



October 29, 2018

Submitted via www.regulations.gov

U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

RE: Comments on Proposed Regulation – Inadmissibility on Public Charge Grounds (DHS Docket No. USCIS-2010-0012)

Dear Sir or Madam:

I am writing on behalf of the Bigglesworth Family Foundation (“BFF”) to express our strong opposition to the Department of Homeland Security’s Notice of Proposed Rulemaking (“proposed rule”) on “public charge,” published in the Federal Register on October 10, 2018. The proposed rule would cause major harm to immigrants and their families and place a tremendous burden on localities, states, and philanthropy. **We urge that the rule be withdrawn in its entirety, and that the 1999 guidance remain in effect.**

Founded in 2010, BFF supports programs and projects that help create systemic change by strengthening the capacity of non-profit organizations and addressing delivery system and historic challenges. BFF strives to break the cycle of poverty by enhancing access to legal services for the most vulnerable in our communities and working to build a bridge for underrepresented people to meaningful careers in technology. To date, BFF has invested nearly \$2 million to support access to legal services and diversity in technology.

BFF is committed to providing justice to everyone, not just those who can afford it. The proposed rule would not only prioritize the wealthiest in our immigration system but undermine our nation’s fundamental values of equal opportunity and threaten to harm the health and well-being of our most underserved and underrepresented communities.

The Proposed Rule is Inconsistent with Existing Law, Policy, and Practice

The proposed rule would reverse more than a century of existing law, policy, and practice in interpreting “public charge.” The receipt of non-cash benefits has never been the determining factor in deciding whether an individual is likely to become a public charge. In fact, for almost two decades, U.S. immigration officials have explicitly assured, and immigrant families have relied on that assurance, that participation in programs like Medicaid and SNAP would not affect their ability to become lawful permanent residents.¹

The Proposed Rule Threatens Vital Human Service Systems

¹ U.S. Citizenship and Immigration Services, “Public Charge,” available at: <https://www.uscis.gov/greencard/public-charge> (last viewed Oct. 23, 2018).

At BFF, we believe that funding civil legal aid should be a core anti-poverty strategy and that all people should have access to justice. Many of our grantees are legal service providers that help immigrant families through their most challenging times and navigate complex public systems to receive services in health care, nutrition, and housing. The proposed rule will put tremendous strain on the organizations and institutions that work with and provide services to immigrants and their children, including hospitals, community centers, social service agencies, and food banks, among others. For example, nationally, over 19 million, or one in four, children live in a family with an immigrant parent, and nearly nine in ten of these children are U.S. citizens.² The proposed rule is expected to lead to significant decreases in Medicaid participation among legal immigrant families and their primarily U.S.-born children, leading to higher uninsured rates and worse health outcomes.³

As fewer immigrant families use publicly-funded human service programs, the demand for privately-funded services – like those supported by philanthropic and other charitable dollars – will likely increase. Philanthropy will be compelled to divert resources to meet the increased need. However, while philanthropy is well-situated to supplement and enhance public services, it is not sustainable or possible for philanthropy to fill the void due to decreased participation in government-run programs, lacking both the scale of resources and the delivery mechanisms deployed by the government.

The Chilling Effect of the Proposed Rule Jeopardizes Families' Health and Stability

The proposed regulation will increase fear among immigrant families, deterring them from using vital programs and making it more difficult for legal service providers to ensure that families enroll in services to which they are legally eligible. The chilling effect of the proposed rule will also make it harder for legal service providers to encourage immigrant families to seek legal advice in the first place.

A decline or drop off in enrollment from services by immigrant families would negatively impact the overall wellbeing of families and the broader community as well. For example, following the 1996 welfare reform law, use of public benefits by individuals who remained eligible under the new restrictions plummeted.⁴ If the proposed rule went into effect, one recent study estimates that 875,000 to 2 million citizen children with a non-citizen parent could drop off of Medicaid/CHIP coverage despite remaining eligible, increasing their uninsured rate from 8% to between 14% and 22%.⁵ From worse health outcomes to increased public health risks, the proposed rule would have negative consequences for communities everywhere.

The Proposed Rule Rolls Back Philanthropic Investments

² See Kaiser Family Foundation, *Proposed Changes to “Public Charge” Policies for Immigrants: Implications for Health Coverage* (September 2018).

³ *Id.*

⁴ Food stamp use fell by 53 percent among US-citizen children in families with a noncitizen parent and by 60 percent among refugees - even though the welfare reform law did not restrict the eligibility of either group for the program. See Jeanne Batalova, et al., *Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use*, Migrant Policy Institute (June 2018) at 15.

⁵ Samantha Artiga, et al., *Potential Effects of Public Charge Changes on Health Coverage for Citizen Children*, Kaiser Family Foundation (May 2018).



The proposed rule will roll back decades of investment by philanthropy to increase immigrant families' access to health and social services, reduce racial and ethnic disparities, improve community health and wellbeing, help families weather temporary financial pressures and illnesses, and facilitate long-term self-sufficiency and upward mobility. If enacted, the proposed rule could result in the reallocation of valuable philanthropic resources at the expense of other issues. For example, in 2017, BFF contributed over \$400,000 to legal service organizations throughout the nation. A significant number of grants were to support legal services for communities affected by the wildfires in Northern California, Hurricane Harvey in Texas, and Hurricane Maria in Puerto Rico. If the proposed rule goes into effect, the resources of funders, like BFF, will be strained to ensure continued access to vital services for families affected by the rule and address emerging and often urgent needs of communities across the country.

BFF believes that reducing poverty and increasing access to justice must be established in order to have a fair and humane society. The proposed rule will adversely impact the well-being of communities the nation, increasing poverty and harming underrepresented communities. Therefore, we urge that the rule be withdrawn in its entirety.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Solot'.

Claire M. Solot
Co-Founder & Managing Director
Bigglesworth Family Foundation

Potential Effects of Public Charge Changes on Health Coverage for Citizen Children

Samantha Artiga, Anthony Damico, and Rachel Garfield

Key Findings

The Trump Administration is pursuing changes that, for the first time, would allow the federal government to take into account use of Medicaid, CHIP, subsidies for Marketplace coverage and other health, nutrition, and non-cash programs when making public charge determinations. These changes would likely lead to decreased participation in Medicaid, CHIP, Marketplace coverage, and other programs among legal immigrants and their citizen children, even though they would remain eligible. This brief provides an overview of citizen children with a noncitizen parent potentially affected by the changes and analyzes three Medicaid/CHIP disenrollment scenarios to illustrate how the changes could potentially affect their health coverage and uninsured rate.

In 2016, there were 10.4 million citizen children with at least one noncitizen parent. Nearly nine in ten of these children live in a family with a full-time worker, but these workers often are in low-wage jobs, leading to lower family incomes and more limited access to health coverage. As such, over half (56%), or 5.8 million, citizen children with a noncitizen parent had Medicaid or CHIP coverage in 2016. (See Appendix tables for state data.)

We illustrate the potential impact of different Medicaid/CHIP disenrollment rates and show that, if the policy leads to disenrollment rates from 15% to 35%, an estimated 875,000 to 2 million citizen children with a noncitizen parent could drop Medicaid/CHIP coverage despite remaining eligible. The majority disenrolling would become uninsured, increasing their uninsured rate from 8% to between 14% and 22% and the uninsured rate for all children from 5% to between 6% and 7%. Although it is difficult to predict the effect of the policy change, these disenrollment rates illustrate the potential impact and draw on previous research on the chilling effect welfare reform had on enrollment of immigrant families. However, unlike the current draft policy, welfare reform did not affect immigration status. Thus, this illustrative analysis may underestimate the policy's impact on Medicaid/CHIP participation. In addition, this analysis does not account for coverage losses that would result from decreased participation in Marketplace coverage.

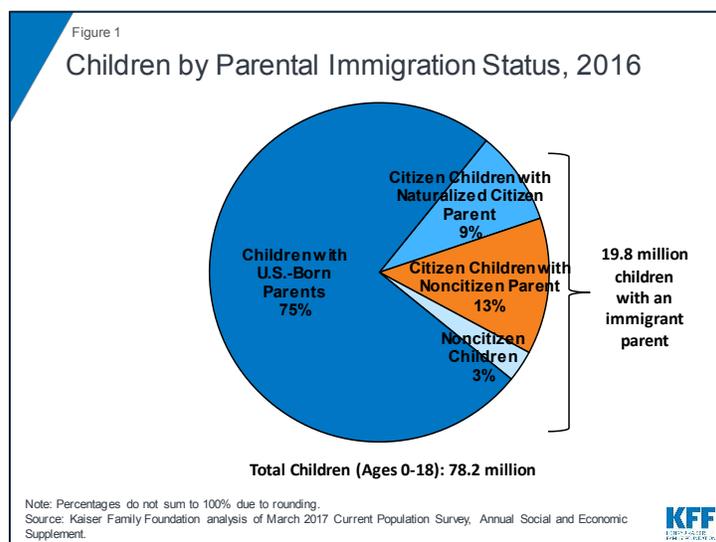
Coverage losses would negatively affect the health of children and their families' financial stability. Coverage losses would reduce access to care, contributing to worse health outcomes. Moreover, reduced participation in nutrition and other support programs that are also proposed to be considered as part of public charge determinations would likely compound these effects.

Introduction

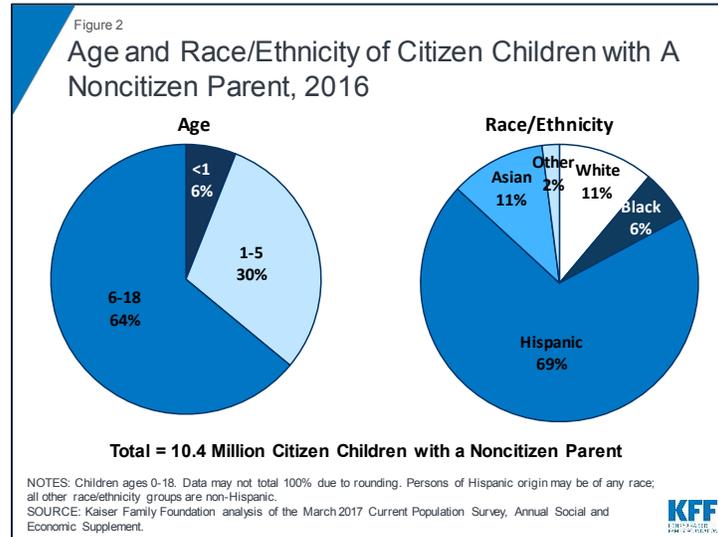
The Trump Administration is pursuing changes that, for the first time, would allow the federal government to take into account use of health, nutrition, and other non-cash programs when making public charge determinations. Under these changes, use of these programs, including Medicaid, CHIP, and subsidies for Marketplace coverage, by an individual or family member, including a citizen child, could result in the federal government denying an individual a “green card” or adjustment to lawful permanent status or entry into the U.S. These changes would likely result in reduced participation in Medicaid, CHIP, Marketplace coverage, and other programs by immigrant families, including citizen children, even though they would remain eligible. Decreases in Medicaid and CHIP enrollment would increase the number of uninsured and reduce access to care, increase financial strains on families, and widen disparities in coverage. This brief provides an overview of citizen children with a noncitizen parent who could potentially be affected by the proposed changes and presents three Medicaid/CHIP disenrollment scenarios to illustrate how the changes could potentially affect their health coverage and uninsured rate. It is based on Kaiser Family Foundation analysis of Current Population Survey Data. (See Methods for more details.) Appendix Tables 2 and 3 provide state-specific data.

Overview of Citizen Children with a Noncitizen Parent

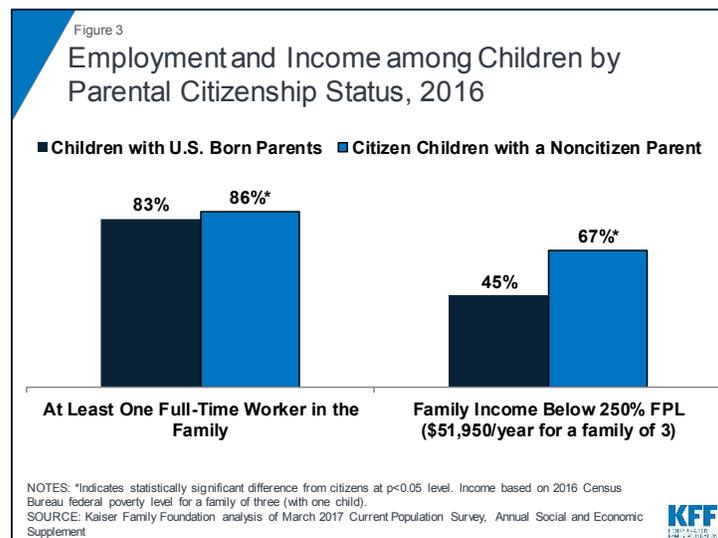
In 2016, nearly 20 million, or one in four, children had at least one immigrant parent, and nearly nine in ten (88%) of these children were citizens (Figure 1). Over half, or 10.4 million, of these children lived in mixed status families, where the child is a citizen and at least one parent is a noncitizen. Citizen children with a noncitizen parent are heavily concentrated in a few states. Over half of children with a noncitizen parent live in California (25%), Texas (16%), New York (7%), and Florida (6%) (Appendix Table 2).



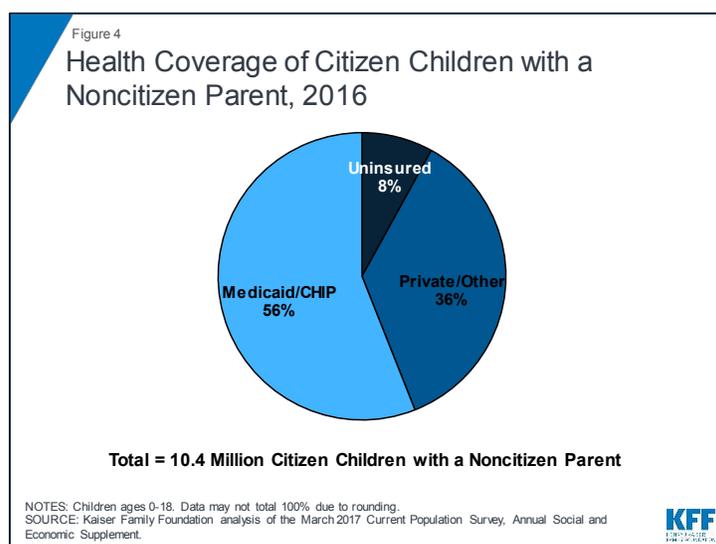
Citizen children with a noncitizen parent range in age and race/ethnicity, although the majority are between ages 6-18 and Hispanic (Figure 2). About one in three (36%) citizen children with a noncitizen parent are below age six; the remaining 64% are between ages 6-18. Over two-thirds (69%) of citizen children with a noncitizen parent are Hispanic and 11% are Asian. The remaining 19% includes 11% who are White non-Hispanic, 6% who are Black non-Hispanic, and 2% who are another or mixed race.



Although citizen children with a noncitizen parent are more likely to live in a family with a full-time worker compared to those with U.S. born parents, they have lower family incomes. Nearly nine in ten (86%) citizen children with a noncitizen parent live in a family with at least one full-time worker (Figure 3). However, over two-thirds (67%) of citizen children with a noncitizen parent have family incomes below 250% of the federal poverty level (FPL), compared to 45% of children with U.S. born parents. This finding reflects that noncitizens are often employed in low-wage jobs and industries.



Reflecting their lower family incomes, Medicaid and CHIP play a key role in covering citizen children with a noncitizen parent, but they remain more likely than those with U.S. born parents to be uninsured. Given that over two-thirds of citizen children with a noncitizen parent have family incomes below 250% FPL, many are within the income eligibility limits for Medicaid or CHIP.¹ As such, Medicaid and CHIP cover over half (56%), or 5.8 million, citizen children with a noncitizen parent. This coverage helps to fill gaps in private coverage since many noncitizen parents work in low-wage jobs that often do not offer health coverage. However, citizen children with a noncitizen parent remain more likely than children with U.S. born parents to be uninsured (8% vs. 5%). Moreover, their parents are more than three times as likely to be uninsured themselves compared to U.S. born parents (24% vs. 7%).



Potential Coverage Losses Due to Public Charge Policies

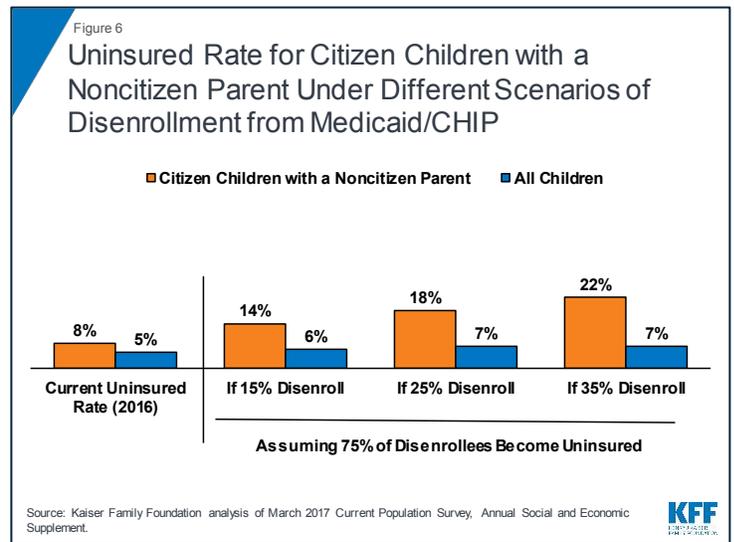
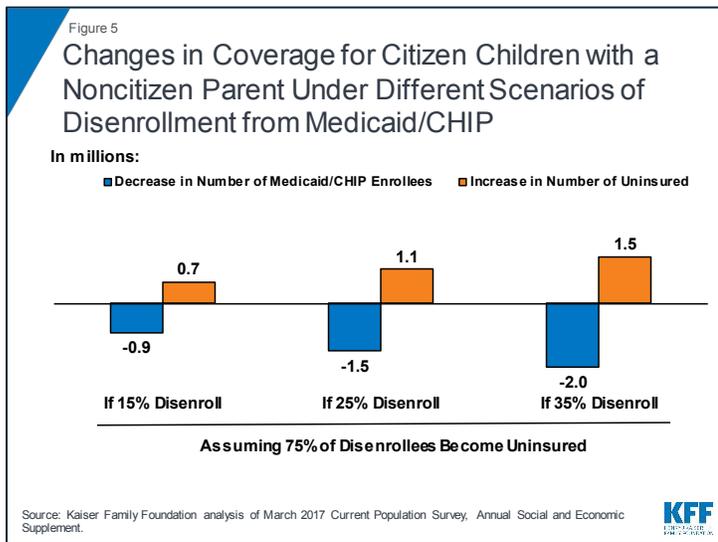
Under [draft changes proposed](#) by the Trump Administration, use of health, nutrition, and other non-cash programs by an individual or a family member, including a citizen child, could result in the federal government denying an individual adjustment to lawful permanent resident status (i.e., a “green card”) or entry into the United States.² Under longstanding policy, individuals who are determined to be a “public charge” can be denied lawful permanent residence or entry into the U.S. Today, individuals may be determined a public charge if they rely on or are likely to rely on public cash assistance or government funded long-term institutional care. Current policy does not allow the federal government to consider the use of non-cash benefits, such as health and nutrition programs, in public charge determinations. Under the draft proposed changes, the federal government could consider previously excluded health, nutrition, and other non-cash programs in public charge determinations. These programs would include Medicaid, CHIP, and subsidies for Marketplace coverage. In addition, the changes would newly allow the federal government to take into account use of programs by citizen children and other family members in making a public charge determination.

The changes in public charge policy would likely lead to decreased participation in Medicaid, CHIP, Marketplace coverage, and other programs among legal immigrant families, including their citizen children, even though they would remain eligible. Fears of negative consequences on immigration status are a barrier to Medicaid and CHIP enrollment for eligible immigrant families today even though the federal government cannot consider use of Medicaid and CHIP in public charge determinations under current policy.³ The proposed changes would amplify these fears because use of Medicaid, CHIP, as well as subsidies for Marketplace coverage and other programs could negatively affect immigration status. The preamble to the draft proposed rule notes, “the action provides a strong disincentive for the receipt or use of public benefits by aliens, as well as their household members, including U.S. children.” It is expected that the public charge policy change would primarily affect individuals seeking a green card through a family-based petition. However, increased fears would likely extend beyond individuals directly affected by the policy to the broader immigrant community.⁴ Due to increased fears, it is likely that fewer eligible individuals would enroll themselves and their children in health coverage and individuals currently enrolled in programs would disenroll themselves and their children despite remaining eligible for coverage.

