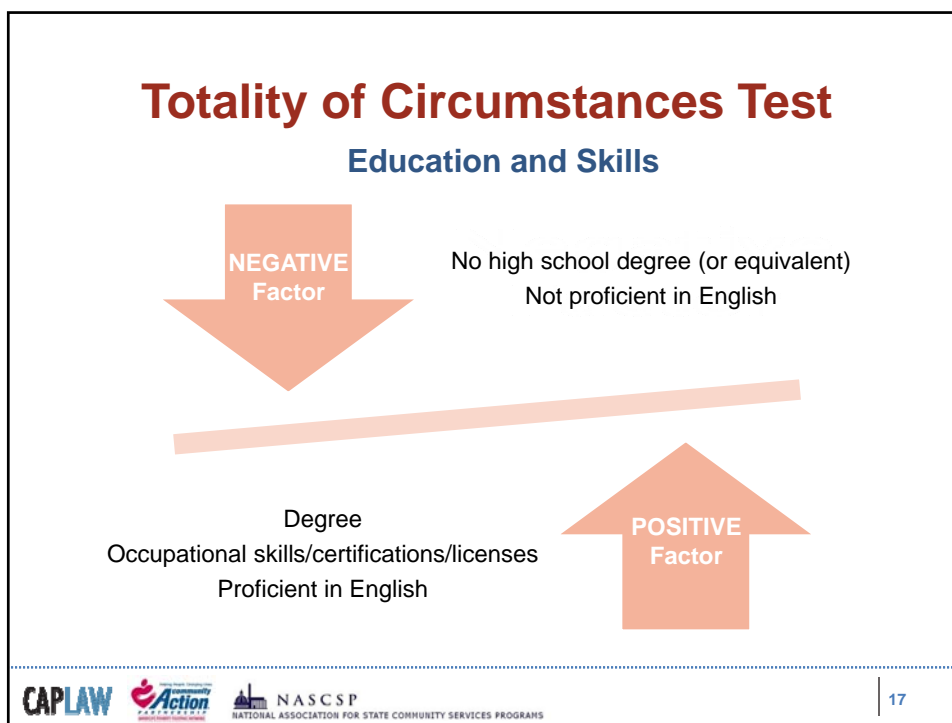
Totality of Circumstances Test

Assets and Income



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How does the proposed rule impact public benefits an individual currently receives?

The changes proposed in the new rule are **NOT** retroactive

Under the NPRM, benefits:

- Received before the proposed rule is finalized and
- That are currently excluded from the public charge test (*i.e., anything other than cash or long-term care*)

will **NOT** be considered in an individual's public charge determination

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Does the proposed rule affect an individual's eligibility to receive public benefits?

- **NO.** The proposed rule does not change the criteria for receiving public benefits.
- **However**, immigrants are faced with a difficult choice:

Forgo public benefits	Continue using public benefits
<ul style="list-style-type: none"> • Risk health and well-being of children and vulnerable families • Increase financial instability • Chilling effect on immigrant families who will avoid seeking services for which they are eligible (e.g., health insurance and food assistance) 	<ul style="list-style-type: none"> • Jeopardize immigration application to keep families together • Risk potential deportation

Public Charge FAQs

https://bit.ly/publiccharge_faqs



COMMUNITY ACTION
PUBLIC CHARGE FAQs

- 1. WHAT IS "PUBLIC CHARGE" AND WHEN DOES IT COME INTO PLAY?**
 "Public charge" is a concept under U.S. immigration law that currently refers to an immigrant who is likely to become "primarily dependent on the government for subsistence." Immigration officials can deny an individual's application for a visa or legal permanent resident (LPR) status (i.e., a green card) if they determine that the individual is likely to become a public charge at any time.¹ In other words, someone deemed to be a "public charge" can be denied a visa or a green card, which could lead to the person falling out of legal immigration status and becoming deportable.

