

Public Charge: A Threat to the Health & Well-being of California Older Adults in Immigrant Families

Published October 17, 2018

The Trump Administration has proposed a rule that would hurt millions of older adults in immigrant families. If enacted, seniors and their families in California, and across the country, would be forced to make impossible choices between obtaining a permanent legal status in the U.S. and meeting their basic needs, caring for their children and aging parents, and keeping their families together.

Draft changes to the “public charge” rule put immigration status at risk if an immigrant accesses or seeks access to programs that support health, nutrition, and economic stability.

What is Public Charge?

The “public charge” test has been part of federal immigration law for decades. It is designed to identify people who may depend on government benefits as their main source of support. If the government determines someone is likely to become a “public charge,” the government can deny admission to the U.S. or refuse an application for lawful permanent residency.

Under the current policy, the only benefits considered in determining who is likely to become a “public charge” are cash assistance such as Supplemental Security Income (SSI), CalWORKs and comparable state and local programs, and government-funded institutional long-term care (including through Medi-Cal).

How Could the Proposed Rule Change Public Charge?

Under the [proposed rule](#), a “public charge” is an immigrant who receives one or more public benefits. The proposal changes how immigration officials would weigh a person’s age, health, financial resources, and skills in deciding whether a person is likely to use certain public benefits in the future. It specifies that certain factual circumstances would weigh heavily in favor of being determined likely to become a “public charge,” including those who:

- are younger than 18 or older than 61;
- have physical or mental conditions that interfere with their ability to care for themselves;
- earn less than 125% of Federal Poverty Level (FPL);
- are limited English proficient.

Furthermore, the rule would authorize immigration officials to consider a greatly expanded set of programs and benefits in making “public charge” determinations, including many programs that help older adults and their families meet basic needs. The proposed rule is clear that the following programs, essential to seniors

and their families, would be considered in making a public charge determination.

- Non-Emergency Medi-Cal, including home & community based services (HCBS) and Medicare Savings Programs
- Medicare Part D Low-Income Subsidy (also known as “Extra Help”)
- Government-funded institutional long-term care (including through Medi-Cal)
- CalFresh
- Housing programs, including Section 202 housing with Project-Based Rental Assistance, Section 8 housing vouchers, and Public Housing Supplemental Security Income (SSI), CalWORKs, and comparable state and local cash-assistance programs

Important: The proposed rule makes it clear that these changes will not apply to benefits received before the rule takes effect. Before an immigrant stops receiving benefits, they should talk to an immigration lawyer or BIA-accredited representative about their specific situation. The [National Immigration Legal Services Directory](#) lists free or low-cost options.

If the proposed rule is finalized, immigration officials would consider whether individuals on the path to citizenship have received or are likely to receive numerous government benefits that older adults rely on.

Millions of Older Californians Living in Immigrant Families May Face Difficult Choices about Meeting Their Basic Needs & Keeping Their Families Together

Seniors and parents of U.S. citizens are a large and growing segment of immigrants to the U.S. and are critical to the well-being of intergenerational families

Between 1990 and 2010, the number of immigrants in the United States age 65 and older grew from 2.7 million to [nearly 5 million](#). California has the largest number of immigrant older adults at 1.3 million, almost 30% of the total immigrant older adult population in the country. [Almost 1 in 3 older adults in California](#) is foreign born, and more than 2 out of 3 of immigrant older adults are limited English proficient. The number of parents of U.S. citizens who have been admitted as legal permanent residents [more than tripled](#) between 1994 and 2016. In making it harder for older adults to immigrate, the proposed rule ignores the critical roles many grandparents play in caring for their grandchildren and other family members.

An increasing share of paid caregivers for older adults are immigrants, and many of the immigrant direct care work force are themselves over age 55

As our aging communities grow, we will increasingly rely on immigrants to provide even more care. An [estimated one million immigrants work in direct care](#), making up a quarter of the workforce. More than four in five are women, and nearly a third are over age 55. Because caregiving jobs tend to be part time and low-wage, 40% rely on programs such as CalFresh and Medi-Cal to support themselves and their families. The proposed rule would threaten caregivers’ own health and economic security, as well as their important contribution to the well-being of our communities.