To illustrate potential effects of these changes on health coverage of children, we present three scenarios of disenrollment from Medicaid and CHIP among citizen children with a noncitizen parent. As of 2016, 5.8 million citizen children with a noncitizen parent were enrolled in Medicaid or CHIP (see Appendix 2 for state data), and 790,000 or 8% were uninsured. We applied disenrollment rates from Medicaid and CHIP of 15%, 25%, and 35%. Although it is difficult to predict the effect of the policy change, these disenrollment rates illustrate the potential impact and draw on previous research on the chilling effect welfare reform had on enrollment of immigrant families.⁵ However, unlike the current draft policy, welfare reform did not affect immigration status. Thus, this illustrative analysis may underestimate the impact that the policy may have on participation in Medicaid/CHIP. We assume that 75% of children disenrolling from Medicaid and CHIP would become uninsured based on data showing some access to private coverage among this population.⁶ However, some families may not be able to afford private coverage even if it is available. As such, this analysis may underestimate the share of children disenrolling from Medicaid/CHIP who would become uninsured. In addition, this analysis does not account for decreased coverage due to fewer individuals enrolling their eligible children in Medicaid or CHIP or coverage losses that would result from decreased participation in Marketplace coverage.

If the public charge policy change leads to Medicaid/CHIP disenrollment rates ranging from 15% to 35%, an estimated 875,000 to 2 million citizen children with a noncitizen parent could drop Medicaid/CHIP coverage despite remaining eligible, and their uninsured rate would rise from 8% to between 14% and 22%. Specifically, as shown in Figures 5 and 6 and Appendix Table 1:

- **A 15% decline in Medicaid/CHIP enrollment among citizen children with a noncitizen parent would result in 875,000 children losing Medicaid/CHIP coverage and 657,000 becoming uninsured.** These losses would increase the uninsured rate for citizen children with a noncitizen parent from 8% to 14%, and the uninsured rate for all children would increase from 5% to 6%.
- **A 25% decline in Medicaid/CHIP enrollment among citizen children with a noncitizen parent would result in 1.5 million children losing Medicaid/CHIP coverage and 1.1 million becoming uninsured.** These losses would increase the uninsured rate for citizen children with a noncitizen parent from 8% to 18%, and the uninsured rate for all children would increase from 5% to 7%.
- **A 35% decline in Medicaid/CHIP enrollment among citizen children with a noncitizen parent would result in 2.0 million children losing Medicaid/CHIP coverage and 1.5 million becoming uninsured.** These losses would increase the uninsured rate for citizen children with a noncitizen parent from 8% to 22%, and the uninsured rate for all children would increase from 5% to 7%.



Coverage losses would negatively affect the health of children and their families' financial stability. Coverage losses would reduce access to care, contributing to worse health outcomes.⁷ Reduced participation in nutrition and other programs that are also proposed to be considered in public charge determinations would likely compound these effects. In particular, the Earned Income Tax Credit, free or reduced price lunch program, Supplemental Nutrition Assistance Program, and Women Infant and Children's Program (WIC) provide important sources of support for these households (Appendix 3). Decreased participation in these programs would negatively affect the financial stability of families and the growth and healthy development of their children.⁸

Methods

Findings in this brief are based on Kaiser Family Foundation analysis of the March 2017 Current Population Survey, Annual Social and Economic Supplement. Children include individuals ages 0-18. For the analysis, children are grouped into mutually exclusive categories, including: children with U.S. born parents, citizen children in a household where at least one parent is a naturalized citizen, citizen children in a household where at least one parent is a noncitizen, and noncitizen children.

For estimates of potential changes in coverage due to public charge policies, we present several scenarios using different disenrollment rates for Medicaid and CHIP. These disenrollment scenarios are illustrative of the potential impact of the public charge policy change and draw on previous research on the chilling effect welfare reform had on enrollment of immigrant families. Specifically, Kaushal and Kaestner found 25% disenrollment among children of foreign-born parents.¹ This study was most relevant to our analysis given its focus on children and its inclusion of children who remained eligible after the welfare reform changes. Using this 25% disenrollment rate as a midpoint, we also examined the impact if the disenrollment rate was lower at 15% or higher at 35% to illustrate the impact of alternate disenrollment rates given uncertainty about the actual impact if the policy is implemented. Because, unlike the current draft proposed policy, welfare reform did not affect immigration status, this illustrative analysis may underestimate the impact the policy may have on participation in Medicaid/CHIP.

The estimates also assume that 75% of those disenrolling from Medicaid and CHIP would become uninsured. This assumption is based on Kaiser Family Foundation analysis of Current Population Survey data showing some access to private coverage among this population. However, this analysis may underestimate the share of children disenrolling from Medicaid/CHIP who would become uninsured since some families may not be able to afford private coverage even if it is available. Further, this analysis does not account for decreased coverage due to fewer individuals enrolling their eligible children in Medicaid or CHIP or coverage losses that would result from decreased participation in Marketplace coverage.

¹ Neeraj Kaushal and Robert Kaestner, "Welfare Reform and Health Insurance of Immigrants," *Health Services Research*, 40(3), (June 2005), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361164/>

This brief was prepared by Samantha Artiga and Rachel Garfield, with the Kaiser Family Foundation, and Anthony Damico, an independent consultant to the Kaiser Family Foundation.

Appendix Table 1: Projected Changes in Children’s Coverage Based Assumed Disenrollment of Citizen Children with a Noncitizen Parent from Medicaid/CHIP (in Millions)

	Current Coverage (as of 2016)	15% Disenrollment Rate	25% Disenrollment Rate	35% Disenrollment Rate
Number Disenrolled from Medicaid/CHIP		0.9	1.5	2.0
Increase in Uninsured (if 75% of disenrollees become uninsured)		0.7	1.1	1.5
Citizen Children with a Noncitizen Parent				
Medicaid/CHIP	5.8	5.0	4.4	3.8
Uninsured	0.8	1.4	1.9	2.3
Uninsured Rate	8%	14%	18%	22%
Total Children				
Medicaid/CHIP	29.8	28.9	28.4	27.8
Uninsured	4.2	4.9	5.3	5.7
Uninsured Rate	5%	6%	7%	7%

Source: Kaiser Family Foundation analysis of March 2017 Current Population Survey, Annual Social and Economic Supplement.

Appendix Table 2: Medicaid/CHIP Coverage for Citizen Children With a Noncitizen Parent, 2016

	All Children	Citizen Children with a Noncitizen Parent		
		Total	Income <250% FPL	Medicaid/CHIP Coverage
United States	78,150,000	10,398,000	6,985,000	5,836,000
Alabama	1,155,000	59,000	44,000	34,000
Alaska	202,000	11,000	NA	NA
Arizona	1,715,000	312,000	264,000	168,000
Arkansas	742,000	38,000	26,000	20,000
California	9,678,000	2,559,000	1,815,000	1,567,000
Colorado	1,318,000	136,000	NA	84,000
Connecticut	804,000	83,000	42,000	45,000
Delaware	215,000	25,000	15,000	12,000
DC	128,000	12,000	6,000	5,000
Florida	4,450,000	638,000	416,000	308,000
Georgia	2,666,000	315,000	238,000	204,000
Hawaii	319,000	37,000	23,000	17,000
Idaho	473,000	49,000	42,000	NA
Illinois	3,048,000	442,000	251,000	224,000
Indiana	1,694,000	NA	NA	NA
Iowa	756,000	46,000	39,000	29,000
Kansas	763,000	65,000	50,000	NA
Kentucky	1,104,000	NA	NA	NA
Louisiana	1,176,000	36,000	NA	NA
Maine	272,000	NA	NA	NA
Maryland	1,428,000	190,000	113,000	91,000
Massachusetts	1,480,000	208,000	105,000	102,000
Michigan	2,280,000	118,000	46,000	55,000
Minnesota	1,383,000	131,000	NA	NA
Mississippi	768,000	19,000	NA	NA
Missouri	1,479,000	63,000	NA	NA
Montana	241,000	6,000	NA	NA
Nebraska	500,000	56,000	39,000	26,000
Nevada	729,000	140,000	94,000	61,000
New Hampshire	283,000	NA	NA	NA
New Jersey	2,077,000	362,000	194,000	150,000
New Mexico	522,000	65,000	53,000	46,000
New York	4,397,000	678,000	406,000	392,000
North Carolina	2,450,000	300,000	221,000	197,000
North Dakota	188,000	NA	NA	NA
Ohio	2,792,000	126,000	81,000	70,000
Oklahoma	1,023,000	121,000	97,000	90,000
Oregon	933,000	162,000	127,000	110,000
Pennsylvania	2,836,000	165,000	86,000	97,000
Rhode Island	217,000	25,000	NA	NA
South Carolina	1,183,000	76,000	44,000	NA
South Dakota	229,000	NA	NA	NA
Tennessee	1,550,000	104,000	82,000	58,000
Texas	7,731,000	1,644,000	1,170,000	966,000
Utah	963,000	76,000	56,000	NA
Vermont	131,000	NA	NA	NA
Virginia	2,013,000	243,000	151,000	93,000
Washington	1,721,000	262,000	164,000	157,000
West Virginia	398,000	NA	NA	NA
Wisconsin	1,396,000	NA	NA	NA
Wyoming	153,000	6,000	4,000	NA

NA: Estimate not reported; Relative Standard Error is greater than 30%. FPL is Federal Poverty Level.

Source: Kaiser Family Foundation analysis of March 2017 Current Population Survey, Annual Social and Economic Supplement.

Appendix Table 3: Household Use of Selected Programs for Citizen Children with a Non-Citizen Parent, 2016

	Earned Income Tax Credit	Free or Reduced Price Lunch	Supplemental Nutrition Assistance Program	Women, Infant, and Children's Service
United States	5,849,000	5,267,000	2,644,000	1,932,000
Alabama	38,000	29,000	NA	NA
Alaska	NA	NA	NA	NA
Arizona	241,000	195,000	123,000	88,000
Arkansas	20,000	22,000	NA	NA
California	1,554,000	1,507,000	715,000	573,000
Colorado	64,000	47,000	NA	NA
Connecticut	33,000	39,000	NA	NA
Delaware	13,000	11,000	NA	NA
DC	6,000	4,000	NA	NA
Florida	321,000	279,000	159,000	102,000
Georgia	201,000	162,000	NA	NA
Hawaii	18,000	16,000	NA	NA
Idaho	38,000	28,000	20,000	NA
Illinois	194,000	181,000	94,000	NA
Indiana	46,000	NA	NA	NA
Iowa	25,000	24,000	NA	NA
Kansas	50,000	47,000	NA	21,000
Kentucky	20,000	23,000	NA	NA
Louisiana	19,000	18,000	NA	NA
Maine	NA	NA	NA	NA
Maryland	103,000	89,000	NA	NA
Massachusetts	82,000	71,000	NA	41,000
Michigan	44,000	NA	NA	NA
Minnesota	76,000	76,000	NA	NA
Mississippi	10,000	NA	NA	NA
Missouri	33,000	36,000	NA	NA
Montana	NA	NA	NA	NA
Nebraska	36,000	32,000	NA	NA
Nevada	87,000	77,000	NA	NA
New Hampshire	NA	NA	NA	NA
New Jersey	171,000	127,000	NA	NA
New Mexico	42,000	32,000	31,000	13,000
New York	352,000	296,000	194,000	73,000
North Carolina	171,000	200,000	88,000	103,000
North Dakota	5,000	NA	NA	5,000
Ohio	61,000	62,000	60,000	NA
Oklahoma	78,000	55,000	45,000	54,000
Oregon	102,000	107,000	61,000	NA
Pennsylvania	63,000	63,000	54,000	NA
Rhode Island	14,000	15,000	12,000	NA
South Carolina	37,000	37,000	NA	NA
South Dakota	6,000	5,000	NA	NA
Tennessee	62,000	59,000	36,000	NA
Texas	987,000	856,000	395,000	289,000
Utah	42,000	26,000	NA	NA
Vermont	NA	NA	NA	NA
Virginia	119,000	79,000	NA	38,000
Washington	117,000	145,000	91,000	78,000
West Virginia	NA	NA	NA	NA
Wisconsin	33,000	27,000	NA	NA
Wyoming	NA	NA	NA	NA

NA: Estimate not reported; Relative Standard Error is greater than 30%.

Source: Kaiser Family Foundation analysis of March 2017 Current Population Survey, Annual Social and Economic Supplement.

ENDNOTES

¹ The median Medicaid/CHIP eligibility level for children across states is 255% FPL as of January 2018. Tricia Brooks, Karina Wagnerman, Samantha Artiga and Elizabeth Cornachione, Medicaid and CHIP Eligibility, Enrollment, Renewal, and Cost Sharing Policies as of January 2018: Findings from a 50-State Survey, (Washington, DC: Kaiser Family Foundation, March 2018), <https://www.kff.org/medicaid/report/medicaid-and-chip-eligibility-enrollment-renewal-and-cost-sharing-policies-as-of-january-2018-findings-from-a-50-state-survey/>.

² Similar criteria would also be applied to people seeking to extend or change their temporary nonimmigrant status in the U.S.

³ Oscar C. Gomez, Liberty Day, and Samantha Artiga, Connecting Eligible Immigrant Families to Health Coverage and Care: Key Lessons from Outreach and Enrollment Workers, (Washington, DC: Kaiser Family Foundation, October 2011), <https://www.kff.org/disparities-policy/issue-brief/connecting-eligible-immigrant-families-to-health-coverage/> and Samantha Artiga and Petry Ubri, Living in an Immigrant Family in America: How Fear and Toxic Stress are Affecting Daily Life, Well-Being, & Health, (Washington, DC: Kaiser Family Foundation, December 2017), <https://www.kff.org/disparities-policy/issue-brief/living-in-an-immigrant-family-in-america-how-fear-and-toxic-stress-are-affecting-daily-life-well-being-health/>.

⁴ Findings show that recent immigration policy changes have increased fears and confusion among broad groups of immigrants beyond those directly affected by the changes. See Samantha Artiga and Petry Ubri, Living in an Immigrant Family in America: How Fear and Toxic Stress are Affecting Daily Life, Well-Being, & Health, (Washington, DC: Kaiser Family Foundation, December 2017), <https://www.kff.org/disparities-policy/issue-brief/living-in-an-immigrant-family-in-america-how-fear-and-toxic-stress-are-affecting-daily-life-well-being-health/>. Similarly, earlier experiences show that welfare reform changes increased confusion and fear about enrolling in public benefits among immigrant families beyond those directly affected by the changes. See. Neeraj Kaushal and Robert Kaestner, "Welfare Reform and Health Insurance of Immigrants," *Health Services Research*, 40(3), (June 2005), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361164/>;

⁵ Neeraj Kaushal and Robert Kaestner, "Welfare Reform and Health Insurance of Immigrants," *Health Services Research*, 40(3), (June 2005), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361164/>; Michael Fix and Jeffrey Passel, *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform 1994-97* (Washington, DC: The Urban Institute, March 1, 1999) <https://www.urban.org/sites/default/files/publication/69781/408086-Trends-in-Noncitizens-and-Citizens-Use-of-Public-Benefits-Following-Welfare-Reform.pdf>; Namratha R. Kandula, et. al, "The Unintended Impact of Welfare Reform on the Medicaid Enrollment of Eligible Immigrants," *Health Services Research*, 39(5), (October 2004), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361081/>; Rachel Benson Gold, *Immigrants and Medicaid After Welfare Reform*, (Washington, DC: The Guttmacher Institute, May 1, 2003), <https://www.guttmacher.org/gpr/2003/05/immigrants-and-medicaid-after-welfare-reform>.

⁶ Kaiser Family Foundation analysis of March 2017 Current Population Survey data.

⁷ Julia Paradise, Data Note: Three Findings about Access to Care and Health Outcomes in Medicaid, (Washington, DC: Kaiser Family Foundation, March 23, 2017), <https://www.kff.org/medicaid/issue-brief/data-note-three-findings-about-access-to-care-and-health-outcomes-in-medicaid/>

⁸ SNAP Helps Millions of Children, (Washington, DC: Center on Budget and Policy Priorities, April 2017), <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-children>, "About WIC-How WIC Helps," United States Department of Agriculture, Women, Infants and Children (WIC), <https://www.fns.usda.gov/wic/about-how-wic-helps>, accessed May 10, 2018; and Chuck Marr, et al, EITC and Child Tax Credit Promote Work, Reduce Poverty, and Support Children's Development Research Finds, (Washington, DC: Center on Budget and Policy Priorities, October 2015), <https://www.cbpp.org/research/federal-tax/eitc-and-child-tax-credit-promote-work-reduce-poverty-and-support-childrens>.

Proposed Changes to “Public Charge” Policies for Immigrants: Implications for Health Coverage

Key Takeaways

On September 22, 2018, the Trump Administration announced a proposed rule that would make changes to “public charge” policies. Under longstanding policy, the federal government can deny an individual entry into the U.S. or adjustment to legal permanent resident (LPR) status (i.e., a green card) if he or she is determined likely to become a public charge.

- Under the proposed rule, officials would newly consider use of certain previously excluded programs, including Medicaid, the Supplemental Nutrition Assistance Program, the Medicare Part D Low-Income Subsidy Program, and several housing programs, in public charge determinations.
- The changes would likely lead to broad decreases in participation in Medicaid and other programs among legal immigrant families and their primarily U.S.-born children beyond those directly affected by the changes. Nationwide, over 19 million or one in four (25%) children live in a family with an immigrant parent, and nearly nine in ten (86%) of these children are citizens.
- Decreased participation in these programs would contribute to more uninsured individuals and negatively affect the health and financial stability of families and the growth and healthy development of their children.

Introduction

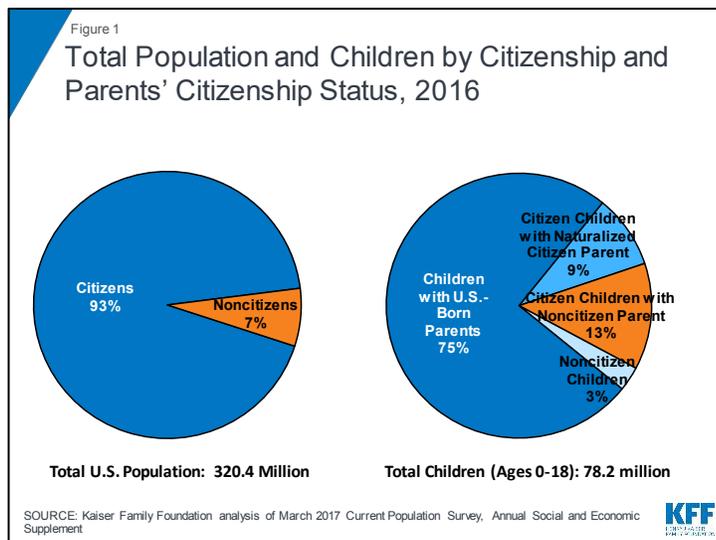
On September 22, 2018, the Trump Administration announced a [proposed rule](#) to make changes to “public charge” policies that govern how the use of public benefits may affect individuals’ ability to enter the U.S. or adjust to legal permanent resident (LPR) status (i.e., obtain a “green card”). The preamble to the proposed rule indicates that its primary goal is to ensure that individuals who apply for admission to the U.S. or for adjustment of status are self-sufficient. The preamble also identifies a range of consequences on the health and financial stability of families as well direct and indirect costs associated with the rule. This fact sheet provides an overview of the proposed rule and its implications for health and health coverage of legal immigrant families and their predominantly U.S.-born children.

Whom Would the Proposed Changes Affect?

The proposed changes to public charge policies would primarily affect immigrants who are applying for a green card through a family-based petition. The proposed rule would affect lawfully present immigrants seeking to become LPRs or “green card” holders and individuals seeking to immigrate to the U.S.¹ Most individuals seeking to adjust to LPR status or to immigrate to the U.S. are immediate relatives of U.S. citizens or have a family-based sponsor. In 2016, 1.2 million individuals obtained LPR

status, including over half a million who were already present in the U.S.² Some immigrants, including refugees and asylees, remain exempt from public charge determinations under law. Public charge policies do not apply to LPRs seeking to obtain citizenship. However, obtaining LPR status is a key step toward citizenship for immigrants seeking naturalization.

The proposed rule would likely increase confusion and fear among all legal immigrant families about using public programs for themselves and their children, regardless of whether they are directly affected by the policy changes. In 2016, there were 23 million noncitizens residing in the U.S. About six in ten noncitizens were lawfully present immigrants, who include LPRs, refugees, asylees, and other individuals who are authorized to live in the U.S.³ In addition, over 19 million or one in four (25%) children live with an immigrant parent, and nearly nine in ten (86%) of these children are citizens (Figure 1).⁴



What are the Key Changes in the Proposed Rule?

Under longstanding policy, if authorities determine that an individual is “likely to become a public charge,” they may deny that person’s application for lawful permanent residence or their entry into the U.S.⁵ Certain immigrants, including refugees and asylees, are exempt from public charge determinations under law. In making a public charge determination, officials must consider the totality of the person’s circumstances, including, at a minimum, the individual’s age; health; family status; assets, resources, and financial status; and education and skills.