 On October 10, 2018, the U.S. Department of Homeland Security (DHS) proposed a new rule² for making "public charge" determinations, making it harder for immigrants to enter the United States and to apply for a green card.
- 2. DOES THE "PUBLIC CHARGE" RULE APPLY TO ALL IMMIGRANTS?**
 The public charge determination does not apply when a green card holder is applying for citizenship or to certain other categories of immigrants, including: refugees; asylees; and victims of domestic violence, trafficking, or other serious crimes.
- 3. WHAT IS THE CURRENT "PUBLIC CHARGE" RULE?**
 Under the current rule, "public charge" refers to a person who is considered "likely to become primarily dependent on the government for subsistence." The only benefits that currently count towards the "public charge" test are cash assistance programs such as Temporary Assistance to Needy Families (TANF) and Supplemental Security Income (SSI), and long-term institutionalization at the government's expense. The current rule also counts state and local cash benefit programs for income maintenance (often called "General Assistance" programs, but which may exist under other names).
- 4. WHAT HAS CHANGED?**
 Nothing has changed yet. However, if DHS's proposed rule goes into effect, it would broaden the definition of "public charge" from a person "likely to become primarily dependent on the government for subsistence" to a person "likely at any time in the future to receive one or more public benefit." The fact that an individual has applied for, is currently receiving, or has been certified or approved to

Impact of Proposed Rule

Immediate Effects

- **Large scale disenrollment** of immigrants from public benefits programs
 - Including those not affected by the rule, due to confusion and risk aversion
- Immigrant families **reluctant to access any form of healthcare**, emergency or otherwise
- Immigrants **losing status** and thus becoming deportable
- Immigrants being **detained and deported**

Impact of Proposed Rule

Longer-Term Consequences

- **Increased health expenditures** associated with food insecurity
- **Uncompensated health care costs** to local hospitals from the loss of health coverage
- Cost of supporting **separated children**

Impact of Proposed Rule

As many as **26 million** people in families with immigrants may be afraid to participate in programs that make their families healthier and stronger

1 in 4 children have an immigrant parent

Sources

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



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Impact of Proposed Rule By Race and Ethnicity

- 18.3 million **LATINOS**
 - 33.4% of all LATINOS
- 3.2 million **ASIAN & PACIFIC ISLANDERS**
 - 17.4% of all API
- 1.8 million **BLACK & AFRICAN**
 - 4% of all BLACK & AFRICAN
- 2.5 million **WHITES**
 - 1% of all WHITES

Source

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



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Potential Impact on Community Action and Our Customers

■ Housing

- Public housing, Section 8 housing vouchers, and project-based Section 8
- May impact your CAA's housing program
 - Decreased applications
 - Confusion among families, extended families
- Fear of applying
- Less stability for families
- Increased risk of homelessness

■ SNAP

- Hunger
- Fear of applying
- Increased burden on CAA food pantries



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Potential Impact on Community Action and Our Customers

■ Rumor and Innuendo

- Chilling effects
- Inaccurate information and hard to find correct information
- Will communities be able to communicate clearly and accurately about coverage and availability?
- Other immigration actions have placed people on edge
- From the trauma informed care model we know this will have long term impacts on families



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Potential Impact on Community Action and Our Customers

▪ Early Childhood

- *Does NOT change eligibility for early childhood programs but we believe it will have a chilling effect*
- One estimate has this impacting 9.02 million children
- Research on Adverse Childhood Experience:
 - Increases in toxic stress for children at early stages of development impacts their whole lives
- **Head Start and Early Head Start**
 - While excluded from the list, the proposed rule will likely impact and **depress enrollment rates** given fear
 - Kids missing out on primary foundation for school success, health care screenings, etc.
 - Impact on families and CAAs
- **WIC**
 - Health impact at the earliest stages of life
 - Fear of applying leads to lack of nutrition prenatal and postnatal



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Potential Impact on Community Action and Our Customers

▪ LIHEAP

- *Does NOT change eligibility but we believe it will have a chilling effect*

▪ Free and Reduced Lunch

- *Does NOT change eligibility but we believe it will have a chilling effect*

▪ EITC and CTC

- VITA sites may be impacted with additional questions/concerns
- New training may be needed with volunteers



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How can you weigh on these changes?



