



Health Reform: **Beyond the Basics**

healthreformbeyondthebasics.org

Working with Immigrants: What Enrollment Assisters Need to Know Now

Coverage Year 2021

October 15, 2020

Presented by the Center on Budget and Policy Priorities
Shelby Gonzales, Director of Immigration Policy

In partnership with the National Immigration Law Center
Gabrielle Lessard, Senior Policy Attorney



Part IX: Assisting People with Disabilities

- Thursday, October 22 | 2 pm ET (11 am PT)

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Part I:

Climate of Fear and Confusion Threaten to Thwart Health Coverage Access



Los Angeles Times

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Trump administration's 'public charge' rule has chilling effect on benefits for immigrants' children

Bloomberg
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INSIGHTS

Wary Immigrants May Flee Obamacare Over 'Public Charge' Fears



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Immigrant Families Suffer Health Impacts, As Many Fear New Public Charge Rule

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Immigrants already dropping benefits ahead of new Trump rule, California counties say

THE
HILL

Pediatricians speak out: A 'public charge rule' is dangerous for children

BY DRS. AVITAL FISCHER, SUMEET BANKER AND CLAIRE ABRAHAM, OPINION CONTRIBUTORS — 09/01/19 05:00 PM EDT

kpbs



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Fear Of New Rule Might Be Impacting Immigrant Applications For Public Benefits



The Times Record

Local. Legitimate. Journalism.

Midcoast Maine's Only Daily Newspaper

Trump rule change on public benefits sows 'fear and confusion' among Maine immigrants

The rule change, which would not apply to refugees or asylum seekers, would expand the definition of who might become a 'public charge' in need of benefits provided by taxpayers.

| August 14, 2019

CaliforniaHealth
—REPORT—

As Families Drop Health Benefits Over 'Public Charge' Rule, Clinics Scramble to Respond



- Accessing ACA premium tax credits or cost sharing reductions to enroll in marketplace plans or enrollment in the Children's Health Insurance Program would not be negatively factored into a public charge assessment
- Having health insurance is a positive factor in the public charge test
- Most people who meet the Medicaid eligibility requirements are unlikely to ever go through a public charge assessment.
 - When past public benefit use is assessed under public charge, the benefits used by the person seeking a new immigration status are considered, not the use of their family members such as their children
- Far more people will forgo public benefits out of fear and confusion than those whose use of benefits would result in a negative immigration consequence.

Enrollment assistance providers are not expected to:

- Become immigration policy experts
- Tell people that their immigration status will be safe or at risk based on their decision to enroll in health coverage

Enrollment assistance providers can:

- Provide factual information about whether consumers are likely to undergo a public charge assessment, based on their current immigration status and immigration goals
- Provide factual information about what benefits are taken into account in a public charge determination
- Connect consumers with additional resources to help them make informed decisions
- Provide information about the value of comprehensive health insurance
- Provide information about privacy protections related to information shared for enrollment purposes

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 immigrants. Every family is different, and the programs that help your family might not be part of new changes to the policy. **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.

Part II:

Public Charge

- Public charge is part of immigration law
- A person who is deemed likely to become a public charge can be denied:
 - Permission to come to the U.S.
 - Lawful Permanent Resident (LPR) status, aka a green card
- It is **not** an eligibility factor for the enrollment in public health insurance/coverage programs
- For many decades, immigration law defined public charge as a person primarily dependent on the government for subsistence
- Department of Homeland Security (DHS) regulations that went into effect in 2020 define a public charge as a person who receives certain public benefits for 12 months in the aggregate out of a 36-month period

- Cash assistance for income maintenance
 - At any time
 - Federal, state or local
- Received on or after February 24, 2020:
 - SNAP (formerly Food Stamps)
 - Section 8
 - Public Housing
 - Medicaid, **except**:
 - *Medicaid for medical emergencies*
 - *Medicaid received by people under age 21*
 - *Medicaid received during pregnancy and for 60 days after*
 - *Other, exceptions apply*

- Benefits used by anyone other than the applicant for a visa or LPR status
 - Even if that person submitted the application on their behalf
- Short-term or special purpose cash benefits
- Disaster assistance
- State and local non-cash benefits
- WIC
- School meals
- Community Health Centers
- Hospital charitable or financial assistance
- Everything not explicitly listed!

- The assessment is forward looking: Is this person likely to become a public charge in the future?
- The law requires immigration officials to look at many factors (totality of the circumstances)
 - Age
 - Health
 - Financial resources
 - Dependents
 - Skills and work experience
- Sponsor's affidavit of support (if required)
- Benefits are considered as an indication of the person's financial status, but a person does not need to have received any benefits to be deemed **likely** to become a public charge

- Public charge primarily affects people seeking immigration status based on family relationships.
- Many immigrants whose status is based on humanitarian reasons are exempt from Public Charge inadmissibility, including:
 - Refugees and people granted asylum
 - Survivors of trafficking (T visa) and other serious crimes (U visa)
 - Many survivors of domestic violence, including self-petitioners under the Violence Against Women Act
 - Special immigrant juveniles

Certain people undergo a public charge assessment when they:

- Are seeking permission to come to the United States
- Are applying to become a lawful permanent resident (LPR, a.k.a. green card holder)
- An LPR who leaves the U.S. for over 6 months may be assessed when they return

Examples of times when no public charge test is completed:

- When a person with LPR status applies for citizenship
- When a person with LPR status renews their green card
- When a person who immigrated through a spouse applies to remove the conditions on their LPR status

Example: Ricky, Eva and Karina




- Ricky and Eva are married and have a daughter, Karina
- Ricky became a lawful permanent resident (LPR) 6 years ago
- Eva has a student visa
- Karina is a citizen of the U.S.