Under previous policy clarified in 1999, the federal government specified that it would not consider use of Medicaid, the Children’s Health Insurance Program (CHIP), or other non-cash benefits in public charge determinations. Historically, there has been confusion about whether use of Medicaid, CHIP, or other non-cash programs applies in public charge determinations.⁶ In 1999, the Immigration and Naturalization Service (now part of the Department of Homeland Security (DHS)) issued guidance that defined a public charge as someone who has become or who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.”⁷ The guidance specified that the federal government would not consider use of Medicaid, CHIP, or other supportive programs in public charge determinations, with the exception of use of Medicaid for long-term institutional care.⁸ The guidance noted that this clarification was necessary because ongoing confusion about public charge policies “deterred eligible aliens and their families, including U.S. citizen children,

from seeking important health and nutrition benefits that they are legally entitled to receive. This reluctance to access benefits has an adverse impact not just on the potential recipients, but on public health and the general welfare.”⁹

The proposed rule would broaden the programs that the federal government would consider in public charge determinations to include previously excluded health, nutrition, and housing programs. The proposed rule would redefine public charge as an “alien who receives one or more public benefits” and would define public benefits to include cash assistance for income maintenance, government-funded institutionalized long-term care, and certain health, nutrition, and housing programs that were previously excluded from public charge determinations. These programs would include non-emergency Medicaid, the Medicare Part D Low-Income Subsidy Program, the Supplemental Nutrition Assistance Program (SNAP), and several housing programs (see Appendix Table 1). The proposed rule does not include CHIP or subsidies for Affordable Care Act Marketplace coverage as public benefits. DHS specifically requests public comment on whether to include CHIP as a public benefit.

The proposed rule would establish thresholds for use of public benefits to determine an individual to be a public charge. These thresholds would be tied to the value of the benefits received and/or total months a benefit was received. Specifically, for benefits that have a cash value or that can be translated into a cash value (e.g., cash assistance, SNAP, housing vouchers, or rental assistance), the threshold would be 15% of the federal poverty level (FPL) for a single person in a 12-month period (\$1,821 as of 2018). For benefits that cannot be translated into a cash value (e.g., Medicaid and public housing), the threshold would be receipt of the benefit for 12 months within a 36-month period or 9 months if an individual receives both types of benefits (i.e., those with a cash value and those without a cash value). Public charge determinations would only consider the value of the benefit going toward the individual and would not take into account benefits received by family members. Public charge determinations would not consider receipt of benefits by active duty or reserve service members or their spouses or children.

The federal government would consider current or recent receipt of public benefits as a heavily weighted negative factor in an individual’s public charge determination. As noted, public charge determinations consider the likelihood of an individual becoming a public charge in the future, based on a totality of circumstances. The proposed rule specifies certain factors that immigration officials would consider as positive factors that would decrease the likelihood of an individual becoming a public charge as well as negative factors that would increase the likelihood of someone becoming a public charge. Under the proposed rule, officials would consider current receipt or approval for receipt of a public benefit or receipt of a public benefit within the previous 36 months as a heavily weighted negative factor. Other heavily weighted negative factors related to health and health coverage include having a medical condition that is likely to require extensive treatment or institutionalization and being uninsured and lacking the financial resources to pay for the medical costs associated with the condition.

The proposed rule also outlines policies related to consideration of income as part of public charge determinations. Specifically, DHS would consider whether the individual has annual gross household income of at least 125% of the FPL (\$25,975 for a family of three in 2018) and would require

specified levels of household assets and resources if the individual has income below that level. Conversely, having income above 250% of the FPL (\$51,950 for a family of three in 2018) would be considered as a heavily weighted positive factor in public charge determinations.

The proposed rule also makes changes related to use of public charge bonds. It outlines policies related to use of public charge bonds that would allow an individual to adjust status if found inadmissible based on a public charge determination and sets the minimum amount of these bonds at \$10,000.

What are the Implications for Health & Health Coverage?

Today, Medicaid fills gaps in private coverage for lawfully present immigrants, providing them access to needed care and financial protections that support their ability to work and care for their children. Medicaid provides families access to preventive and primary care, including prenatal care, as well as care for chronic conditions. In addition, the coverage provides families financial protection from high medical costs. By enabling families to meet their health care needs, Medicaid supports families' ability to work and care for their children. The majority of lawfully present immigrants live in a family with at least one full-time worker (83%), a rate equal to that of citizens.¹⁰ However, lawfully present immigrants are more likely than citizens to live in low-income families and often work in jobs and industries that do not offer health coverage. Reflecting their lower incomes and limited access to private coverage, one in four nonelderly lawfully present immigrants has Medicaid or CHIP coverage.¹¹ However, among the low-income nonelderly population, lawfully present immigrants are less likely than citizens to have Medicaid or CHIP. These lower coverage rates reflect [eligibility restrictions for immigrants](#) that require many otherwise eligible lawfully present immigrants to wait five years after obtaining lawful status before they may enroll as well as barriers to enrollment for eligible immigrants, including fear.¹²

The proposed changes would likely lead to broad declines in participation in Medicaid and other programs among immigrant families, including their primarily U.S.-born children. Despite efforts to assure families that Medicaid and CHIP could not be used in public charge determinations under previous policy, many eligible immigrants did not enroll themselves or their children because they feared that it could negatively affect their status. The proposed rule would amplify these fears, which would likely lead to broad falloffs in participation in Medicaid and other programs among a broader group of individuals than those directly impacted by the policy change. Previous research shows that welfare reform had this chilling effect on immigrant families' participation in public programs and suggests that the proposed rule would likely lead to declines in Medicaid/CHIP enrollment among citizen children with a noncitizen parent.¹³ [Analysis](#) shows that, if Medicaid/CHIP disenrollment rates range from 15% to 35%, an estimated 875,000 to 2 million citizen children with a noncitizen parent could drop Medicaid/CHIP coverage despite remaining eligible. Other [recent analysis](#) shows that, prior to announcement of the proposed rule, families were already experiencing growing fears of participation in health, nutrition, and other programs that led them to disenroll or avoid enrolling themselves and their children. The preamble to the proposed rule recognizes that the rule may lead to disenrollment or foregone enrollment in public benefit programs among foreign-born noncitizens as well as U.S. citizens who are members of mixed status households.

Decreased participation in Medicaid/CHIP would increase the uninsured rate among immigrant families, negatively affecting their health and financial stability. Coverage losses would reduce access to care for families, contributing to worse health outcomes. Reduced participation in nutrition and other programs would likely compound these effects. Overall, reduced participation in Medicaid and other programs would negatively affect their health and financial stability and the growth and healthy development of their children, who are predominantly U.S.-born. The preamble to the proposed rule recognizes these and other anticipated impacts. It notes that disenrollment or foregone enrollment in public benefit programs could lead to worse health outcomes, especially for pregnant or breastfeeding women, infants, or children; reduced prescription adherence; increased emergency room use and emergent care due to delayed treatment; increased prevalence of diseases; increased uncompensated care; increased rates of poverty and housing instability; and reduced productivity and educational attainment. Moreover, the preamble to the proposed rule indicates that DHS has determined that the rule may decrease disposable income and increase poverty of certain families and children, including U.S. citizen children. The preamble to the proposed rule also identifies potential impacts on communities, including decreased revenues to health care providers, pharmacies, grocery retailers, agricultural producers and landlords, as well as new direct and indirect costs for individuals and organizations serving immigrant families.

Next Steps

After the proposed rule is officially published in the Federal Register, there will be a 60-day public comment period. Following that comment period and DHS's consideration of the comments, it would issue final regulations and an effective date for the rule. The rule would not be retroactive, meaning that DHS would not consider an individual's use of the previously excluded health, nutrition, and housing programs prior to the effective date established in the final rule in public charge determinations. Substantial outreach efforts would be needed to educate families and stakeholders about the policy changes, which DHS notes will require time and costs for agencies, health care providers, and other individuals and organizations.

Appendix Table 1: Key Differences between Previous and Proposed “Public Charge” Policies

	Policy Based on 1999 Guidance	<u>Proposed Rule</u> Announced September 22, 2018
Definition of Public Charge	An alien who has become or who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.”	Public charge means an alien who receives one or more public benefits.
Public Benefits that May Be Considered for Public Charge Purposes	<ul style="list-style-type: none"> • SSI • TANF • State/local cash assistance programs • Public assistance for long-term care in an institution (including Medicaid) 	<ul style="list-style-type: none"> • SSI • TANF • Federal, state, or local cash assistance programs • SNAP • Section 8 Housing Voucher Program • Section 8 Rental Assistance • Medicaid (except for emergency Medicaid, certain disability services related to education, and benefits received by foreign-born children of U.S. citizen parents who will be automatically eligible to become citizens) • Medicare Part D Low-Income Subsidy Program • Institutionalized long-term care at government expense • Subsidized public housing <p>DHS requests public comment on whether to include CHIP as a public benefit.</p>
Consideration of Use of Public Benefits in a Public Charge Determination	<ul style="list-style-type: none"> • May take into consideration past and current receipt of cash public assistance for income maintenance or institutionalized long-term care. • No weight should be placed on receipt of non-cash benefits or receipt of cash benefits for purposes other than income maintenance. • Cash benefits received by children or other family members should not be attributed to the individual, unless the family member's benefits are the family's sole source of support. 	<ul style="list-style-type: none"> • For cash benefits and benefits that can be translated to a cash value, the benefit exceeds 15% of the FPL for a household of one within a 12-month period. • For benefits that cannot be translated into a cash value, receipt of any benefit for more than 12 months within a 36-month period • When an individual receives both types of benefits, benefits that cannot be translated into a cash value are received for more than 9 months within a 36-month period • Would not consider benefits received by active duty or reserve service members and their families. • Would only consider benefits going to the individual, not those received by family members
Heavily Weighted Negative Factors	Not Specified	<ul style="list-style-type: none"> • Not a full-time student and is authorized to work, but is unable to demonstrate employment. • Currently receiving or approved to receive one or more public benefits. • Has received one or more public benefits within the prior 36 months. • Has a medical condition that requires extensive treatment or institutionalization and is uninsured and does not have sufficient resources to pay for medical costs related to the condition. • Previously found inadmissible or deportable on public charge grounds.
Heavily Weighted Positive Factors	Not Specified	<ul style="list-style-type: none"> • Household has financial assets/resources of at least 250% of the FPL • Authorized to work or employed with an income of at least 250% of the FPL

Endnotes

¹ The proposed changes would also affect certain people seeking to extend or adjust their non-immigrant status while in the U.S. The preamble also notes that the proposed rule interprets public charge as it relates to inadmissibility, but not public charge deportability grounds, which will continue to be governed by Department of Justice precedent decisions.

² “Table 6. Persons Obtaining Lawful Permanent Resident Status by Type and Major Class of Admission: Fiscal Years 2014 to 2016,” *2016 Yearbook of Immigration Statistics*, Department of Homeland Security, <https://www.dhs.gov/immigration-statistics/yearbook/2016/table6>, accessed February 12, 2018.

³ Kaiser Family Foundation analysis of the March 2017 Current Population Survey, Annual Social and Economic Supplement.

⁴ Kaiser Family Foundation analysis of the March 2017 Current Population Survey, Annual Social and Economic Supplement.

⁵ Becoming a public charge may also be a basis for deportation in extremely limited circumstances. “Public Charge Fact Sheet,” U.S. Citizenship and Immigration Services, <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>, accessed February 12, 2018.

⁶ This confusion increased after new Medicaid and CHIP eligibility restrictions were imposed on immigrants in 1996. Those restrictions required many lawfully present immigrants to wait five years after obtaining lawful status before they could enroll in Medicaid or CHIP and made some lawfully present immigrants ineligible for coverage. However, they did not change public charge policy.

⁷ “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” Immigration and Naturalization Service, Justice, 64 Fed. Reg. 28689-28693 (March 26, 1999), <https://www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13202.pdf>.

⁸ Ibid.

⁹ Ibid.

¹⁰ Kaiser Family Foundation analysis of the March 2017 Current Population Survey, Annual Social and Economic Supplement.

¹¹ Ibid.

¹² Ibid.

¹³ Neeraj Kaushal and Robert Kaestner, “Welfare Reform and Health Insurance of Immigrants,” *Health Services Research*, 40(3), (June 2005), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361164/>; Michael Fix and Jeffrey Passel, “Trends in Noncitizens’ and Citizens’ Use of Public Benefits Following Welfare Reform 1994-97” (Washington, DC: The Urban Institute, March 1, 1999) <https://www.urban.org/sites/default/files/publication/69781/408086-Trends-in-Noncitizens-and-Citizens-Use-of-Public-Benefits-Following-Welfare-Reform.pdf>; Namratha R. Kandula, et. al, “The Unintended Impact of Welfare Reform on the Medicaid Enrollment of Eligible Immigrants,” *Health Services Research*, 39(5), (October 2004), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361081/>; Rachel Benson Gold, “Immigrants and Medicaid After Welfare Reform,” (Washington, DC: The Guttmacher Institute, May 1, 2003), <https://www.guttmacher.org/gpr/2003/05/immigrants-and-medicaid-after-welfare-reform>.

CHILLING EFFECTS

The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use



By Jeanne Batalova, Michael Fix, and Mark Greenberg

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Executive Summary

The Trump administration is developing a rule that would have far-reaching consequences for legal immigrants and their families—those living in the United States as well as prospective immigrants. The expected rule, which could be formally released at any time, could make it more difficult for immigrants to obtain a green card or get their temporary visa extended if they or their dependents¹—including U.S.-citizen children—use public benefits or tax credits for which they qualify. The draft proposed rule also suggests that the administration may make the use of public benefits by *legally present* noncitizens grounds for their deportation.

The expected rule could make it more difficult for immigrants to obtain a green card or get their temporary visa extended if they or their dependents—including U.S.-citizen children—use public benefits.

The new policy, signaled in a January 2017 leaked draft executive order and in January 2018 and March 2018 leaked draft rules, could lead to broad changes in how immigrants and their families' use—or likely use—of public benefits is taken into consideration in immigration decision-making. The policy that presently governs which immigrants can be denied admission or an adjustment or extension of status on the basis of “public charge” dates back to the welfare and immigration reforms of 1996. Under current standards, the federal government may make a public-charge determination if the applicant is dependent on cash benefits, such as Temporary Assistance for Needy Families (TANF), or is in government-funded, long-term institutional care. Under the most recent leaked draft, the proposed rule would broaden the factors taken into account in public-charge determinations in several key ways. Immigration officers would now consider:

- benefits use not only by the individual but by their dependents, including U.S. citizens;
- use of a much wider range of means-tested benefits, including both cash (TANF; Supplemental Security Income, or SSI; and General Assistance, GA) and noncash benefits, such as Supplemental Nutrition Assistance Program (SNAP, formerly called the Food Stamp Program), Medicaid and the Children's Health Insurance Program (CHIP), and many other federal, state, and local programs;
- use of benefits at any point in the past 36 months, in addition to present use, and likely future use; and
- receipt of any amount of benefits beyond a *de minimus* level, as opposed to being primarily dependent on benefits.

Applying this broader, new definition, the Migration Policy Institute (MPI) estimates that the share of noncitizens who use benefits that could be considered in a public-charge determination would expand considerably—from 3 percent under current policy to 47 percent under the terms of the draft proposed rule.

¹ Under the draft rule, “dependents” are defined as anyone listed as a dependent on the individual's tax return, anyone the individual is legally required to support, or any other person the individual is actually supporting and who is not contributing to the individual's income or resources.



In the March 2018 leaked draft, it appears that federal officials had not yet decided whether to apply the revised public-charge standards to deportation criteria. However, even if the proposed rule does not make benefits use grounds for deportation, its reach could still extend to most foreign-born persons seeking admission or adjustment of status to lawful permanent residence (LPR status, also known as getting a green card) as well as noncitizens applying to receive or extend a tourist, work, student, or other temporary visa (referred to as “nonimmigrants” in immigration policy).² In fiscal year (FY) 2017, about 1.1 million people received green cards. Fifty-one percent of them were new arrivals and 49 percent lived in the United States and were adjusting their status from a temporary visa. Most new arrivals (84 percent) and almost half of status adjusters (46 percent) were granted LPR status based on family ties. Family immigrants such as these are the most likely to see their applications affected by the proposed standards. By law, refugees, asylees, and certain other categories are exempt from public-charge determinations. Meanwhile, most immigrants who apply to enter or extend their status on the basis of employment have job offers and are generally well educated: strong positive factors in public-charge determinations under the draft proposed rule that are likely to outweigh any prior benefits use. In short, the expected rule could enable the administration to significantly alter the profile of new green-card recipients, especially family-based immigrants.

A. Gauging the Potential Extent of the Rule’s Chilling Effects

Beyond those waiting for a decision on their applications to enter or stay in the United States, a far larger group—including both noncitizens and U.S. nationals—would likely experience the rule’s “chilling effects.”³ That is, many immigrants and their families who are otherwise eligible may decide to forgo public benefits and services out of fear of real or perceived immigration consequences. It is worth noting that the public-charge policy under consideration would overwhelmingly affect legally present immigrants because unauthorized immigrants are already ineligible for most means-tested public benefits. Still, some unauthorized immigrants with U.S.-citizen children eligible for public benefits may also withdraw them from these programs.

Many immigrants and their families who are otherwise eligible may decide to forgo public benefits and services out of fear of real or perceived immigration consequences.

Here, history offers an important lesson: After the enactment of welfare reform in 1996, benefits-use rates fell sharply even among groups such as refugees and U.S.-citizen children whose eligibility was unchanged. Overall, studies of these chilling effects by social scientists have estimated that the use of public benefits by immigrants who were not made ineligible by the 1996 law dropped sharply. In the current political climate, with sharper rhetoric about the value of immigration, efforts to reduce legal immigration for the first time in decades, and ramped-up arrests and deportations, fear of the immigration consequences of using public benefits could be even greater.

In order to assess the potential extent of the draft proposed rule’s chilling effects, this report analyzes pooled 2014–16 American Community Survey (ACS) data from the U.S. Census Bureau on benefits use

² While the number of people entering the United States on temporary visas is much larger—179 million in fiscal year (FY) 2016—than the number who receive a green card each year (about 1 million), it is not yet clear what the potential rule would mean for this group in practice. This report does not attempt to estimate the numbers seeking admission to the United States who could be denied entry under the terms of the proposed rule, as outlined in the March 2018 leaked draft.

³ The term “chilling effects” is widely used in the social science literature that examined the impact of the 1996 welfare reform on immigrants’ benefits use. These studies, and this report, use the term to mean that immigrants and their families who have used benefits in the past, or might have done so in the future, choose not to participate out of fear or confusion.

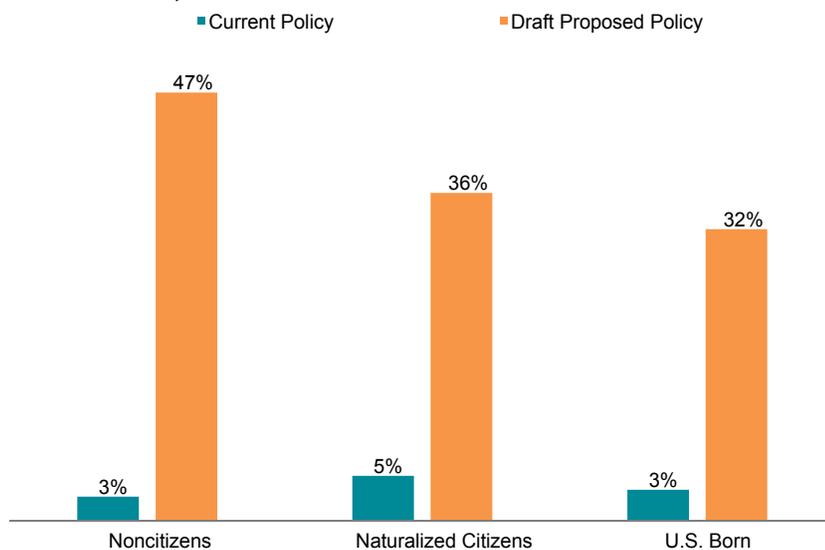


by noncitizens, naturalized citizens, and the U.S. born.⁴ While it appears the proposed rule will cover a wide range of federal, state, and local programs, this analysis focuses on the four major means-tested public benefits—TANF (or cash welfare), SSI, SNAP, and Medicaid/CHIP (or other public health insurance programs)—that are reported in the ACS. Users of these programs represent a large share of the total public-benefit program participants that would be touched by the expected rule. The estimates presented here are intended to help policymakers, service providers, and others understand the potential impacts of the anticipated rule and better prepare to respond during its review and implementation.