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Submit Comments by December 10

Organizational Comments

- **Who?**
 - CAAs, State Associations, State CSBG Offices, and their partners
- **What?**
 - Edit template comments developed for Community Action
 - Include community- or state-specific information about harm that would be caused
- **Where?**
 - Regulations.gov
https://www.regulations.gov/comment?D=DHS_FRDOC_0001-1706

Individual Comments

- **Who?**
 - You and your colleagues and friends and family
- **What?**
 - Edit text at ProtectingImmigrantFamilies.org
 - Modify to include stories, experiences, examples of harm that would be caused
- **Where?**
 - ProtectingImmigrantFamilies.org



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Template Comments

Separate templates for:

- CAAs
- State Associations
- State CSBG Offices

https://bit.ly/publiccharge_templatecomments

Template Comments on the Proposed Public Charge Rule For Community Action Agencies (CAAs), State Community Action Associations, and State CSBG Offices

Background and Instructions for Use

On October 10, 2018, the U.S. Department of Homeland Security (DHS) proposed new "public charge" regulations that represent a significant departure from long-standing immigration policy. These proposed rules would make immigrant families afraid to seek programs that support their basic needs, including the Supplemental Nutrition Assistance Program (SNAP), or often referred to as food stamps, Medicaid, housing assistance including Section 8 vouchers and project-based rental assistance, and Medicare Part D subsidies.

Many Community Action Agencies (CAAs) provide services and programs that would be directly impacted by the proposed rule. Further, there is concern that fear and confusion about the proposed rule would create a chilling effect on immigrant families' decision to remain enrolled in programs offered by CAAs that are not impacted by the proposed rule. For more information about the details of the proposed changes, see this [Public Charge FAQ](#).

Your voice matters! The comment period is open through December 10, 2018 and is the best and only opportunity the public will have to weigh in on the proposed rule.

From now through December 10, 2018, individuals and organizations have the opportunity to voice their concerns about the public charge proposed rule to DHS through the official "notice-and-comment" period. DHS is required to read and consider all unique comments received, and explain whether they made changes in response. Because of that, we encourage CAAs, State Community Action Associations, and State CSBG offices to submit their own comments, rather than just signing onto others' comments.

Customize this template comment to make sure that your comment counts.

This template was put together by Community Action Program Legal Services (CAPLAW), the National Community Action Partnership, and the National Association for State Community Service Programs (NASCSPP) based on form comments developed by other advocacy organizations. It is intended to be used by individual CAAs, state associations, and state CSBG offices to customize and submit via the submission instructions below.

Please refer to the following templates and be sure to use the correct template for your organization:

Pages	Type of Organization
3-6	Community Action Agencies (CAAs)
7-10	State Community Action Associations (State Associations)
11-14	State CSBG Offices



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Template Comments for CAAs

(TEMPLATE COMMENT FOR CAAs)

Samantha Deshouillers, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
25 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2018-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Deshouillers:

I am writing on behalf of **Organization name** in response to the Department of Homeland Security's Notice of Proposed Rulemaking to express our strong opposition to the changes to the criteria to determine "public charge" published in the Federal Register on October 10, 2018. I work for a community-based anti-poverty organization helping families achieve economic security and self-sufficiency. I am deeply concerned by the proposed changes because I know firsthand that programs like the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and housing assistance and rental vouchers help families thrive. These changes will hurt immigrant families and children in our community. We urge that the rule be withdrawn in its entirety, and that long-standing principles clarified in the 1999 field guidance remain in effect.