Many older adults, both citizens and noncitizens, live in families that benefit from programs that support their basic needs

[Almost 60%](#) of California's noncitizen adults age 55+ live in families that receive CalWORKS, SSI, CalFresh, and/or Medi-Cal/CHIP. Almost a quarter of U.S. born older adults and over 44% older adults who are naturalized citizens are part of families receiving these benefits.

This proposal will amplify the harm that the Trump Administration's anti-immigrant policy and rhetoric is already causing immigrant families to forgo basic needs like food and health care

[Recent reports](#) and [findings](#) indicate that growing fear and uncertainty among immigrant families is leading to decreased participation in programs like Medi-Cal and CalFresh.

U.S. citizens and residents may no longer be able to welcome their parents into the country. Seniors and their families may be afraid to go to the doctor or get help paying for food or rent.

California Seniors and Their Families Thrive When They Have Access to Programs and Services That Help Meet Their Basic Needs

Investing in nutrition, health care, and other essential and basic needs keeps seniors and their families strong, and allows all of us to contribute fully to our communities.

Seniors thrive when they have access to health care and social supports

Older adults have greater health care needs, and therefore, access to affordable health care is especially important. Comprehensive, affordable coverage ensures that older adults who often live on modest, fixed incomes have access to medical, oral health, and behavioral health care as well as social supports that help them stay in their homes and communities as they age.

Medicare is a lifeline for most seniors, providing coverage for hospital, doctors' visits, and prescription drugs. But many rely on programs to help them afford out-of-pocket costs. More than 1 in 3 of California's Medicare beneficiaries enrolled in Part D prescription drug coverage get "Extra Help" with their premiums and copays. [Nearly 12 million](#) seniors and people with disabilities nationwide, including over 1.4 million Californians, are enrolled in both Medicare and Medicaid, and [more than 1 in 5](#) of California's Medicare beneficiaries relies on Medi-Cal to help them pay for Medicare premiums and cost-sharing. Medi-Cal is also critical for long-term care, home and community-based services, dental, transportation, and other services Medicare does not cover and older adults could otherwise not afford.

Seniors thrive when they have nutritious food

A growing body of research extols the importance of CalFresh and other federal nutrition programs in supporting a senior's ability to stay healthy and age in place. Over 2 million seniors benefit from CalFresh each month.

Seniors thrive when they have affordable housing

Federal housing assistance programs provide vital support to over 1.7 million households with older adults who would otherwise be unable to afford the cost of shelter. Section 202 supportive housing is focused specifically on older adults, while many other households with older adults also rely on broader rental assistance programs including Housing Choice Vouchers, Section 8 Project-Based Rental Assistance (PBRA), and Public Housing.

Don't Let This Rule Harm Seniors and Their Loved Ones—Make Your Voice Heard!

If enacted, the public charge rule would continue the trend of chilling participation in many wide-ranging and vital programs due to the threat—both real and perceived—that seeking benefits could result in being denied a change in immigration status or entry into the U.S. for seniors, their loved ones, and their caregivers. This would fuel hunger and food insecurity among seniors, and could force older adults and their families to forgo filling prescriptions or visiting the doctor because they cannot afford to do so without health coverage.

The Administration is required by law to consider comments from the public on this proposed rule. Now is the time to tell the Department of Homeland Security not to enact changes to the public charge rule. Justice in Aging, the Food Research & Action Center, and others are working with the Protecting Immigrant Families Campaign to make sure individuals and groups that care about seniors fight back against the rule by [submitting comments](#) on or before **December 10, 2018**. Organizations looking for help drafting more detailed comments can [contact Justice in Aging](#). For general information, resources, and more ways to get involved, [visit ProtectingImmigrantFamilies.org](http://visit.ProtectingImmigrantFamilies.org) and follow #ProtectFamilies on social media.