Among the key MPI findings:

- **More than 10 million noncitizens reside in benefits-receiving families.** In the 2014–16 period, 6.8 million noncitizens (31 percent of all foreign born who are not naturalized U.S. citizens) used at least one of the four major means-tested benefit programs, but a far greater number—10.3 million or 47 percent—lived in families where someone, including U.S.-born children, received benefits.
- **The share of noncitizens who may face a public-charge determination based on benefit use would increase more than 15-fold.** Under the current public-charge standard, individuals relying on cash benefits are deemed to be a public charge. According to 2014–16 ACS data, 3 percent of noncitizens received either TANF or SSI (cash) benefits.⁵ In sharp contrast, the share of noncitizens receiving benefits that could factor into public-charge decisions under the draft rule would be 47 percent (i.e., the share of noncitizens who lived in families receiving any of the four cash and noncash benefits reported in ACS data) (see Figure 1). If the rule makes the use of public benefits grounds for the deportation of legally present noncitizens, the size of the population at risk of removal could increase significantly beyond the current unauthorized and otherwise removable noncitizen populations.

Figure 1. Share of Persons for Whom Benefits Use Could Be Considered in a Public-Charge Determination, 2014–16



Notes: The four means-tested public benefit programs examined here are (1) Public cash assistance or welfare from state or local welfare offices, including Temporary Assistance for Needy Families (TANF) and General Assistance (GA); (2) Supplemental Security Income (SSI); (3) Supplemental Nutrition Assistance Program (SNAP); and (4) Medicaid and the

⁴ In undertaking this analysis, Migration Policy Institute (MPI) researchers considered data on all noncitizens, whether lawfully present or unauthorized, given that all may fear the immigration consequences of using benefits for which they or a dependent are eligible.

⁵ Note that this estimate of cash program users under current policy represents the share of *all noncitizens* who received either Temporary Assistance for Needy Families (TANF), General Assistance (GA), or Supplemental Security Income (SSI). Thus, it overstates use somewhat as only noncitizens who *depend* on these forms of cash assistance as their primary source of income are specified under the current standard.



Children's Health Insurance Program (CHIP). Estimates shown under the current public-charge policy represent the share of noncitizen, naturalized citizen, and U.S.-born individuals who received cash-based assistance only (i.e., either TANF/GA or SSI). Estimates shown under draft proposed policy refer to the share of individuals in families receiving TANF/GA, SSI, SNAP, or Medicaid/CHIP.

Source: Migration Policy Institute (MPI) tabulation of U.S. Census Bureau pooled 2014–16 American Community Survey (ACS) data.

- **Millions of children, many of them U.S. citizens, live in immigrant families that may face difficult choices about whether to continue accessing benefits.** Children of immigrants accounted for 31 percent (or 10.5 million) of all children under age 18 in benefits-receiving families in the 2014–16 period—a figure slightly larger than the immigrant share of the total U.S. child population (25 percent). Nine out of ten of these 10.5 million children (or 9.2 million) were U.S. born.
- **The extent of the chilling effects could be far-reaching, leading to a broad withdrawal from public-benefits programs.** A total of 17.7 million immigrants (both noncitizens and naturalized citizens) live in families where at least one member used one or more of the four major means-tested public benefits programs during the 2014–16 period. Adding the 9.2 million U.S.-born children residing in these families would mean that at least 26.9 million people resided in benefits-receiving families with at least one immigrant family member.

Although it is difficult to estimate precisely how many people would alter their behavior in response to the proposed change in public-charge policy, if immigrants' use patterns were to follow those observed during the late 1990s there could be a decline of between 20 percent and 60 percent—and that even some members of groups exempt from the new rule (e.g., refugees) would likely withdraw from public programs. If this were to be the case, an estimated 5.4 million to 16.2 million of the total 27 million immigrants and their U.S.- and foreign-born children in benefits-receiving families could be expected to disenroll from programs. This means that a significant share of U.S.-citizen members of immigrant families, including young children, would no longer receive the health, nutrition, or other benefits for which they are eligible if their families deem the potential immigration consequences of continued access to be too great. At the same time, some otherwise eligible individuals in immigrant families would likely be deterred from deciding to apply for benefits in the first place.

- **Most adult immigrants using one of the four major means-tested benefit programs are working.** Fifty-eight percent of noncitizen and naturalized-citizen adults (ages 16 to 64) who received one or more benefits were employed. By comparison, 44 percent of U.S.-born benefit recipients were employed.
- **Noncash benefits make up the bulk of benefits use by immigrant families.** The share of immigrants receiving cash assistance (i.e., TANF or GA) is relatively low: about 3 percent of immigrants were in families in which at least one person received TANF and less than 6 percent were in families receiving SSI—figures comparable to those for U.S.-born persons in benefits-receiving families. Public-benefits use levels for all groups (noncitizens, naturalized citizens, and the U.S. born) are largely driven by use of SNAP and Medicaid/CHIP—noncash benefit programs that are often viewed as work supports. Use of these programs is the main reason the proposed expansion of the public-charge rule would have such a far-reaching impact: 7.2 million foreign-born individuals (or approximately 17 percent) were in families receiving SNAP (including 4.5 million noncitizens), and about 16.3 million immigrants (39 percent) were in families receiving Medicaid/CHIP (9.6 million noncitizens among them).
- **A substantial number of immigrants are potentially eligible for health-insurance subsidies under the Affordable Care Act (ACA), use of which is included in the draft proposed rule.** While ACS data do not record who receives such subsidies, MPI estimates that 2.4 million immigrants who did not live in families receiving any of the four means-tested programs were *potentially eligible* for ACA subsidies.



- The impact of the potential rule would be broadly felt across the two largest racial/ethnic groups among immigrants in the United States.*** About 10.3 million Hispanic immigrants (or 54 percent) and 3.8 million Asian American and Pacific Islander (AAPI) immigrants (or 32 percent) lived in families that received one or more of the four public-benefit programs. Additionally, 870,000 AAPIs and about 690,000 Hispanics were potentially eligible for ACA subsidies. Sixty-five percent of Hispanic immigrants and 42 percent of AAPI immigrants were noncitizens; if the proposed rule makes benefit use grounds for deportation, this could be broadly felt among both groups.
- The impacts of the expected rule are likely to be borne most heavily by states with large immigrant populations and those with generous benefit policies.*** California and New York together accounted for 41 percent of the nation's 17.7 million immigrants living in families receiving public benefits in 2014–16. Following the passage of the 1996 welfare law, these two states adopted social welfare policies that extended benefits to some legal immigrants newly excluded from federal programs. Two examples are California's CalFresh Food Assistance Program and New York's Safety Net Assistance. The chilling effects of the potential rule in these states may be particularly wide-reaching because the rule includes an expanded range of state benefits that could be considered in a public-charge determination.

Twenty-five states—among them traditional immigrant-receiving states as well as newer destinations such as North Carolina, Ohio, and Pennsylvania—accounted for 94 percent of all foreign-born individuals in families receiving at least one of the four major means-tested benefits.

Get the Data: Impact by State

Detailed data profiles of benefits use in the United States overall and in each state are available [here](#).

B. Implications of the Potential Rule for Public Benefits and Admission Policies

The public-charge rule under consideration by the Trump administration could broadly change benefits participation rates among immigrant families, with adverse effects not just for noncitizens and their U.S.-born relatives but for the larger society. It also could alter the composition of immigration flows to the United States.

The new rule would be at odds with the public health, nutrition, and other efforts that state and local governments have undertaken in the wake of welfare reform to encourage eligible immigrant families to participate in social programs ranging from SNAP and Medicaid to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The new federal rule could be seen as overriding these governments' policy preferences and may chill immigrant families' access to a broad range of health and social services for which they are eligible.

Disenrollment (or fear of enrollment in the first place) from programs that support the health, wellbeing, and financial stability of lawfully present immigrants and their families could lead to a range of problematic outcomes. For individuals, families, and local communities, reduced program participation could result in higher poverty levels, reduced access to health care, and an increase in severe and chronic health issues. The proposed regulation could also impose substantial new demands on service providers, requiring them to communicate to current and prospective benefits users information about the expanded immigration-related liabilities associated with program use.

By significantly expanding the factors considered in assessing applications from prospective immigrants to the United States as well as those already present who are seeking a green card or visa extension, the expected rule would also give the administration broad discretion to deny a much larger share of



applications. Specifically, it would become more difficult for children, the elderly, persons with lower levels of education and/or limited English proficiency, and those with incomes under 250 percent of the federal poverty level to enter and remain in the United States. To sum, implementation of the anticipated rule would lead to *de facto* changes in the make-up of future immigration flows and restricted access to public benefits for millions of immigrants and their U.S.-citizen family members—all without legislation by Congress.

I. Introduction

The Trump administration is in the process of developing a rule that could have wide-reaching effects on both legal immigration to the United States and the ability of immigrants legally present in the country to qualify for green cards or otherwise extend or change their legal visa status. Drafts of the rule, leaked in January and March 2018,⁶ suggest it could result in sweeping changes in how legal immigrants' use of—or likelihood to use—public benefits is taken into consideration in immigration-related decision-making. The most recent leaked draft also indicates that the administration is considering changing the standard for when receipt of public benefits can be used as grounds for the deportation of legally present noncitizens.

This new, broader standard will have important implications for both immigration to the United States and for the wellbeing of families with foreign-born members.

Under the current policy, noncitizens can be denied admission or adjustment of status if the U.S. Department of Homeland Security (DHS) determines they are likely to become a “public charge,” that is, that they depend (or are likely to become dependent) on public cash assistance or long-term institutional care funded by the government. Under the draft rule, review of applications for immigration, legal permanent residence (LPR status, also known as a “green card”), and other forms of status change would include review of use of a much wider range of cash and noncash public benefits, including Medicaid/Children’s Health Insurance Program (CHIP), the Supplemental Nutrition Assistance Program (SNAP, formerly called the Food Stamp Program), the refundable Earned Income Tax Credit (EITC), and many other federal, state, and local benefits and services. This review would look not only at the use of benefits by the applicant, but also their dependents, including U.S.-citizen children. In assessing the likelihood that an immigrant would receive any of these benefits at some future point, DHS would consider the applicants’ age, health, education, employment status, and other factors along with current and past benefit receipt.

This new, broader standard will have important implications for both immigration to the United States and for the wellbeing of families with foreign-born members.⁷ And while the exact provisions of the

6 A copy of the first leaked draft of the rule was posted online by Vox. See U.S. Citizenship and Immigration Services (USCIS), “Inadmissibility on Public Charge Grounds” (draft rule, U.S. Department of Homeland Security, January 2018), https://docs.google.com/viewerng/viewer?url=https://cdn.vox-cdn.com/uploads/chorus_asset/file/10188201/DRAFT_NPRM_public_charge.0.pdf. The second leaked draft is available on the *Washington Post* website. See USCIS, “Inadmissibility on Public Charge Grounds” (draft rule, U.S. Department of Homeland Security, March 2018), <https://apps.washingtonpost.com/g/documents/world/read-the-trump-administrations-draft-proposal-penalizing-immigrants-who-accept-almost-any-public-benefit/2841/>.

7 Although U.S. citizens are not a direct target population of the draft proposed rule (the rule does not change benefit eligibility criteria for such persons), U.S. citizens, including U.S.-born children, are likely to be affected by the policy nonetheless. To illustrate: 1) U.S. citizens may find it more difficult to sponsor their noncitizen spouse for a green card if they received public benefits (i.e., Medicaid) for which they were eligible; 2) A legally present noncitizen mother may choose to withdraw her U.S.-born child from participation in SNAP if she is afraid that the child’s participation may become grounds for her own deportation.



proposed rule remain to be seen, the administration’s approach seems clear—restrict the immigration of lower-income and less-educated individuals and discourage immigrants from accessing public benefits. Under the draft rule, the DHS would have significant discretion to deny admissions and reject green-card applications for a large number of those who enter or wish to remain in the country through family, but also diversity and employment immigration. Based on experience with prior reforms of immigration and welfare legislation, it is reasonable to anticipate that the rule will discourage millions of immigrants from accessing health, nutrition, and social services that benefit not only them, but also their U.S.-citizen children. This would come at a time of heightened rhetoric about and fear of immigration consequences,⁸ in which some service providers have already reported immigrant clients dropping out and others failing to access benefits for which they are eligible.⁹

As of this writing, the draft rule is under consideration at the Office of Management and Budget (OMB), and it could be published at any time. When the proposed rule is published, it could substantially differ from the leaked draft. After its publication, there will be a public comment period—a 60-day period was envisioned in the draft proposed rule. DHS has a legal responsibility to consider public comments submitted during this period before the agency issues a final rule, meaning it may undergo yet further revisions. The rule will not be in effect until it is issued in its final form, and the draft indicates that the agency plans to make it take effect prospectively (i.e., benefits use before the final rule is issued would not count against an individual).

This report begins by providing an overview of the historical context for this proposal and of current standards for applying the public-charge provision of U.S. immigration law. It then examines the key changes envisioned under the most recent leaked draft and their potential effects on immigration to the United States and on benefits use among immigrants. Drawing on pooled 2014–16 American Community Survey (ACS) data, it assesses the level of benefits use by noncitizens, naturalized citizens, and the U.S. born in four major means-tested benefit programs to better understand the potential magnitude of the expected rule’s effects on participation in public benefits programs. Finally, the report sketches some of the rule’s likely implications for immigrant integration, federalism, and immigration policy.

II. Public-Charge Rules: Historical Context and Proposed Changes

The concept of “public charge” is not new to immigration law. The term appeared in the *Immigration Act of 1882*,¹⁰ and in the late 19th and early 20th centuries, public charge was the most common ground for refusing noncitizens admission at U.S. ports of entry. Since 1940, however, the public-charge provision of U.S. immigration law has been used much less frequently.¹¹

8 Randy Capps et al., *Revvig Up the Deportation Machinery: Enforcement under Trump and the Pushback* (Washington, DC: MPI, 2018), www.migrationpolicy.org/research/revving-deportation-machinery-under-trump-and-pushback.

9 Emily Baumgaertner, “Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services,” *The New York Times*, March 6, 2018, www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html.

10 The 1882 act included a provision that, among others, excluded aliens who were determined to be “unable to take care of himself or herself without becoming a public charge.” See *Immigration Act of 1882*, U.S. Statutes at Large 22 (1882): 214, www.loc.gov/law/help/statutes-at-large/47th-congress/session-1/c47s1ch376.pdf.

11 This analysis is based on admissions data from the U.S. Immigration and Naturalization Service (INS) *Yearbook of the Immigration and Naturalization Service* and on visa issuance data from the U.S. Department of State *Reports of the Visa Office*. INS admissions data show that while the public-charge ground was used in 50 percent to 70 percent of refused admissions between 1890 and 1920; that share dropped to less than 4 percent in the 1940s and further to less than 1 percent after 1950. Similarly, visa issuance data show that the share of visa refusals attributable to public charge dropped from 45 percent in the 1970s to 19 percent in the first half of the 1990s. See INS, *The 2001 Statistical Yearbook of the Immigration and Naturalization Service* (Washington, DC: INS, 2003), data table 66, www.dhs.gov/sites/default/files/publications/Yearbook_Immigration_Statistics_2001.pdf; U.S. Department of State, “Immigrant and Nonimmigrant Visa Ineligibilities” (data tables, Washington, DC, multiple years). Recent data for 2000 to 2017 are available at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports.html>.



The statutory language that currently governs which benefits immigrants are eligible for and which immigrants are considered public charges and can, as a result, be deemed inadmissible dates to two important laws passed in close succession in 1996. The welfare reform law, the *Personal Responsibility and Work Opportunity Reconciliation Act* (PRWORA),¹² became law on August 22, 1996. A month later, the *Illegal Immigration Reform and Immigrant Responsibility Act* (IIRIRA)¹³ became law on September 30, 1996. PRWORA made LPRs ineligible for a range of federal means-tested public benefits during their first five years in the country, subject to limited exceptions.

Meanwhile IIRIRA amended the public-charge language to state that any noncitizen who is determined likely at any time to become a public charge is ineligible for admission or adjustment of status. In making this determination, immigration officials are to consider, at a minimum, the following set of factors: age; health; family status; assets, resources, and financial status; and education and skills.¹⁴ IIRIRA also imposed new requirements on sponsors of immigrants, requiring that they have sufficient income to support the individual being sponsored at a level of at least 125 percent of the federal poverty level.

The 1996 immigration law changes did not modify the provision of federal law concerning public charge and deportation. This provision specifies that “[a]ny alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.”¹⁵

In 1999, in response to questions about how public-charge assessments were being made in light of the 1996 welfare and immigration legislation, the U.S. Immigration and Naturalization Service (INS) issued field guidance¹⁶ and a proposed rule¹⁷ concerning public-charge-based inadmissibility and deportations. While the proposed rule was never finalized, this guidance has applied since it was issued.

According to the 1999 guidance, a person may be subject to a public-charge determination if they are “primarily dependent on the government for subsistence, as demonstrated by either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense.”¹⁸ It further clarified that:

- the individual must be “primarily dependent” on public cash assistance (i.e., mere receipt is not enough);
- insurance-based benefits and noncash benefits or services are not considered, with the exception of institutionalization for long-term care;
- the determination is based on the individual, not other household members or dependents; and
- receipt of public benefits is not the sole determining factor, but one of a set of factors to be considered, along with age; health; family status; assets, resources, and financial status; and education and skills.

The 1999 guidance also set narrow criteria for using a public-charge judgment as grounds for deportation. Immigrants who receive a cash benefit for income maintenance within five years of entering the country or who are institutionalized for long-term care funded by the government may face

12 *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, Public Law 104–193, *U.S. Statutes at Large* 110 (August 22, 1996): 2015, www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg2105.pdf.

13 *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, Public Law 104–828, *U.S. Statutes at Large* 110 (September 30, 1996): 3009, www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg3009.pdf.

14 See Section 212 of the *Immigration and Nationality Act* (INA), Public Law 89–236, *U.S. Statutes at Large* 79 (1965): 911, codified at 8 *U.S. Code* 1182(a)(4), www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-2006.html.

15 Section 237 of the INA, codified at 8 *U.S. Code* 1227(a)(5).

16 INS, “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” *Federal Register* 64, no. 101 (March 26, 1999): 28689–93, www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13202.pdf.

17 INS, “Inadmissibility and Deportability on Public Charge Grounds,” *Federal Register* 64, no. 101 (March 26, 1999): 28676–88, www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13188.pdf.

18 INS, “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 28689.



deportation if the assistance results in a debt to the government agency providing the benefit, the agency attempts to collect the debt from the individual or their sponsor, and the debt is not repaid.

While the 1999 guidance remains in effect, the Trump administration has taken a set of steps that make clear its intent to change public-charge standards. First, in January 2017, a draft executive order was leaked that included a directive to revise public-charge standards.¹⁹ Then, in December 2017, DHS announced that it was planning rulemaking to revise these standards.²⁰ The best available information about this rulemaking comes from the January 2018 and March 2018 leaked drafts. In addition, in January 2018, the U.S. Department of State published a revised version of its Foreign Affairs Manual that included updated instructions for conducting public-charge determinations for foreign nationals who apply for permanent and temporary visas at consulates abroad. While maintaining the focus on whether an individual is likely to be dependent on cash assistance or long-term institutionalization, these revised instructions allow officials to also consider the use of noncash benefits when assessing whether an applicant would be likely to become a public charge.²¹

A. *What Changes Does the Leaked Draft Rule Propose?*

The proposed rule, as outlined in the March 2018 leaked draft, would significantly expand both the types of benefits considered and the discretion DHS would have to deny admissions, adjustment or status, and other status changes on public-charge grounds. As of the March draft, officials had apparently not yet decided whether there would be new criteria for how public charge applies to deportation; the draft rule included language indicating that deportation criteria were to be determined, and discussions were to be held with the U.S. Department of Justice. Thus, while it is unclear whether the rule will apply to deportation, it is clear that it will apply to immigration admissions and adjustment of status, as well as to shorter-term admissions, extension of stay, and changes of status for nonimmigrants (e.g., holders of temporary work, student, and tourist visas).

As of the March draft, officials had apparently not yet decided whether there would be new criteria for how public charge applies to deportation.

The draft rule makes two key changes that, taken together, result in a transformation of the public-charge standard. First, the draft rule defines a public charge as an alien who receives one or more public benefits, and that a foreigner inadmissible on the public-charge ground is one who is likely to use or receive one or more public benefits at any time. Then, the draft rule defines public benefits as any government (federal, state, local, tribal, or territorial) cash or noncash assistance or services that are means tested or intended to help the individual meet basic living requirements, such as housing, food, utilities, or medical care.

This definition of public benefits is far broader than the current standard because in addition to cash assistance and long-term institutionalization, it includes a wide range of noncash assistance programs (see Box 1). These include SNAP benefits and housing assistance, Medicaid/CHIP, refundable tax credits such as the EITC, tax credits under the *Affordable Care Act* (ACA), and many other types of assistance

19 Michael Fix and Randy Capps, *Leaked Draft of Possible Trump Executive Order on Public Benefits Would Spell Chilling Effects for Legal Immigrants*, MPI commentary, February 2017, www.migrationpolicy.org/news/leaked-draft-possible-trump-executive-order-public-benefits-would-spell-chilling-effects-legal.