Organization name is part of a nationwide network of over 1,000 local poverty-fighting Community Action Agencies (CAAs) supported by the Community Services Block Grant (CSBG). CSBG empowers states and local communities to take the lead on tackling poverty through innovative, flexible, and locally tailored solutions. The CSBG network serves 99% of U.S. counties, touching urban, rural, and suburban communities. **Organization name** has served **Community Name** for over **Number** years and is a trusted community organization with significant experience addressing the causes and conditions of poverty.

We believe that this proposed rule would have the following impact:

- Modify template to reflect your organization's unique experiences and perspective
- Share data and describe specific impact on the communities you serve
- Customize **yellow highlighted text**

Comments are more effective if they are specific and unique!

https://bit.ly/publiccharge_templatecomments

Pages 3-6



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Template Comments for CAAs

If your CAA runs Head Start, Early Head Start, or other early childhood education programs, consider adding the following arguments:

Our organization serves young children and their families through Head Start and Early Head Start programs. We believe that early intervention is critical to a child's future success. Participation in Head Start programs has been shown to result in better educational and health outcomes as well as lower rates of incarceration, ultimately saving local, state, and federal tax dollars.

The widespread fear and confusion due to this proposed rule has already caused families to withdraw their children from Head Start and other health and nutrition programs. Health and nutrition service providers noticed an increase in canceled appointments and requests to disenroll from menu-tested programs in 2017, when rumors of changes to the "public charge" rule first surfaced.³ Early childhood education programs have also reported drops in attendance and applications as well as reduced participation from immigrant parents in classrooms and at events, along with an uptick in missed appointments at health clinics.⁴ If you have examples from your community of drops in participation in Head Start/Early Head Start enrollment or if immigrant parents have expressed fear of signing up for programs or services, please describe here.

If your CAA provides food/nutrition services, consider including the following arguments:

Our organization helps families and individuals access food assistance and nutrition programs. Federal nutrition programs like SNAP were designed by Congress to be there for all citizens and eligible legal immigrants when they fall on hard times. This rule undermines congressional intent and our longstanding federal commitment to helping those who struggle to have enough healthy food. Targeting low-income families will only exacerbate hunger and food insecurity, unrest.

If your CAA runs WIOA/workforce development/adult education programs, consider adding the following arguments:

Our organization offers workforce development and adult education programs, and we believe the proposed rule would undercut state and local education and workforce policy goals. State and local governments regularly advance policies to improve the education and employability of their residents. For example, more than 40 states have established goals for postsecondary credential attainment, such as having 60 percent of state residents earn a college degree or other postsecondary credential by 2025.⁵

Arguments for 3 specific programs with green headers:

- Head Start
- Food/nutrition services (e.g., SNAP)
- Workforce development/adult education (e.g., WIOA)

Include arguments if your CAA offers any of these programs

https://bit.ly/publiccharge_templatecomments

Pages 3-6



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Template Comments for State Associations

TEMPLATE COMMENTS FOR STATE ASSOCIATIONS

Samantha Deshommes, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Deshommes:

I am writing on behalf of **State Association Name** in response to the Department of Homeland Security's Notice of Proposed Rulemaking to express our strong opposition to the changes to the criteria to determine "public charge," published in the Federal Register on October 10, 2018. I am the **Title** a statewide association of **Number** of local Community Action Agencies helping families achieve economic security and self-sufficiency. I am deeply concerned by the proposed changes because I know firsthand that programs like the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and housing assistance and rental vouchers help families thrive. These changes will hurt immigrant families and children in our community. We urge that the rule be withdrawn in its entirety, and that long-standing principles clarified in the 1999 field guidance remain in effect.

State Association Name is part of a nationwide network of over 1,000 local Community Action Agencies (CAAs) supported by the Community Services Block Grant (CSBG). CSBG empowers states and local communities to take the lead on tackling poverty through innovative, flexible, and locally tailored solutions. The CSBG network serves 99% of U.S. counties, touching urban, rural, and suburban communities. **State Association Name** has served **State Name** for over **Number** years and is a trusted community organization with significant experience addressing the causes and conditions of poverty.

