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Final Rule Promises Noncitizens Seeking Health Benefits will not Face Immigration Consequences

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On September 15, 2022, DHS [issued a final rule](#) ensuring that non-citizens who receive or apply for public health benefits will not suffer immigration consequences. This significance of this rule relates to the way DHS will interpret the “[public charge](#)” grounds for inadmissibility when adjudicating citizenship applications. The controversial rule instructs immigration officials to use their discretion to deny green card applications and non-immigrant visa petitions for individuals it deemed likely to rely on public benefits such as public housing or food stamps. The Trump administration’s 2019 changes drastically expanded the definition of public charge from someone who is dependent on the government for subsistence to someone who is “more likely than not” to use certain public benefits in the future.

While the Biden administration [officially stopped applying](#) the 2019 public charge rule in March 2021, immigration advocates report the chilling effect of the Trump-era regulation remains. Many noncitizens remain afraid to seek the healthcare to which they are entitled for fear of immigration consequences. This rule seeks to alleviate that fear.

“Federal civil rights laws require that all people be afforded fair and just decisions when applying for health benefits and other supplemental government services, free of bias, stigma, and discrimination,” said Office for Civil Rights Acting Director Melanie Fontes Rainer. “Today’s rule sets up safeguards to help ensure that people with disabilities and older adults who are not U.S. citizens can access health care without fear. OCR will continue our robust enforcement of civil rights laws to ensure the rights of historically marginalized groups are upheld and defended.”

The final rule will take effect on December 23, 2022.