20 U.S. Department of Homeland Security (DHS), "Inadmissibility and Deportability on Public Charge Grounds" (proposed rule 1615-AA22, Fall 2017), www.reginfo.gov/public/do/eAgendaViewRule?pubId=201710&RIN=1615-AA22.

21 The updated instructions in the Foreign Affairs Manual are mostly relevant for noncitizens who apply for visas at U.S. consulates or embassies in their home countries. Applications to adjust status filed within the United States are adjudicated by the USCIS. See U.S. Department of State, "9 FAM 302.8, (U) PUBLIC CHARGE - INA 212(A)(4)," updated March 12, 2018, https://fam.state.gov/fam/09FAM/09FAM030208.html#M302_8.



and services that fall within the above definition, with the exception of those expressly exempted (see Appendix A). Moreover, the draft rule shifts the standard from considering an individual a public charge if they are primarily dependent on public benefits to if they make *any* use of them. The draft rule places heavy weight on any benefits use in the prior 36 months.

Box I. Major Federal Means-Tested Public Benefits

Cash assistance programs:

- **Temporary Assistance for Needy Families (TANF)** provides cash assistance to low-income families with children. TANF participants may be subject to work requirements and may receive certain employment-related services.
- **The Supplemental Security Income (SSI) program** provides cash assistance to low-income seniors and people who are blind or are disabled.

Noncash assistance programs:

- **The Supplemental Nutrition Assistance Program (SNAP, formerly called the Food Stamp Program)** provides low-income individuals and families with assistance to purchase food.
- **Medicaid** offers free or low-cost medical coverage to low-income families that meet economic and other eligibility requirements.
- **The Children's Health Insurance Program (CHIP)** provides free or low-cost medical coverage to children in low-income families that exceed Medicaid income requirements.

In addition, it is not only the applicant's benefits use that counts; under the draft rule, use of benefits by the applicants' dependents would also be taken into account in public-charge determinations.²² This means, for example, that applicants who do not themselves receive benefits, but whose U.S.-citizen children are insured through CHIP, could be barred from receiving a green card.

Table 1 summarizes some of the key elements of the March 2018 draft rule, comparing them to the current approach taken to assessing public benefits use. Note that while DHS currently considers state and local cash assistance and long-term institutionalization in public-charge determinations, the implications of including state and local assistance take on far greater significance under the draft proposed rule because of the broadening of the benefits to be included.

It is not only the applicant's benefits use that counts; under the draft rule, use of benefits by the applicants' dependents would also be taken into account.

²² Under the draft rule, "dependents" are defined as anyone listed as a dependent on the individual's tax return, anyone the individual is legally required to support, or any other person the individual is actually supporting and who is not contributing to the individual's income or resources.

**Table 1. Public Charge: Current Standard and Changes Proposed in the March 2018 Draft Rule**

Elements	Current Standard	Proposed Changes
Which benefits are included in public-charge determinations?	Cash-assistance based programs, such as Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), and General Assistance (GA), as well as long-term institutional care funded by the government	Any benefit or service that is means tested or intended to help meet basic living requirements, including both cash and noncash benefits and services. In addition to TANF, SSI, and GA, these include, among others: <ul style="list-style-type: none"> ▪ Medicaid/Children’s Health Insurance Program (CHIP); ▪ Supplemental Nutrition Assistance Program (SNAP); ▪ Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); ▪ housing and energy assistance; and ▪ refundable Earned Income Tax Credit (EITC).
What amount of public assistance matters?	A level of benefits use that makes the applicant primarily dependent on the government	Any receipt or use, or determination that an applicant is likely to use or receive benefits in the future
What period of benefits use is considered?	Use of benefits at the time of application or in the past	Use of benefits in past 36 months
Whose benefits use is considered?	The individual applicant	Individual applicants and any dependents, including anyone the individual is legally required to support

Note: For a complete list of the benefits included (and excluded) in the March 2018 draft rule, see Appendix A.

To determine whether an applicant is likely to receive any public benefits at any time, and therefore become a public charge, the draft rule proposes using a “totality of circumstances” test. This test would take into account multiple factors but gives heavy weight to use (or likely future use) of any benefits by the applicant or their dependents. Federal law requires USCIS adjudicators and consular officers to consider the applicants’ age; health; family status; assets, resources, and financial status; education and skills. They may also consider affidavits of support from an applicant’s sponsors.²³ In applying these factors, the draft rule would require USCIS officials to consider whether the individual is of working age, in good health, and has dependents, and what their overall financial circumstances are. In assessing their education and skills, weight would be given not only to educational attainment but also to English language proficiency (in essence, treating lack of English proficiency as predictor that a noncitizen may become a public charge). Assessment of financial status would include consideration of whether the individual or any dependent has sought, received, or used any public benefit (i.e., it appears that merely having applied for a benefit would be counted against the individual).

Not all of these factors are to carry the same weight. In determining the totality of an applicant’s circumstances, the draft rule specifies a series of negative factors that will weigh heavily in finding the applicant to be a public charge and a set of positive factors that strongly favor a finding that the applicant is not one (see Appendix B for a complete list).

²³ See INA § 212(a)(4).



Among the heavily weighted negative factors are the applicant's:

- Current use or receipt of one or more public benefits
- Use or receipt of one or more public benefits within the last 36 months
- Medical condition and inability to show evidence of unsubsidized health insurance, the prospect of obtaining unsubsidized health insurance, or other nongovernmental means of paying for treatment.

Thus, the receipt of any public benefit, either currently or in the 36 months before filing an application to change or extend one's status, could seemingly override other factors such as employment history and other financial circumstances and lead to a determination that the applicant is likely to become a public charge.

Among the heavily weighted positive factors, the most notable is the preference given to immigrants who can demonstrate having income or assets more than 250 percent of the federal poverty line—a level twice that currently required of persons sponsoring immigrants for admission under the 1996 law.

B. Who Would the Draft Rule Affect?

The potential impact of the public-charge rule under consideration is twofold: it will have a chilling effect on the public benefits use and wellbeing of immigrant-headed families, the principal focus of the remainder of this report, and it will affect who is admitted and allowed to stay in the United States. If a final rule follows the approach in the leaked draft, then its full effects on immigration policy will be felt by:

- individuals seeking admission to the United States *from abroad* on immigrant (permanent) or nonimmigrant (temporary) visas;
- individuals seeking to adjust their status *from within the United States* (i.e., seeking a green card to become an LPR); and
- individuals *within the United States* who hold a temporary visa and are seeking to either extend their stay or change their status (e.g., H-1B workers or foreign students).

Some categories of individuals seeking admission or adjustment of status would be exempt from the rule. In the March 2018 leaked draft rule, these include refugees, asylees, Afghans and Iraqis with special immigrant visas, and certain other specified groups.²⁴ However, the vast majority of individuals seeking admission or status adjustment will be subject to these expanded public-charge provisions. If the rule makes public benefits use grounds for the deportation of legally present immigrants, this could have significant consequences for immigration enforcement policy and put a large number of legal immigrants at risk of deportation.

The following breakdown of noncitizens who received permanent immigrant and temporary visas in recent years gives a sense of the potential scope of those who may be affected by the revised public-charge criteria for purposes of admission, adjustment of status, or extension or change of status.

²⁴ The full list of exemptions is listed in the draft proposed rule at Section 212.25. See USCIS, "Inadmissibility on Public Charge Grounds" (March 2018).



1. Individuals with Temporary (Nonimmigrant) Visas

In fiscal year (FY) 2016, approximately 179 million people entered the United States as nonimmigrants, including on employment, student, and tourist visas.²⁵ The leaked draft rule indicates that any individual applying for admission, extension of stay, or change of nonimmigrant status would be required to demonstrate that he or she is not using or receiving, nor likely to use or receive public benefits. The draft rule also states that DHS could require these applicants to submit a declaration of self-sufficiency.

It is unclear what practical effect the rule would have on nonimmigrant admissions. Generally, individuals with temporary visas are not eligible for public benefits, with very few exceptions (e.g., mean-tested student aid). It is also unclear whether the rule would take into consideration the use of public benefits by dependents of nonimmigrants; if use by dependents is considered, the impact could be considerably greater.

2. Individuals with Permanent (Immigrant) Visas

Each year for the last decade, about 1 million people have become LPRs, with family reunification, employment, humanitarian protection, and the diversity visa lottery being the four main immigration pathways.²⁶ New arrivals comprised approximately 51 percent (or 577,500) of the 1.1 million immigrants granted LPR status in FY 2017; the remaining 550,700 (or 48 percent) were status adjusters—persons already in the United States whose green-card applications were approved that year.²⁷

*There is reason to believe it would have by far the greatest effects
on those who come for family reasons.*

While the draft rule would apply to employment-based immigrants as well as those entering based on family or diversity visas, there is reason to believe it would have by far the greatest effects on those who come for family reasons. Immigrants entering the United States on employment visas have job offers and are generally well educated—positive factors under the terms of the draft rule that would potentially outweigh prior benefits use. Immigrants who arrive on family visas, on average, tend to have lower levels of education and English proficiency than those on employment visas.²⁸ Under the draft rule, both would be considered negative factors that could lower these applicants' chances of visa approval.²⁹

Of new arrivals in FY 2017, nearly half (46 percent) were immediate relatives of U.S. citizens, and another 38 percent were other family-sponsored immigrants.³⁰ In other words, more than 80 percent of newly arrived immigrants in FY 2017 came to unify with their families in the United States. Similarly, among those seeking adjustment of status, nearly half (48 percent) were family-based immigrants.

25 DHS, Office of Immigration Statistics (OIS), "Nonimmigrant Admissions by Class of Admission: Fiscal Years 2014 to 2016," data table, accessed May 4, 2018, www.dhs.gov/immigration-statistics/yearbook/2016.

26 Jie Zong, Jeanne Batalova, and Jeffrey Hallock, "Frequently Requested Statistics on Immigrants and Immigration in the United States," *Migration Information Source*, February 8, 2018, www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states.

27 DHS, OIS, "Legal Immigration and Adjustment of Status Report, FY2017, Q4," dataset, accessed April 15, 2018, www.dhs.gov/sites/default/files/publications/FY2017_Q1Q2Q3Q4_tables_D.xlsx.

28 Jeanne Batalova, Michael Fix, and Peter A. Creticos, *Uneven Progress: The Employment Pathways of Skilled Immigrants in the United States* (Washington, DC: MPI, 2008), www.migrationpolicy.org/research/uneven-progress-employment-pathways-skilled-immigrants-united-states.

29 Notably, recent arrivals to the United States have higher levels of education than earlier cohorts. Since the rule would be applied prospectively to future immigrant visa applicants, the increased human capital of newly arriving immigrants is likely to play in their favor. See Jeanne Batalova and Michael Fix, *New Brain Gain: Rising Human Capital among Recent Immigrants to the United States* (Washington, DC: MPI, 2017), www.migrationpolicy.org/research/new-brain-gain-rising-human-capital-among-recent-immigrants-united-states.

30 DHS, OIS, "Legal Immigration and Adjustment of Status Report."



By comparison, 12 percent of all new LPRs (both new arrivals and status adjusters) in FY 2017 were employment-based immigrants.

Changes to admissions and status adjustment criteria that heavily favor more educated and highly skilled immigrants over those entering to join family could significantly shift the balance of the U.S. legal immigration system. Such a shift would be in line with calls by the Trump administration to halve total immigration, primarily by reducing family immigration.³¹ Using its discretion under this rule, the administration could potentially achieve a sharp reduction in both family and overall numbers administratively, without waiting for Congress to pass legislation.

Using its discretion under this rule, the administration could potentially achieve a sharp reduction in both family and overall numbers administratively.

III. The Potential Chilling Effects of the Draft Rule

In addition to its effects on legal immigration to the United States, there is reason to expect the proposed rule will have a large impact on participation in public programs by legally present immigrants and their children. Many may fear triggering the significant immigration consequences of using benefits, and these fears could lead them to drop out or not enroll themselves or their family members in programs for which they qualify. This in turn could have a negative impact on the wellbeing of these families, slow their social and economic integration, make it difficult to become fully self-sufficient, and raise public health risks. This section will examine the draft rule’s potential “chilling effects” on public benefits use—both the scale of its likely impact and the populations most likely to be affected.

A. What Are “Chilling Effects?”

Changes in the behavior of immigrant families following the passage of the 1996 welfare law provide the best available evidence with which to gauge the potential effects of the proposed public-charge rule. Research documented a sharp decline in benefit program participation among immigrant families following the 1996 legislation.³² Part of the reason for this decline was that the law newly limited benefit access for recent LPRs while keeping in place bars on benefits use by nonimmigrants and unauthorized immigrants. However, scholars have documented another important factor contributing to reduced benefits use by immigrants. The “chilling effects” of the 1996 legislation deterred many immigrants entitled to public benefits and services from using them due to confusion about eligibility criteria and fears that users would be unable to sponsor family members in the future.

31 The White House, “President Donald J. Trump Backs RAISE Act” (briefing statement, Washington, DC, August 2, 2017), www.whitehouse.gov/briefings-statements/president-donald-j-trump-backs-raise-act/.

32 For a brief review of studies of the impact of welfare reform on immigrants, see Michael E. Fix, Randy Capps, and Neeraj Kaushal, “Immigrants and Welfare: Overview” in *Immigrants and Welfare: The Impact of Welfare Reform on America’s Newcomers*, ed. Michael Fix (New York: Russell Sage Foundation, 2009).



A comprehensive review of studies done following the introduction of welfare reform found statistical evidence of a withdrawal from benefits among populations whose eligibility was unchanged by the law,³³ including refugees and U.S.-citizen children. Studies by the U.S. Department of Agriculture found that food stamp use fell by 53 percent among U.S.-citizen children in families with a noncitizen parent between 1994 and 1998.³⁴ With regard to refugees, Fix and Passel found that while food stamp use by noncitizen families fell 43 percent between 1994 and 1998, it fell 60 percent among refugees even though the law did not restrict their eligibility for the program, even during their initial years in the country.³⁵ Comparable figures for drops in Medicaid use were 17 percent among noncitizens and 39 percent among refugees; for Temporary Assistance for Needy Families (TANF), 44 percent and 78 percent.³⁶ Other studies found that welfare reform affected public health insurance coverage of immigrants who had resided in the United States for more than five years (and were thus not subject to its restrictions) as adversely as those who had been in the country for fewer than five years.³⁷ The Kaiser Commission on Medicaid and the Uninsured also found that, after welfare reform, many immigrants did not seek public insurance because they feared it would affect their immigration status or jeopardize their ability to become a citizen.³⁸ And while studies also documented a decline in benefits use among low-income, U.S.-born individuals during this period (likely due to changes in eligibility criteria and an improving economy), these were more modest than those seen among immigrants.³⁹

The exact wording of the new rule, its implementation, and other immigration-policy changes will determine the extent of chilling effects.

Taken together, these studies demonstrate a wide range of chilling effects on immigrants' public benefits use after the 1996 laws passed, with these effects varying by immigrant group and type of public benefit. Given this experience, immigrants' benefits use might be expected to similarly and substantially decline following the release of the proposed public-charge rule. The exact wording of the new rule, its implementation, and other immigration-policy changes will determine the extent of chilling effects.

B. Gauging the Potential Reach of the Draft Proposed Rule

To understand the size and characteristics of the population likely to feel the rule's chilling effects, this report estimates benefits use for the following four major means-tested public benefits: TANF and other cash welfare; Supplemental Security Income (SSI); SNAP; and Medicaid/CHIP and other public health

33 Francisco I. Pedraza and Ling Zhu, "The 'Chilling Effect' of America's New Immigration Enforcement Regime," *Pathways*, Spring 2015, https://inequality.stanford.edu/sites/default/files/Pathways_Spring_2015_Pedraza_Zhu.pdf.

34 Jenny Genser, *Who Is Leaving the Food Stamp Program: An Analysis of Caseload Changes from 1994 to 1997* (Washington, DC: U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis, Nutrition, and Evaluation, 1999), <https://fns-prod.azureedge.net/sites/default/files/cdr.pdf>.

35 Michael E. Fix and Jeffrey S. Passel, *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform: 1994–1997* (Washington, DC: Urban Institute, 1999), www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform.

36 Ibid.

37 Robert Kaestner and Neeraj Kaushal, "Immigrant and Native Responses to Welfare Reform," *Journal of Population Economics* 18, no. 1 (2005): 69–92.

38 Peter Feld and Britt Power, *Immigrants' Access to Health Care after Welfare Reform: Findings from Focus Groups in Four Cities* (Washington, DC: Kaiser Family Foundation, 2000), www.kff.org/medicaid/report/immigrants-access-to-health-care-after-welfare/.

39 Randy Capps, Michael Fix, and Everett Henderson, "Trends in Immigrants' Use of Public Assistance after Welfare Reform," in *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix (New York: Russell Sage Foundation, 2009).



insurance programs.⁴⁰ While these are not the only benefits that would be considered in public-charge determinations under the draft rule, they are the only ones for which estimates can be made using ACS data (see Box 2), and their recipients comprise a large share of those who could be affected by the expected rule. Using pooled 2014–16 ASC data,⁴¹ this analysis disaggregates benefits use by citizenship status, distinguishing: 1) immigrants who are not U.S. citizens (noncitizens); 2) immigrants who are naturalized U.S. citizens; and 3) the U.S. born.⁴²

This report examines public benefits use among the U.S.-born population both as an important comparison group and because the chilling effects of the new rule could extend to a segment of this population. That group could include U.S.-born individuals who seek to sponsor relatives for immigration (e.g., a U.S.-born member of the U.S. military stationed in the Philippines who wishes to bring his Filipino wife to the United States, or U.S.-born child who wishes to sponsor his or her noncitizen parents residing in the United States for a green card). The number of such native-born sponsors, though, is small relative to the total U.S.-born population.

40 See Appendix C for a list of American Community Survey (ACS) questions and instructions for data collected on use of these programs. Although ACS does not report the receipt of ACA subsidies, MPI developed proxy models to estimate the number of people *potentially eligible* for ACA subsidies who were not receiving one of the four major means-tested public benefits.

41 ACS data analyzed in this report were accessed from Steven Ruggles, Katie Genadek, Ronald Goeken, Josiah Grover, and Matthew Sobek, “Integrated Public Use Microdata Series: Version 7.0—Dataset,” University of Minnesota, accessed February 15, 2018, <https://usa.ipums.org/usa/index.shtml>.

42 The term “immigrant” (or “foreign born”) refers to people who did not hold U.S. citizenship at birth. The term “noncitizen” refers to immigrants who did not have U.S. citizenship at the time of ACS. This population includes lawful permanent residents (LPRs), refugees and asylees, persons on certain temporary visas, and the unauthorized. The term “naturalized citizen” refers to immigrants who acquired U.S. citizenship through naturalization. The term “U.S. born” (or “native born”) refers to people born in the United States or abroad to a U.S.-citizen parent.



Box 2. Data Source and Considerations

The American Community Survey (ACS) is a large, nationally representative survey of about 3 million households conducted annually by the U.S. Census Bureau. The survey collects detailed demographic, social, and economic data about U.S. families, including data on the use of some means-tested public benefits. The present analysis pools three years of ACS data to boost the sample size and improve the precision of the estimates. Data from this three-year range (2014, 2015, and 2016) capture health insurance coverage trends following the implementation of the *Affordable Care Act* (ACA) in 2014.

The estimates presented here can be viewed as conservative. ACS data provide information about four types of means-tested public benefits: TANF or other cash welfare; SSI or other disability payments; SNAP; and Medicaid/CHIP or other public health insurance programs.

Our estimates of benefits use, and as a result, the extent of chilling effects, are likely to be conservative due to several ACS data limitations:

- 1) The draft public-charge rule includes a wide range of cash and noncash benefits, including state-level and local benefit programs, while the ACS covers only these four federal major programs.
- 2) Research suggests that government surveys typically underestimate benefits use.
- 3) The draft rule would give consideration to people who not only use benefits but also those who apply for them; ACS data do not allow for estimates of program applicants.
- 4) The proposed rule also extends the definition of benefits use to individuals' dependents. ACS data allow us to estimate benefits use by the dependents of immigrants living in the same family, but not those who live in different households.

There are other U.S. Census Bureau surveys that provide information about the use of public benefits, including the annual Current Population Survey (CPS) and the Survey of Income and Program Participation (SIPP), last conducted in 2014. Both surveys collect data on a wider range of benefits than ACS, including the EITC, free and reduced-price school lunch program, housing subsidies, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and the Low-Income Home Energy Assistance Program (LIHEAP). However, the CPS and SIPP are limited by small sample sizes that do not allow for analysis of benefits use among immigrants for smaller states and many countries of origin.

MPI researchers conducted sensitivity analyses to examine how much the use of other important benefit programs not recorded by ACS would differ from estimates based on ACS data. The addition of housing assistance, energy assistance, and WIC benefits would have increased MPI estimates of affected noncitizens in benefit-receiving families by only 1 percentage point, as users of these benefits typically also use one of the four main benefits covered by ACS data. At present, it is unclear whether free- and reduced-price lunch benefits will be included in the proposed public-charge rule. These benefits were expressly excluded in the January 2018 draft version, but there was no reference to them in the March version. If school lunch benefits are added to the benefits included in ACS data, this would increase the rate of public-benefits use for noncitizens in benefits-receiving families by about 15 percentage points, in large part because of the presence of U.S.-citizen children eligible for this benefit.