We believe that this proposed rule would have the following impact:

- Modify template to reflect your state association's unique experiences and perspective
- Share data and describe specific impact on the communities that CAAs in your state serve
- Customize **yellow highlighted text**

Comments are more effective if they are specific and unique!

https://bit.ly/publiccharge_templatecomments

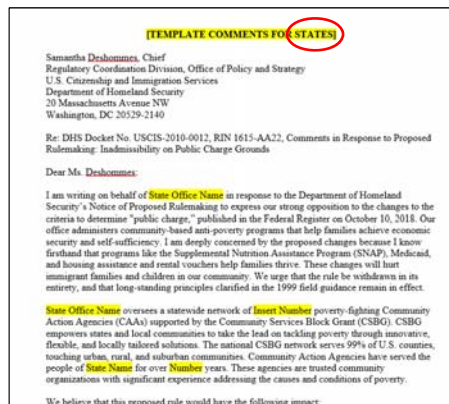
Pages 7-10



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Template Comments for State CSBG Offices



- Modify template to reflect the unique experiences and perspective of CAAs in your state
- Share data and describe specific impact on the communities that CAAs in your state serve
- Customize yellow highlighted text

Comments are more effective if they are specific and unique!

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Pages 11-14



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State CSBG Offices

- Follow state policies and procedures for commenting on proposed federal rules.
- Consider working with your state's government relations office
- Collaborate with other areas of state government to get buy in from other state agencies
- Comments from higher level of state government could have largest impact



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regulations.gov
Your Voice in Federal Decision-Making

You are commenting on:
The U.S. Citizenship and Immigration Services (USCIS) Proposed Rule: [Inadmissibility on Public Charge Grounds](#)
For related information, [Open Docket Folder](#)

1 Your Information
Information entered will be viewable on Regulations.gov
View Commenter's Checklist (PDF) | Alternate Ways to Comment

Comment (Required)

SUBMIT YOUR COMMENT
https://www.regulations.gov/document?D=DHS_FRDOC_0001-1706

You can't leave this field blank 5000 characters remaining

Upload file(s) (Optional)
Choose files Drop files here

First Name (Required) Last Name (Required)

☐ I want to provide my contact information
☐ I am submitting on behalf of a third party

Continue 37

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TIPS FOR SUBMITTING EFFECTIVE COMMENTS*

- ✓ There is **no minimum or maximum length** for an effective comment
- 9. **Identify credentials and experience** that may distinguish your comments from others. If you are commenting in an area in which you have relevant personal or professional experience (i.e., scientist, attorney, fisherman, businessman, etc.) say so.
- 10. Agency reviewers look for sound science and reasoning in the comments they receive. When possible, support your comment with **substantive data, facts, and/or expert opinions**. You may also provide personal experience in your comment, as may be appropriate. By supporting your arguments well you are more likely to influence the agency decision making.
- 11. Consider including **examples** of how the proposed rule would impact you **negatively or positively**.
- 15. **Keep a copy** of your comment in a separate file – this practice helps ensure that you will not lose your comment if you have a problem submitting it using the Regulations.gov web form.

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Full guide from regulations.gov [here](#) 38

Other Advocacy Avenues

- **Media**
 - Op/Eds, social media, interviews
- **FAQs for Community Action**
 - Available at https://bit.ly/publiccharge_faqs
- **Template Comments (for CAAs, State Associations, and State CSBG Offices)**
 - Available at https://bit.ly/publiccharge_templatecomments
- **Additional Resources**
 - Protecting Immigrant Families Campaign at protectingimmigrantfamilies.org

Questions?

Continue the Conversation

Community Action Partnership's
Management and Leadership Training
Conference Wednesday Plenary

Immigration and Equality of Opportunity

UnidosUS

January 16, 2019

New Orleans, LA

www.communityactionpartnership.com



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