Who is Likely to Undergo a Public Charge Assessment?

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Immigration-Related Goal	Is this person likely to undergo a public charge assessment ?
 Seeking to obtain LPR status	Yes
 Seeking to become a citizen of the U.S.*	No. There is no public charge assessment in the application process to become a citizen of the U.S.
 N/A	No



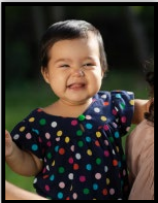
*If Ricky leaves the U.S. for more than 6 months, he may go through a public charge assessment

Part III:

How Public Benefit Use is Factored Into Public Charge Assessments

Could Benefit Use Negatively Impact a Public Charge Test?

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	Public Charge Assessment?	Health Eligibility Based on Status	Benefits Factored in Public Charge Assessment?
	Yes, Adjusting to LPR	QHP Marketplace	No
	No. Only may occur if leaves the country for more than 6 months	Medicaid	Yes
	No	Medicaid/CHIP	No, because she is under 21

- Am I eligible for help getting health coverage?
- Am I likely to undergo a public charge assessment?
- What would going without sufficient health coverage (and/or other supports like food and housing) mean for my family, our health and our financial status?
- “If I undergo a public charge assessment, would the health coverage I’m eligible for be taken into account?”

Part IV:

Understanding & Addressing Concerns Immigrants May Have When Applying for Health Programs

- Some people who are immigrants or have immigrants in their families fear that completing an application for health coverage — even for a U.S. citizen child — could expose that there are immigrants in the household
- Privacy rules protect families applying for health insurance, including families whose members have different immigration statuses

The Marketplace, Medicaid, and CHIP laws limit the use of information collected during the marketplace application processes: it can only be used to make eligibility determinations and must be protected from unauthorized disclosure for other purposes.

Citations: 42 U.S.C. § 18081(g)(1); 42 U.S.C. § 1320b-7(a)(5); 42 U.S.C. § 1396a(a)(7)

State workers, Marketplace employees and assister groups are required to keep information private and secure.

Citations: 42 U.S.C. § 18081(g)(2); 42 C.F.R. § 457.1110; 45 C.F.R. § 155.260(a)

- Households may include applicants and non-applicants:
 - **Applicants** are seeking enrollment and/or eligibility
 - **Non-applicants** are part of the households of an applicant but are not seeking enrollment or eligibility for themselves
- Non-applicants do not have to share information about their citizenship or immigration status
 - But they may have to provide other information such as income

Who needs coverage

Who are you applying for health coverage for?

- ☐ Jane Taxpayer only
- ☐ Jane Taxpayer & other family members
- ☒ Other family members, not Jane Taxpayer

Add these people

Review the information you entered so far.

You've added this person who isn't applying for coverage

Gloria Taxpayer
02/13/1950

Remember: The person listed above is in your household, but isn't applying for coverage. We need some information about them to determine your eligibility for help paying for coverage.

Is this information correct?

- ☒ Yes.
- ☐ No. I need to make changes to this information.

Medicaid and CHIP

SSNs are generally required of Medicaid applicants

- Coverage cannot be denied or delayed pending issuance or verification of SSN
- Medicaid agencies must help individuals apply for an SSN if they are eligible and don't have one, or if they don't know their SSN

Some applicants do not have to provide Social Security numbers (SSN), including:

- Newborns in process of obtaining an SSN
- Persons who have a religious objection
- Certain immigrants who are not eligible for an SSN or can only get an SSN for a non-work purpose such as certain domestic violence survivors, trafficking survivors, asylum applicants, and others

Marketplace

Only applicants who have an SSN are required to provide one.

Medicaid and CHIP

Non-applicant household members do not have to provide an SSN for Medicaid and CHIP.

Marketplace

Non-applicant household members should not be required to provide an SSN unless **ALL** of the following are true:

- ✓ The non-applicant is a tax filer (SSN not required for non-applicant tax dependent)
- ✓ The non-applicant has a SSN
- ✓ The non-applicant filed a federal tax return in the last year



Providing an SSN when available, may increase the likelihood that information consumers provide in the application can be verified electronically, which can reduce the amount of paper documentation consumers may have to turn in to prove their circumstances.

People who are not eligible for SSNs may use Individual Taxpayer Identification Numbers (ITINs) to file taxes, but health insurance affordability program applications should not request ITINs.

- Do not ask non-applicants to disclose their citizenship or immigration status
- Use broad questions and share general information about immigrant eligibility to help people identify who may want to apply for insurance while providing other welcoming messages
- When asking questions about immigration and citizenship status of applicants, avoid asking if individuals are “undocumented” or “not legally in the U.S.”
 - Instead use words like “eligible immigration status” or “statuses considered eligible for the marketplace”

FOR EXAMPLE:

“ We keep your information private and safe. The application asks for some information about everyone in your family, but only a family member seeking coverage for him or herself has to answer questions about immigration or citizenship. ”

“ The Marketplace provides coverage to citizens and noncitizens who are lawfully present. Here’s a list of immigration statuses that are eligible for Marketplace coverage. ”



National Immigration Law Center (NILC) Resources:

- [Summary: President's Proclamation Requiring Immigrants to Have Health Insurance](#)
- [Public Charge: Five Things to Know Now](#)

Protecting Immigrant Families Resources:

- [Public Charge: Does this Apply to Me?](#) (available in 13 languages at <https://protectingimmigrantfamilies.org/know-your-rights/>)
- [Public Charge: What Advocates Need to Know](#)

Kaiser Family Foundation Resources:

- [President Trump's Proclamation Suspending Entry for Immigrants without Health Coverage](#)

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For more information and resources, please visit:
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