Finally, while the expected rule would overwhelmingly affect legally present immigrants—unauthorized immigrants are already ineligible for most means-tested public benefits—because ACS data do not allow analysts to distinguish between different legal statuses, estimates that use these data capture some unauthorized immigrants in families where U.S.-citizen children or other family members are eligible for public benefits.

Source: Jeffrey Moore, Linda Stinson, and Edward Welniak, "Income Measurement Error in Surveys: A Review," *Journal of Official Statistics* 14 no. 4 (2000): 331-61; Bruce Meyer and Nikolas Mittag, "Using Linked Survey and Administrative Data to Better Measure Income: Implications for Poverty, Program Effectiveness, and Holes in the Safety Net" (working paper 21676, National Bureau of Economic Research, October 2015), www.nber.org/papers/w21676.

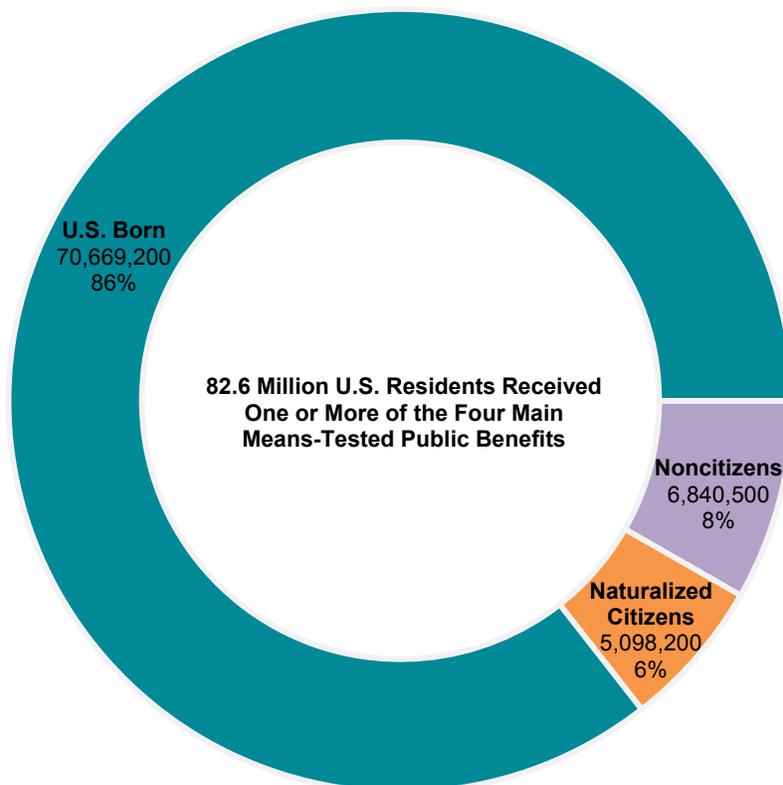


C. Benefit-Use Levels in the United States: Individuals versus Families

In order to gauge the potential effects of the proposed rule, it is important to first understand the scale of current benefits use. This analysis can be done at the individual, family, or household level. Some benefits are provided if an individual meets eligibility criteria (e.g., SSI, CHIP), while others are provided based on the composition or income level of families or households (e.g., TANF, SNAP). Because the draft rule would expand the public-charge determination to include consideration of benefits used by a person’s dependents, this analysis encompasses both individual receipt of benefits and family receipt, where at least one family member received benefits.

The great majority of the 82.6 million U.S. residents receiving one or more public benefits in the 2014–16 period were not immigrants. Among individuals using one or more of the four main benefit programs included in this analysis, immigrants accounted for about 14 percent of recipients—roughly the same as their share of the U.S. population.⁴³ The lion’s share (86 percent or 70.7 million) of individuals using these programs were U.S. born (see Figure 2).

Figure 2. Citizenship Status of Individuals Receiving Public Benefits, 2014–16



Notes: The four means-tested public benefit programs included in these data are: (1) Federal, state, and local public cash assistance, including TANF and GA; (2) SSI; (3) SNAP; (4) Medicaid and CHIP. Data include all individuals, excluding those living in group quarters.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 American Community Survey (ACS) data.

⁴³ Authors’ tabulation of the U.S. Census Bureau’s pooled 2014–16 ACS data.



Nearly 12 million immigrants (naturalized citizens and noncitizens combined) used at least one of the four public benefit programs examined here during the 2014–16 period (see Table 2, left panel). They represented 28 percent of all immigrants in the United States. By comparison, 26 percent of U.S.-born residents used one or more of these four programs.

A substantially greater number of immigrants—17.7 million, or 42 percent of all immigrants—lived in families where a member received benefits from at least one of these four programs (see Table 2, right panel). Among the U.S. born, almost one-third (or 87 million) lived in families receiving one or more of these benefits.

Table 2. Estimates of Individuals Receiving Public Benefits versus Individuals in Benefits-Receiving Families, by U.S. Citizenship Status, 2014–16

	Individuals			Individuals in Benefits-Receiving Families*		
	Noncitizens	Naturalized Citizens	U.S. Born	Noncitizens	Naturalized Citizens	U.S. Born
All individuals	21,909,800	20,429,300	270,656,900	21,909,800	20,429,300	270,656,900
Individuals receiving any of the four major public benefits	6,840,500	5,098,200	70,669,200	10,336,300	7,379,500	86,988,900
As a percentage of all individuals	31.2	25.0	26.1	47.2	36.1	32.1

* Individuals living in families where one or more member receives at least one of the four means-tested public benefits.

Notes: The four means-tested public benefit programs included are: TANF/GA, SSI, SNAP, and Medicaid/CHIP. Data include all individuals, excluding those living in group quarters. Families are defined as groups of persons related to the household (most are spouses and children, but this also includes unmarried partners, grandparents, siblings, parents, and children-/siblings-/parents-in-law) or subfamily head (e.g., roommates, boarders, and foster children).

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

As shown in Table 2, 6.8 million individual noncitizens, or 31 percent of all noncitizens nationwide, used at least one of the four studied means-tested public benefits. By comparison, more than 10 million noncitizens lived in families in which a member was receiving public benefits (47 percent of all noncitizens).

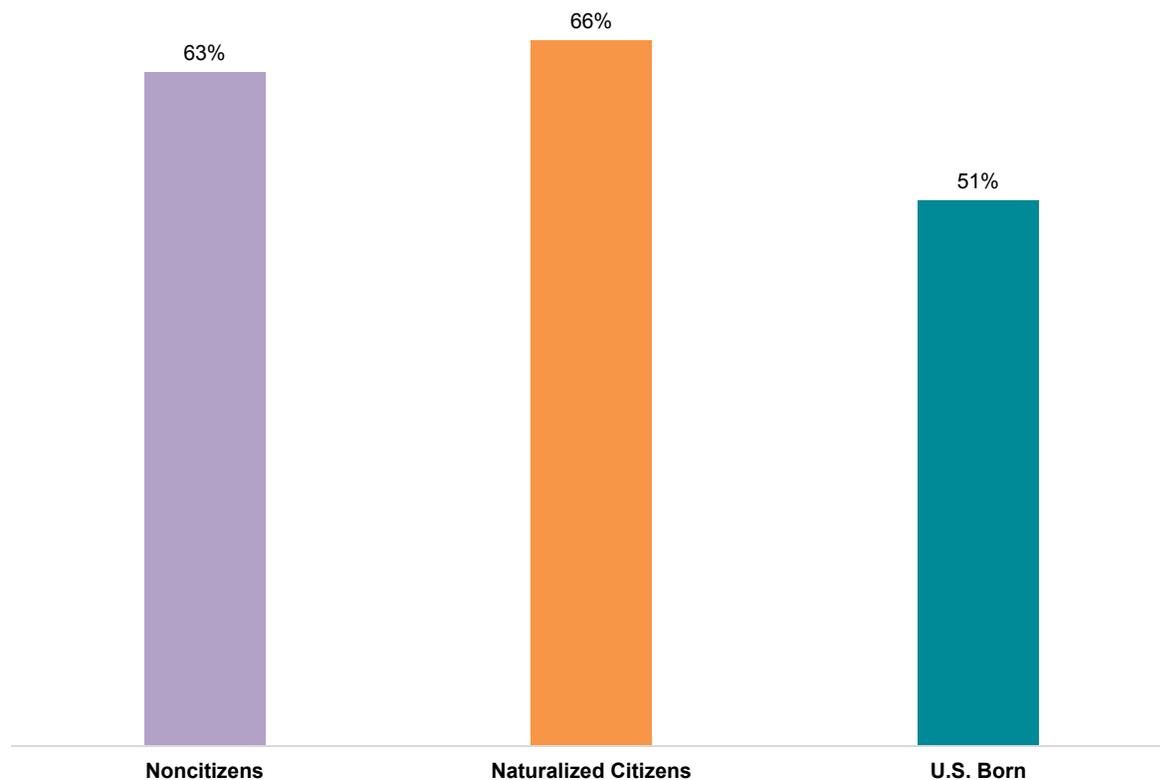
Benefits use by these U.S. citizens could have implications for their ability to sponsor relatives.

Rates of public benefits use were similar among naturalized citizens and the U.S. born; about one-quarter of individuals received benefits, and about one-third lived in families receiving benefits. Under the draft proposed rule, benefits use by these U.S. citizens could have implications for their ability to sponsor relatives.



Notably, the share of working-age immigrants in families using means-tested benefits who are employed is high: indeed, it is higher than the share of the U.S. born who are employed. Sixty-three percent of noncitizens and 66 percent of naturalized citizens (ages 16 to 64) in benefits-receiving families were employed, compared to 51 percent among U.S.-born working-age adults (see Figure 3). These high levels of employment indicate that most immigrants use benefits as work supports.

Figure 3. Employment Rates for Individuals (ages 16-64) in Benefits-Receiving Families, by U.S. Citizenship Status, 2014–16



Note: Benefits-receiving families are those where at least one member receives one or more of the four main means-tested public benefits.

Source: MPI tabulation of U.S. Census Bureau pooled 2014-16 ACS data.

Use rates also varied by benefit program. About 3 percent of immigrants were in families in which at least one person received TANF, and less than 6 percent were in families receiving SSI—figures comparable to those for U.S.-born persons in families receiving cash-based benefits. For all groups, participation was considerably higher in noncash programs such as SNAP (17 percent) and Medicaid/CHIP (39 percent)—program use that could lead to a public-charge finding under the draft proposed rule (see Table 3).



Table 3. Estimates of Individuals Receiving Public Benefits versus Individuals in Benefits-Receiving Families, by U.S. Citizenship Status and Benefit Program Type, 2014–16

	Individuals			Individuals in Benefits-Receiving Families*		
	Noncitizens	Naturalized Citizens	U.S. Born	Noncitizens	Naturalized Citizens	U.S. Born
All individuals	21,909,800	20,429,300	270,656,900	21,909,800	20,429,300	270,656,900
Four main means-tested programs						
<i>Estimate</i>						
TANF/GA (public cash assistance or welfare)	305,400	280,000	3,026,000	718,700	621,600	8,769,400
SSI	306,000	801,200	6,811,200	781,300	1,564,200	15,622,900
SNAP (food stamps)	4,495,400	2,748,100	43,425,500	4,495,400	2,748,100	43,425,500
Medicaid/CHIP	4,016,100	3,769,000	55,116,400	9,589,900	6,753,200	78,056,000
<i>As a percentage of all individuals</i>						
TANF/GA (public cash assistance or welfare)	1.4	1.4	1.1	3.3	3.0	3.2
SSI	1.4	3.9	2.5	3.6	7.7	5.8
SNAP (food stamps)	20.5	13.5	16.0	20.5	13.5	16.0
Medicaid/CHIP	18.3	18.4	20.4	43.8	33.1	28.8
Individuals (in addition to those described above**) potentially eligible for Affordable Care Act (ACA) subsidies						
Individuals potentially eligible for ACA subsidies	1,458,400	1,491,700	18,556,200	1,191,800	1,201,000	16,736,700
As a percentage of all individuals	6.7	7.3	6.9	5.4	5.9	6.2

* Individuals living in families where one or more member receives at least one of the four means-tested public benefits.

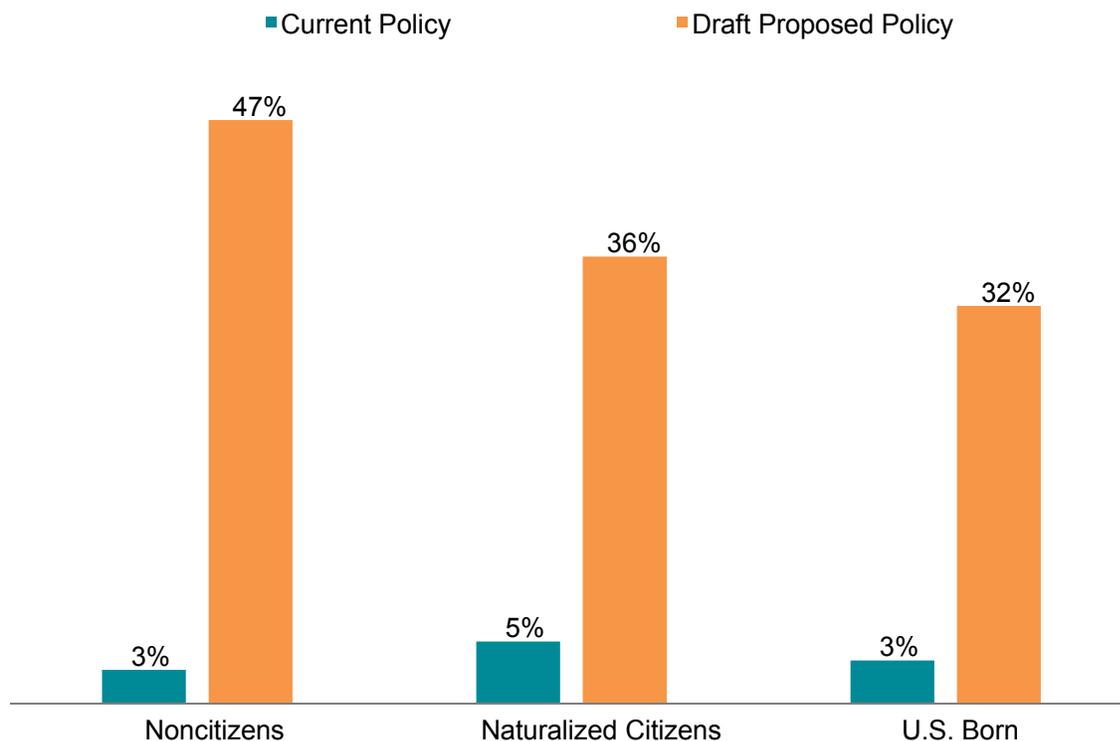
** "Potentially eligible for ACA subsidies" refers to individuals who were covered by a private health insurance plan purchased directly by them or by a family member, who resided in families with incomes below 400 percent of the federal poverty level, and who were not covered by Medicaid/CHIP and received no TANF, SSI, or SNAP. Some individuals in families where members receive one or more of the four means-tested public benefits are also eligible for ACA subsidies; these individuals are captured in the top panel of this table. While ACS records actual receipt of the four benefits programs, it does not do so for ACA subsidies. To avoid double-counting, this table provides estimates of the number of additional individuals potentially eligible for ACA subsidies (and who may be deemed a public charge under the draft proposed rule if they receive the ACA subsidies for which they are eligible).

Notes: Data include all individuals, excluding those living in group quarters. Families are defined as groups of persons related to the household (most are spouses and children, but these data also include unmarried partners, grandparents, siblings, parents, and children-/siblings-/parents-in-law) or subfamily head (e.g., roommates, boarders, and foster children).

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

Figure 4 captures the potential impact of changing the standard for determining who might be deemed a public charge. It shows that the use of cash benefits among individuals—the principal focus of the 1996 welfare reform law and the subsequent 1999 public-charge guidelines—was relatively low. Only 3 percent of noncitizens individually received public cash assistance (TANF, GA, or SSI).⁴⁴ In contrast, the share of persons who may see benefits use factor into a public-charge decision under the potential rule—and who might feel its chilling effects—is much higher. For noncitizens, the share would be 47 percent, that is, the proportion of noncitizens living in families where at least one person used any of these benefits. Notably, 32 percent of U.S.-born persons also received benefits that would be counted in a public-charge determination under the new definition, compared to 3 percent under the current standard.

Figure 4. Share of Persons for Whom Benefits Use Could Be Considered in a Public-Charge Determination, 2014–16



Notes: Estimates shown under the “current” public charge policy represent the share of noncitizen, naturalized-citizen, and U.S.-born individuals who received cash-based assistance only (i.e., either TANF/GA or SSI). Estimates shown under “draft proposed” policy refer to the share of individuals in families receiving at TANF/GA, SSI, SNAP, or Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

Under the draft proposed rule, individuals in families with a member who uses ACA subsidies could also see use of these subsidies considered in public-charge determinations. ACA subsidies reduce premiums and out-of-pocket health insurance costs for moderate- and low-income populations, particularly those without access to affordable insurance coverage through employment or Medicaid/Medicare. Because the ACS does not collect data on whether respondents receive ACA subsidies, Migration Policy Institute (MPI) researchers developed a proxy estimate of the number and share of individuals potentially eligible to receive them.⁴⁵ To do so, they estimated the number of individuals who were covered by a private health

⁴⁴ Because this estimate of the share of cash program users under current policy represents all noncitizens who received either TANF/GA or SSI, it overstates somewhat the population who could be deemed a public charge. Only noncitizens who depend on cash assistance as their primary source of income are specified under the current standard.

⁴⁵ Note that this population includes people who receive these subsidies, those who do not receive them even though they are eligible, and unauthorized immigrants who would be eligible but for their legal status.



insurance plan that they or a family member purchased directly, who resided in families with incomes below 400 percent of the federal poverty level, and whose families were not covered by Medicaid and did not receive TANF, SSI, or SNAP.

The data show that an additional 1.2 million noncitizens (or 5 percent of all noncitizens in families) and 1.2 million naturalized citizens (6 percent of naturalized citizens in families) could have received ACA subsidies (see Table 3, bottom panel). By including ACA subsidies in a potential public-charge determination, the draft rule expands the scope of the standard and does so in a way that could affect not only low-income but also middle-income families.

D. Who Would Feel the Chilling Effects of the Expected Rule?

The exact magnitude of the chilling effects of the proposed public-charge rule is difficult to gauge. Close to 18 million immigrant adults and children live in families in which at least one member received TANF/GA, SSI, SNAP, or Medicaid/CHIP. Additionally, 9.2 million U.S.-born children reside in such families. However, not all 27 million adults and children in benefits-receiving immigrant families are expected to withdraw from public benefit programs. Other factors, such as need, legal advice, understanding or ignorance of the proposed policy changes, and the strength of local economies and labor-market opportunities could influence family decision-making as well.

Some of the best indications of how many people may alter their behavior in response to the proposed change in public-charge policy come from studies conducted following the mid-1990s welfare reform. These found steep declines in participation levels across differing immigrant populations and benefit programs, with declines ranging from 20 to 60 percent. Using the lower bound estimate of 20 percent, approximately 5.4 million immigrants and their children may leave the programs. But if immigrants drop out at a higher rate of 60 percent, as many as 16.2 million may choose to forgo these benefits.

I. Benefit-Use Levels among Children

The potential effects of the draft rule vary across subpopulations and geographies. Children are among the most vulnerable groups in any society and a wide range of U.S. programs are intended to promote their health, nutrition, wellbeing, and development. While the children of immigrants⁴⁶ represented 26 percent of all children under age 18 in 2014–16, they accounted for 31 percent (or 10.5 million) of the 33.7 million children living in families receiving one of the four main public benefits.

The great majority of children potentially affected by the draft proposed rule's chilling effects would be U.S.-citizen children with immigrant parents.

Nine out of ten (or 9.2 million) of these 10.5 million children of immigrants were U.S. citizens by birth. Another 987,000 were noncitizen children and 280,000 were naturalized citizens. Thus, the great majority of children potentially affected by the draft proposed rule's chilling effects would be U.S.-citizen children with immigrant parents.

⁴⁶ Children of immigrants (or children in immigrant families) refers to children under age 18 with at least one immigrant parent, or if no parent is present, an immigrant householder.



As was the case for the immigrant population overall, Medicaid/CHIP and SNAP accounted for most benefits use among children (see Table 4).

Table 4. Estimates of the Number and Share of Children in Benefits-Receiving Families, by U.S. Citizenship Status of the Child, 2014–16

	Children by U.S. Citizenship Status and Parental Nativity			
	Noncitizens	Naturalized Citizens	U.S. Born with Immigrant Parents*	U.S. Born with U.S.-Born Parents
All children	1,819,800	653,200	16,341,300	54,501,900
Children in families receiving any of the four main public benefits	987,000	279,700	9,254,000	23,165,700
As a percentage of all children	54.2	42.8	56.6	42.5
Children in families receiving the following public benefits:				
<i>Estimate</i>				
TANF/GA (public cash assistance or welfare)	82,400	25,600	697,400	2,704,100
SSI	46,100	27,900	499,000	2,787,500
SNAP (food stamps)	507,200	116,000	4,396,400	13,245,700
Medicaid/CHIP	929,700	262,300	8,867,100	21,785,500
<i>As a percentage of all children</i>				
TANF/GA (public cash assistance or welfare)	4.5	3.9	4.3	5.0
SSI	2.5	4.3	3.1	5.1
SNAP (food stamps)	27.9	17.8	26.9	24.3
Medicaid/CHIP	51.1	40.2	54.3	40.0

* Children born in the United States with at least one immigrant parent, or if no parent is present, with an immigrant householder.

Note: These data include children under age 18 living in families in which one or more member receives at least one of the four major means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

2. Benefit-Use Levels by Race and Ethnicity

Benefits use and, thus, the likely chilling effects of the draft proposed rule also vary across racial/ethnic groups. This section explores benefits use by the two largest racial/ethnic groups among immigrants: Asian Americans and Pacific Islanders (AAPIs)⁴⁷ and Hispanics. AAPIs account for 28 percent of all immigrants; Hispanics, for 45 percent.

The impact of the expected rule would be broadly felt across both populations. Currently, 3.8 million AAPI and 10.3 million Hispanic immigrants were in families in which a member received at least one of the four main means-tested benefits (see Table 5). If persons potentially eligible for ACA subsidies are added, the

⁴⁷ Asian Americans and Pacific Islanders (AAPIs) are persons who reported their race as Asian or Pacific Islander alone or in combination with other racial categories on their ACS questionnaire. In this report, the AAPI population includes both non-Hispanic and Hispanic persons. The former accounts for 99 percent of all AAPI immigrants.



number of AAPI and Hispanic immigrants in benefits-receiving families increases by about 870,000 and 690,000, respectively.

Table 5. Number and Share of Asian American and Pacific Islanders and Hispanics in Benefits-Receiving Families,* by U.S. Citizenship Status, 2014–16

	AAPI Population			Hispanic Population		
	Noncitizens	Naturalized Citizens	U.S. Born	Noncitizens	Naturalized Citizens	U.S. Born
All individuals	4,907,600	6,915,200	8,936,800	12,486,300	6,683,400	36,141,500
Individuals in families receiving any of the four major public benefits	1,500,200	2,261,800	2,627,100	7,288,500	3,016,900	19,198,300
As a percentage of all individuals	30.6	32.7	29.4	58.4	45.1	53.1
Workers						
Individuals ages 16-64 in benefit-receiving families	1,135,700	1,589,900	1,195,500	6,409,100	2,280,700	8,416,100
Workers ages 16-64 in families receiving benefits	645,600	1,058,900	650,500	4,178,300	1,522,400	4,412,800
As a percentage of individuals ages 16-64 in families receiving benefits	56.8	66.6	54.4	65.2	66.7	52.4
Individuals in families receiving the following public benefits:						
<i>Estimate</i>						
TANF/GA (public cash assistance or welfare)	137,200	217,900	292,200	415,500	206,000	1,876,900
SSI	185,500	599,400	407,200	432,500	504,600	2,325,900
SNAP (food stamps)	523,200	686,600	994,000	3,267,700	1,225,500	9,883,400
Medicaid/CHIP	1,390,900	2,092,900	2,415,600	6,793,300	2,766,200	17,968,800
<i>As a percentage of all individuals</i>						
TANF/GA (public cash assistance or welfare)	2.8	3.2	3.3	3.3	3.1	5.2
SSI	3.8	8.7	4.6	3.5	7.6	6.4
SNAP (food stamps)	10.7	9.9	11.1	26.2	18.3	27.3
Medicaid/CHIP	28.3	30.3	27.0	54.4	41.4	49.7
Individuals (in addition to those described above*) potentially eligible for Affordable Care Act (ACA) subsidies						
Individuals potentially eligible for ACA subsidies	473,200	391,900	451,600	363,400	325,300	1,179,300
As a percentage of all individuals	9.6	5.7	5.1	2.9	4.9	3.3

* "Potentially eligible for ACA subsidies" refers to individuals who were covered by a private health insurance plan purchased directly by them or by a family member, who resided in families with incomes less than 400 percent federal poverty line, and whose families were not covered by Medicaid/CHIP and did not receive TANF, SSI, or SNAP.

Note: Data include individuals living in families in which one or more member receives at least one of the four means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

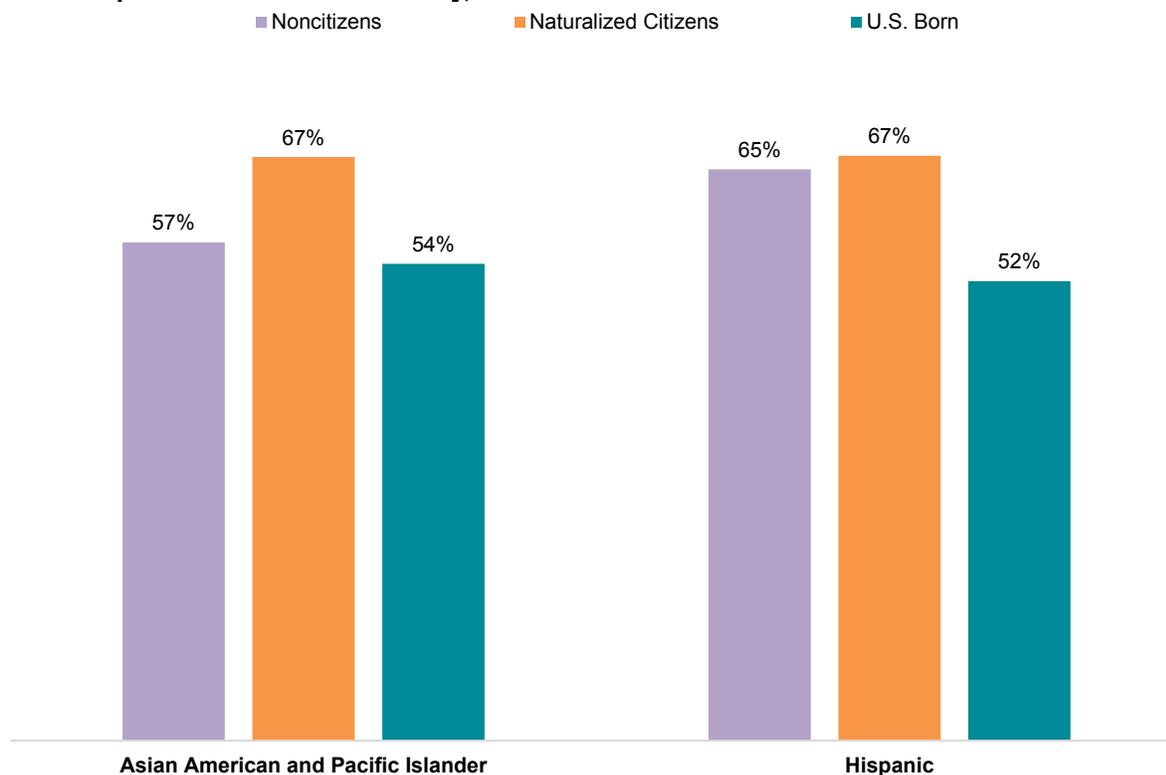


AAPI immigrants lived in families that were either less or equally likely to use benefits as the overall U.S. immigrant population. Naturalized AAPIs were only slightly more likely to use public benefits (33 percent) than either noncitizen or U.S.-born AAPIs (31 percent and 29 percent, respectively). This trend holds for all but SNAP benefits (as shown in Table 5).

Relative to both AAPIs and immigrants overall, noncitizen Hispanics were the most likely to be in families that received public benefits. In large part, this trend has to do with the presence of U.S.-citizen children in many Hispanic families.

Like immigrants overall, the majority of working-age AAPIs and Hispanics in benefits-receiving families were employed (see Figure 5). Employment rates were highest among naturalized Hispanics and AAPIs (both 67 percent) and noncitizen Hispanics (65 percent). For such families, as is noted more broadly above, these benefits function as work support and not an income substitute.

Figure 5. Employment Rate for Individuals (ages 16-64) in Benefits-Receiving Families, by U.S. Citizenship Status and Race/Ethnicity, 2014–16



Note: Benefits-receiving families are those in which at least one member receives one or more of the four means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

3. Benefit-Use Levels by Country of Birth

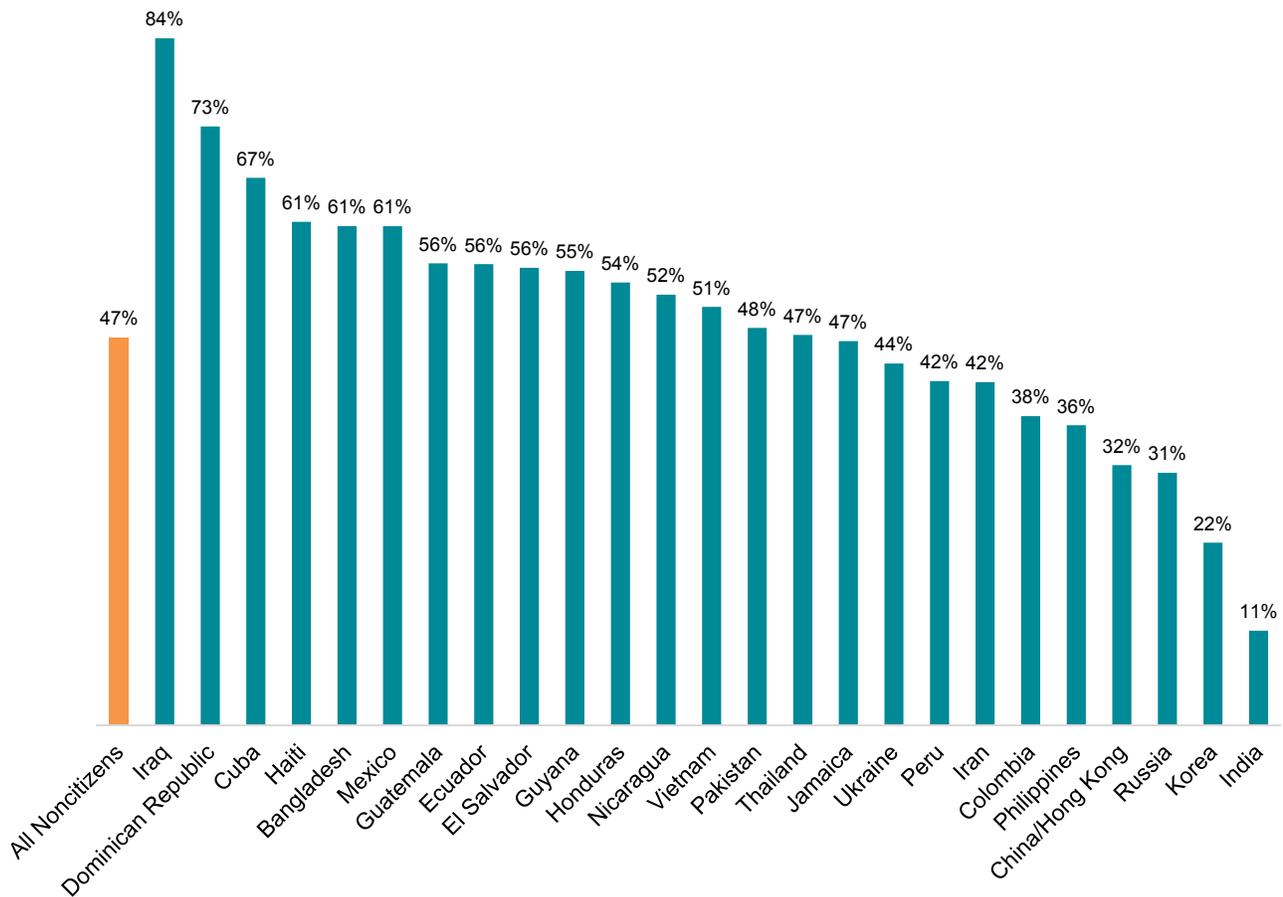
Noncitizens' benefits use rates vary significantly by country of origin (see Figure 6). Whereas the national average was 47 percent among all noncitizens, those born in Iraq, the Dominican Republic, and Cuba were much more likely to live in benefits-receiving families (84 percent, 73 percent, and 67 percent, respectively). Noncitizens from India and Korea⁴⁸ were much less likely, at 11 percent and 22 percent, respectively.

⁴⁸ The ACS data source used in this analysis reports persons born in South Korea and North Korea as one origin group.



There are numerous reasons for these widely varied levels of benefits use. Refugee status, household composition, and socioeconomic status (as reflected by education and income levels) are key factors contributing to these trends. Iraqis and Cubans are refugee-origin populations and have been generally exempt from benefit restrictions placed on other legal immigrants. Meanwhile, Dominican and Haitian families are roughly twice as likely to be headed by a single female, and such families are more likely to be in poverty than an average immigrant family.⁴⁹ In the case of Mexican immigrants, and despite higher levels of employment, their families have lower incomes and are more likely to be in poverty than those of other immigrants.⁵⁰ The presence in many of U.S.-born children eligible for benefits, coupled with low income levels, may explain why Mexican noncitizens have higher than average rates of benefit participation. By contrast, the higher average education and income levels of immigrants from India and Korea⁵¹ make them significantly less likely to use public assistance.

Figure 6. Share of Noncitizens in Benefits-Receiving Families: Top 25 Countries of Origin with the Highest Number of Noncitizens in Benefits-Receiving Families, 2014–16



Note: Benefits-receiving families are those in which at least one member receives one or more of the four main means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

49 Authors' analysis of 2016 ACS data. For instance, the share of Dominican families with a female head (no husband present) was 32 percent versus 14 percent among all immigrants. Thirty-six percent of families headed by a single Dominican female were in poverty compared to 31 percent of all single female-headed immigrant families, despite higher than average labor-force participation among Dominican immigrant women.

50 Authors' analysis of 2016 ACS data. Almost 29 percent of Mexican families with children under 18 were in poverty compared to 21 percent of all immigrant families with young children.

51 Jie Zong and Jeanne Batalova, "Indian Immigrants in the United States," *Migration Information Source*, August 31, 2017, www.migrationpolicy.org/article/indian-immigrants-united-states; Jie Zong and Jeanne Batalova, "Korean Immigrants in the United States," *Migration Information Source*, February 8, 2018, www.migrationpolicy.org/article/korean-immigrants-united-states.



4. Benefit-Use Levels by U.S. State

The chilling effects of the anticipated rule may be greatest in major immigrant-receiving states and states that have extended public benefits to noncitizens and their families beyond what is provided by the federal government. California and New York fall into both categories. California is home to the largest number of immigrants of any U.S. state (10.7 million out of the nation's 43.7 million immigrants in 2016), and New York has the third-largest immigrant population (4.5 million), after Texas (4.7 million).⁵² California and New York are also among the 26 states and the District of Columbia that use state funding or take federal options⁵³ to extend benefits to some noncitizens who became ineligible for major federal means-tested benefits programs after the 1996 welfare reform. For instance, California's CalFresh Food Assistance Program provides nutrition assistance to low-income households similar to the federal SNAP program (Connecticut, Maine, Minnesota, and Washington State have similar programs).⁵⁴ And California's Cash Assistance Program for Immigrants (CAPI)⁵⁵ provides state-funded assistance to low-income noncitizens who are seniors or disabled, and who are ineligible for SSI because of their immigration status. Meanwhile New York's Safety Net Assistance provides cash assistance to qualifying immigrants ineligible for TANF.⁵⁶

California and New York combined were home to 35 percent of the U.S. immigrant population and 41 percent of those in benefits-receiving families. In California, 2.9 million noncitizens and 2.2 million naturalized citizens lived in families that used at least one of the major four means-tested benefits (see Figure 7). In New York, these numbers were 1.1 million for noncitizens and 1.1 million for naturalized citizens. These figures indicate the significant local impacts the draft proposed rule may have on the populations of these states as well as on the nongovernmental organizations and government agencies that serve them.

Texas and Florida, the two states with the next largest numbers of immigrants in benefits-receiving families, were home to 20 percent of immigrants in such families and about 20 percent of the overall U.S. immigrant population.⁵⁷ However, in contrast to California and New York, neither state offers state-funded supplementary programs to noncitizens who became ineligible for public benefits following the 1996 welfare reform.⁵⁸

Overall, the top 25 states shown in Figure 7—which include all traditional immigrant destinations as well as newer destinations such as Georgia, Indiana, Nevada, Ohio, and Pennsylvania—accounted for 94 percent of immigrants living in families that receive at least one of the major four benefits.

Get the Data: Impact by State

Detailed data profiles of benefits use in the United States overall and in each state are available [here](#).

52 MPI Migration Data Hub, "State Immigration Trends: Number and Share of Total State Population, 1990–2016," accessed April 30, 2018, www.migrationpolicy.org/programs/data-hub/us-immigration-trends#history.

53 These federal options include the Unborn Child Option, which permitted states to use federal CHIP funding to extend prenatal care to pregnant women regardless of their status, and the provisions of the *Children's Health Insurance Program Reauthorization Act of 2009* (CHIPRA), which provides states with new funding to expand health insurance coverage to children who are eligible but not enrolled in Medicaid and CHIP. See Pew Charitable Trusts, "Mapping Public Benefits for Immigrants in the States" (policy brief, Pew Charitable Trusts, Washington, DC, September 2014), www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/mapping-public-benefits-for-immigrants-in-the-states.

54 Tanya Broder, Avideh Moussavian, and Jonathan Blazer, *Overview of Immigrant Eligibility for Federal Programs* (Washington, DC: National Immigration Law Center, 2015), www.nilc.org/issues/economic-support/overview-immeligfedprograms/.

55 California Department of Social Services, "Cash Assistance Program for Immigrants (CAPI)," accessed May 1, 2018, www.cdss.ca.gov/CAPI.

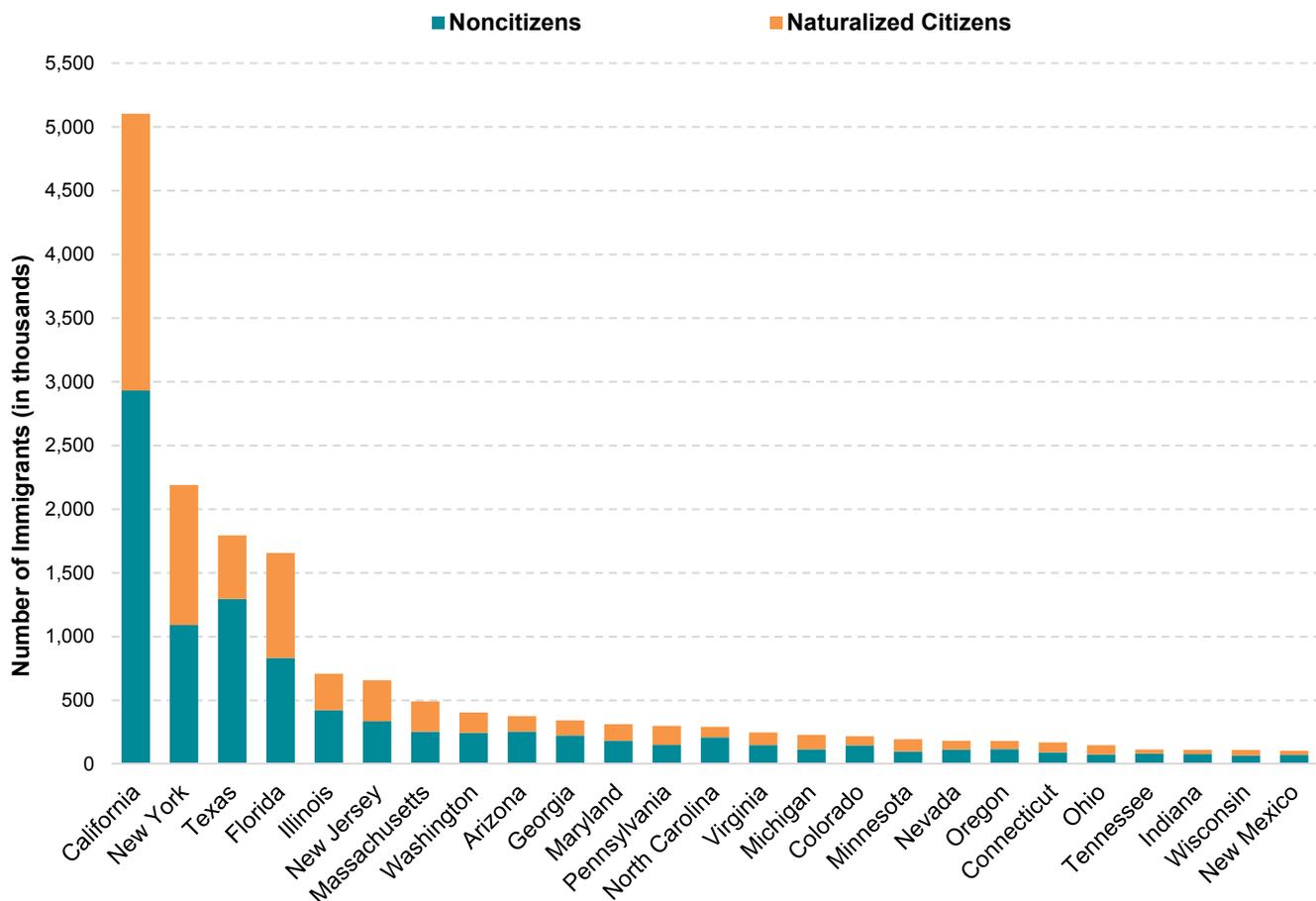
56 National Immigration Law Center, "Guide to Immigrant Eligibility for Federal Programs, Table 12: State-Funded Food Assistance Programs," updated March 2014, www.nilc.org/issues/economic-support/updatepage/.

57 Texas and Florida together accounted for about 20 percent of the U.S. total immigrant population.

58 Pew Charitable Trusts, "Mapping Public Benefits."



Figure 7. Top 25 States with the Largest Number of Immigrants in Benefits-Receiving Families, 2014–16



Note: Benefits-receiving families are those in which at least one member receives one or more of the four means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

The composition of the immigrant population in these top 25 states varies significantly in terms of citizenship status. Noncitizens make up a higher percentage of the immigrant populations in Texas, North Carolina, and Tennessee (72 percent each), and relatively lower shares in Florida, Pennsylvania, New York, Ohio, and Minnesota (between 50 percent and 51 percent each).

In sum, many states will feel the impacts of the proposed rule—and especially those with large noncitizen populations, those whose immigrant populations represent a large share of the state’s benefits users, and those that have adopted comparatively generous social welfare programs in general and for immigrants in particular.

IV. Policy Implications and Conclusions

The changes to the public-charge standard foreshadowed in the leaked March 2018 draft proposed rule have the potential to alter immigration flows, limit immigrants and their families’ access to public benefits, and potentially slow the pace of their integration and hinder their ability to become self-sufficient.



In terms of immigration policy, the approach outlined in the draft would grant officials broad discretion to deny applications for admissions and green cards for a potentially large number of immigrants whose applications would be approved under existing standards. While this report does not estimate the scale of these impacts on admissions, they will be the focus of future MPI research. Nonetheless, it seems clear that by providing the Trump administration the discretion to make significant alterations to admissions, this rule could reshape the make-up of future legal immigration flows. Impacts would likely be particularly severe for immigrants seeking to enter or stay in the country based on family relationships because the expected rule would consider a wider range of public benefits used either now or in the prior 36 months, and by either applicants or their dependents, while rewarding those with higher incomes, levels of education, and English proficiency. As a result, the proposed rule could enable the administration to significantly shift the U.S. legal immigration system away from family-based immigration—bypassing Congress and the need to build support around immigration legislation.

The anticipated rule also has the potential to considerably change access to public benefits, departing in key ways from the approach that has been in place for more than 20 years. In the 1996 welfare reform law, Congress specifically delineated which categories of immigrants were eligible for which federally funded benefits. At the same time, Congress also made the judgment, as a matter of federalism, that states and localities should be free to use their own funds to provide benefits to immigrants who were not eligible for federally funded assistance.

The potential chilling effects of the draft proposed rule on immigrant families could be far-reaching and felt immediately. While the draft rule envisions the new standards, including the counting of benefit receipt, coming into force only after the effective date of the final rule, the impacts on behavior could begin long before then. According to MPI analysis, 27 million immigrants and their children, including many who are U.S. born, reside in families where at least one member receives one or more of the four main means-tested public benefits.

Historical experience suggests the chilling effects would likely extend beyond the noncitizen population. They are likely to also affect the U.S.-citizen children of immigrants and others citizen members of immigrant families, as well as exempted population like refugees. If program disenrollment follows the patterns observed in the 1990s, as many as 20 percent to 60 percent of immigrants could withdraw from benefit programs. If significant numbers of immigrants and their family members withdraw from public benefit programs because of real or perceived fears that they will not be able to sponsor a family member, be refused a permanent or temporary visa, or be deported, the impacts of the rule on their health and wellbeing could be deep and long-lasting.

Viewed from the perspective of public institutions, the new rule could reverse efforts taken in the wake of the 1996 welfare reform law by all levels of government to encourage eligible immigrants and their families to participate in social programs, ranging from WIC to SNAP and Medicaid. By making the receipt of a wider range of federal, state, and local benefits potentially disqualifying factors in immigration decision-making, the new policy would be fundamentally at odds with the right of state and local governments to determine the investments they make in their own residents. While states and localities would remain free to extend benefits to those ineligible under federal law, the share of immigrants participating in these programs would be expected to fall sharply as families fear the potential consequence of accessing those benefits.

The proposed rule could also impose substantial new demands on service providers, requiring them to communicate additional information to potential benefit recipients about the new, expanded liabilities associated with using the public benefits programs they administer. It is likely that providers will be hesitant to offer counseling on complex aspects of immigration law. Changed public-charge regulations could place the interests of some providers such as hospitals (that are reimbursed for services) at odds with those of their clients, who would be at greater risk of immigration consequences if they receive



publicly funded care.⁵⁹ Immigrants' withdrawal from subsidized health insurance programs could lead to higher levels of unsubsidized care and higher unreimbursed costs. And by making immigrants and their children reluctant to visit doctors and clinics they, as well as the broader U.S. public, could face increased public health risks.

Viewed from the perspective of individual and family wellbeing, reluctance on the part of immigrant households to participate in programs such as SNAP could lead to higher levels of poverty. Any significant decline in participation by eligible families can be expected to result in increased child poverty.⁶⁰ At the same time, the expected rule is likely to reduce the well-documented positive impacts of prenatal care, nutrition assistance, early childhood education, and timely medical care on the health, development, and psychological outcomes of immigrant and U.S.-born children.⁶¹

The expected rule is likely to reduce the well-documented positive impacts of prenatal care, nutrition assistance, early childhood education, and timely medical care.

A central goal of the proposed policy changes is to encourage self-sufficiency and discourage immigrant families from receiving any public benefits. However, the approach is likely to hinder the integration of these families into U.S. society. Research has found that immigrants tend to use TANF and other benefit programs as a form of temporary assistance that promotes, rather than retards, progress towards self-sufficiency.⁶² Given the long-term negative impacts of poverty and blocked access to basic services on individual and family wellbeing,⁶³ policies that chill legal immigrant families' use of work supports and basic health and nutritional benefits may make it harder to achieve self-sufficiency for the millions who would be affected by the rule in its current form.

59 Wendy E. Parmet and Elisabeth Ryan, "New Dangers for Immigrants and The Health Care System," Health Affairs, April 20, 2018, www.healthaffairs.org/doi/10.1377/hblog20180419.892713/full/.

60 Samantha Artiga, Anthony Damico, and Rachel Garfield, *Potential Effects of Public Charge Changes on Health Coverage for Citizen Children* (Washington, DC: Kaiser Family Foundation, 2018), www.kff.org/disparities-policy/issue-brief/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children/; Jennifer Laird, Neeraj Kaushal, Jane Waldfogel, and Christopher Wimer, "Forgoing Food Assistance out of Fear: Changes to 'Public Charge' Rule May Put 500,000 More U.S. Citizen Children at Risk of Moving into Poverty," *Poverty and Social Policy Brief 2*, no. 2 (2018): 1–4, https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5ac63aaf88251b8bef4532a4/1522940592522/Poverty+and+Social+Policy+Brief+2_2.pdf.

61 Linda M. Espinosa, *Early Education for Dual Language Learners: Promoting School Readiness and Early School Success* (Washington, DC: MPI, 2013), www.migrationpolicy.org/research/early-education-dual-language-learners-promoting-school-readiness-and-early-school-success; Jonas Swartz, Jens Hainmueller, Duncan Lawrence, and Maria Isabel Rodriguez, "Expanding Prenatal Care to Unauthorized Immigrant Women and the Effects on Infant Health," *Obstetrics & Gynecology* 130, no. 5 (2017): 938–45; Alisha Coleman-Jensen, William McFall, and Mark Nord, *Food Insecurity in Households with Children* (Washington, DC: U.S. Department of Agriculture, Economic Research Service, 2013), www.ers.usda.gov/webdocs/publications/43763/37672_eib-113.pdf?v=41424.

62 Jennifer Van Hook and Frank D. Bean, "Immigrant Welfare Receipt: Implications for Immigrant Settlement and Integration" in *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix (New York: Russell Sage Foundation, 2009).

63 Sarah Cohodes, Daniel Grossman, Samuel Kleiner, and Michael F. Lovenheim, "The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions" (working paper no. 20178, National Bureau of Economic Research, October 2014), www.nber.org/papers/w20178; Hilary Hoynes, Diane Whitmore Schanzenbach, and Douglas Almond, "Long-Run Impacts of Childhood Access to the Safety Net," *American Economic Review* 106, no. 4 (2016): 903–34; Raj Chetty, Nathaniel Hendren, and Lawrence Katz, "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment" (working paper, Harvard University and National Bureau of Economic Research, August 2015), http://scholar.harvard.edu/files/hendren/files/mto_paper.pdf.



Appendices

Appendix A. March 2018 Draft Rule: Benefits to be Included in and Excluded from Public-Charge Assessments

The March 2018 leaked draft rule would significantly expand the list of public benefits the U.S. Department of Homeland Security (DHS) is to consider when determining whether a noncitizen is or may become a public charge. This list includes any cash or noncash government assistance or service that is (a) means tested or (b) intended to help the individual meet basic living requirements, such as housing, food, utilities, or medical care.

The draft rule lists a set of benefits that would be included and a set that would be excluded from this definition. However, even if a particular benefit is not explicitly listed as included, it will still be considered in a public-charge determination if it falls within the above definition and is not expressly excluded.

The draft rule states that the following benefits would be *included*:

- Supplemental Security Income (SSI)
- Temporary Assistance to Needy Families (TANF)
- state or local cash benefit programs for income maintenance
- any other federal public benefits for the purpose of maintaining the applicant's income, such as public cash assistance for income maintenance
- nonemergency benefits under Medicaid
- subsidized health insurance, defined as any health insurance for which the premiums are partially or fully paid, on a nonearned basis, by a government agency (including but not limited to advanced premium tax credits, tax credits, or other forms of reimbursement)
- Supplemental Nutrition Assistance Program (SNAP)
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- State Children's Health Insurance Program (CHIP)
- housing assistance under the *McKinney-Vento Homeless Assistance Act* or the Housing Choice Voucher Program (Section 8)
- means-tested energy benefits such as the Low-Income Home Energy Assistance Program (LIHEAP)
- institutionalization for both long-term and short-term care at government expense
- the Earned Income Tax Credit (EITC) and similar refundable tax credits, when the credit exceeds the individual's tax liability.



The draft rule states that the following benefits would be *excluded*:

- Benefits paid for or earned by the person which may include, but are not limited to, the following:
 - Federal Old-Age, Survivors, and Disability Insurance benefits
 - veteran's benefits
 - government pension benefits
 - government employee health insurance
 - government employee transportation benefits
 - unemployment benefits
 - worker's compensation
 - Medicare benefits, unless the premiums are partially or fully paid by a government agency
 - state disability insurance
 - loans provided by the government that require repayment
 - in-state college tuition, and any subsidized or unsubsidized government student loans (including but not limited to loans under the William D. Ford Federal Direct Loan Program and the Federal Perkins Loan Program).
- public benefits received where the total annual value in any one year does not exceed 3 percent of the total Federal Poverty Guidelines threshold based on the household size for that year
- elementary and secondary public education (preK through 12th grade) as permitted under the law including benefits under the *Head Start Act*
- benefits under the *Individuals with Disabilities Education Act* and related services
- nonrefundable tax credits, and refundable tax credits that are neither means tested nor intended to help the individual beneficiary meet basic living requirements
- benefits for which nonqualified noncitizens can be eligible under federal law, such as emergency Medicaid; short-term, noncash, in-kind emergency disaster relief; and public health assistance, immunizations with respect to diseases, and testing and treatment of symptoms of communicable diseases.



Appendix B. March 2018 Draft Rule: Heavily Weighted Positive and Negative Factors to be Considered When Assessing the Totality of the Circumstances

Under the terms of the March 2018 leaked draft rule, DHS would assess whether a noncitizen is using or receiving, or is likely at any time to use or receive, any of a number of public benefits (see Appendix A). In making that determination, immigration officers would be required to consider the individual's age; health; family status; education and skills; and assets, resources, and financial status. The draft also specifies a set of heavily weighted negative and positive factors that are to be considered.

The following would be **negative factors**, weighing heavily in favor of a finding that an alien is likely to become a public charge:

- The individual is not a full-time student and is authorized to work, but is unable to demonstrate current employment and has no employment history or reasonable prospect of future employment
- Current use or receipt of one or more public benefits
- Use or receipt of one or more public benefits within the last 36 months
- Presence of a medical condition and inability to show evidence of unsubsidized health insurance, the prospect of obtaining unsubsidized health insurance, or other nongovernmental means of paying for treatment
- A previous determination of inadmissibility or deportability based on public charge
- Other factors as warranted, according to DHS discretion, in individual circumstances.

The following would be **positive factors**, weighing heavily in favor of a finding that an alien is not likely to become a public charge:

- Financial assets, resources, and support of at least 250 percent of the federal poverty guidelines
- Work authorization and current employment with an annual income of at least 250 percent of the federal poverty guidelines
- Other factors as warranted, according to DHS discretion, in individual circumstances.



Appendix C. American Community Survey Questionnaire Text and Instructions for Public Assistance Program Participation Questions, 2014–16

The data presented in this report reflect responses to the following questions on the American Community Survey (ACS) questionnaire:

Program Name	ACS Questionnaire Text
Temporary Assistance for Needy Families (TANF) and other welfare programs	<p>Respondents are asked whether they received any public assistance or welfare payments from the state or local welfare office. If yes, they are asked to give their best estimate of the total amount received in the past 12 months.</p> <p><i>Note:</i> In addition to TANF, these welfare programs include Aid to Families with Dependent Children (AFDC), Aid to Dependent Children (ADC), welfare or welfare to work, General Assistance (GA), General Relief, Emergency Assistance, and Diversion Payments.</p>
Supplemental Security Income (SSI)	<p>Respondents are asked whether they received SSI. If yes, they are asked to give their best estimate of the total amount received in the past 12 months.</p>
Supplemental Nutrition Assistance Program (SNAP)	<p>Respondents are asked whether they or any member of their household received benefits from SNAP (formerly called the Food Stamp Program) in the past 12 months.</p> <p><i>Note:</i> Respondents are instructed to not include benefits from the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); the School Lunch Program; or assistance from food banks.</p>
Medicaid/the Children’s Health Insurance Program (CHIP)	<p>Respondents are asked whether, at the time of the survey, they were covered by Medicaid, Medical Assistance, or any other kind of government-assistance plan for those with low incomes or a disability.</p> <p><i>Note:</i> For the purposes of this analysis, and due to data limitation, the data tables in this report show estimates of Medicaid and CHIP use as a combined estimate.</p>

Source: U.S. Census Bureau, “The American Community Survey Questionnaire Archive,” accessed on May 1, 2018, www.census.gov/programs-surveys/acs/methodology/questionnaire-archive.html.



Works Cited

- Artiga, Samantha, Anthony Damico, and Rachel Garfield. 2018. *Potential Effects of Public Charge Changes on Health Coverage for Citizen Children*. Washington, DC: Kaiser Family Foundation. www.kff.org/disparities-policy/issue-brief/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children/.
- Batalova, Jeanne and Michael Fix. 2017. *New Brain Gain: Rising Human Capital among Recent Immigrants to the United States*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/new-brain-gain-rising-human-capital-among-recent-immigrants-united-states.
- Batalova, Jeanne, Michael Fix, and Peter A. Creticos. 2008. *Uneven Progress: The Employment Pathways of Skilled Immigrants in the United States*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/uneven-progress-employment-pathways-skilled-immigrants-united-states.
- Baumgaertner, Emily. 2018. Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services. *The New York Times*, March 6, 2018. www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html.
- Broder, Tanya, Avideh Moussavian, and Jonathan Blazer. 2015. *Overview of Immigrant Eligibility for Federal Programs*. Washington, DC: National Immigration Law Center. www.nilc.org/issues/economic-support/overview-immeligfedprograms/.
- California Department of Social Services. N.d. Cash Assistance Program for Immigrants (CAPI). Accessed May 1, 2018. www.cdss.ca.gov/CAPI.
- Capps, Randy, Muzaffar Chishti, Julia Gelatt, Jessica Bolter, and Ariel G. Ruiz Soto. 2018. *Revving Up the Deportation Machinery: Enforcement under Trump and the Pushback*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/revving-deportation-machinery-under-trump-and-pushback.
- Capps, Randy, Michael Fix, and Everett Henderson. 2009. Trends in Immigrants' Use of Public Assistance after Welfare Reform. In *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix. New York: Russell Sage Foundation.
- Chetty, Raj, Nathaniel Hendren, and Lawrence Katz. 2015. The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment. Working paper, Harvard University and National Bureau of Economic Research, August 2015. http://scholar.harvard.edu/files/hendren/files/mto_paper.pdf.
- Cohodes, Sarah, Daniel Grossman, Samuel Kleiner, and Michael F. Lovenheim. 2014. The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions. Working paper no. 20178, National Bureau of Economic Research, October 2014. www.nber.org/papers/w20178.
- Coleman-Jensen, Alisha, William McFall, and Mark Nord. 2013. *Food Insecurity in Households with Children*. Washington, DC: U.S. Department of Agriculture, Economic Research Service. www.ers.usda.gov/webdocs/publications/43763/37672_eib-113.pdf?v=41424.
- Espinosa, Linda M. 2013. *Early Education for Dual Language Learners: Promoting School Readiness and Early School Success*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/early-education-dual-language-learners-promoting-school-readiness-and-early-school-success.
- Feld, Peter and Britt Power. 2000. *Immigrants' Access to Health Care after Welfare Reform: Findings from Focus Groups in Four Cities*. Washington, DC: Kaiser Family Foundation. www.kff.org/medicaid/report/immigrants-access-to-health-care-after-welfare/.



- Fix, Michael and Randy Capps. 2017. *Leaked Draft of Possible Trump Executive Order on Public Benefits Would Spell Chilling Effects for Legal Immigrants*. Migration Policy Institute commentary, February 2017. www.migrationpolicy.org/news/leaked-draft-possible-trump-executive-order-public-benefits-would-spell-chilling-effects-legal.
- Fix, Michael E., Randy Capps, and Neeraj Kaushal. 2009. Immigrants and Welfare: Overview. In *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix. New York: Russell Sage Foundation.
- Fix, Michael E. and Jeffrey S. Passel. 1999. *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform: 1994–1997*. Washington, DC: Urban Institute. www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform.
- Genser, Jenny. 1999. *Who Is Leaving the Food Stamp Program: An Analysis of Caseload Changes from 1994 to 1997*. Washington, DC: U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis, Nutrition, and Evaluation. <https://fns-prod.azureedge.net/sites/default/files/cdr.pdf>.
- Hoynes, Hilary, Diane Whitmore Schanzenbach, and Douglas Almond. 2016. Long-Run Impacts of Childhood Access to the Safety Net. *American Economic Review* 106 (4): 903–934.
- Illegal Immigration Reform and Immigrant Responsibility Act of 1996*. Public Law 104-828. *U.S. Statutes at Large* 100, 1996. www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg3009.pdf.
- Immigration Act of 1882*. *U.S. Statutes at Large* 22, 1882. www.loc.gov/law/help/statutes-at-large/47th-congress/session-1/c47s1ch376.pdf.
- Immigration and Nationality Act*. Public Law 89-236. *U.S. Statutes at Large* 79, 1965. www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-2006.html.
- Kaestner, Robert and Neeraj Kaushal. 2005. Immigrant and Native Responses to Welfare Reform. *Journal of Population Economics* 18 (1): 69–92.
- Laird, Jennifer, Neeraj Kaushal, Jane Waldfogel, and Christopher Wimer. 2018. Forgoing Food Assistance out of Fear: Changes in “Public Charge” Rule May Put 500,000 More U.S. Citizen Children at Risk of Moving into Poverty. *Poverty and Social Policy Brief* 2(2): 1–4. https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5ac63aaf88251b8bef4532a4/1522940592522/Poverty+and+Social+Policy+Brief_2_2.pdf.
- Meyer, Bruce D. and Nikolas Mittag. 2015. Using Linked Survey and Administrative Data to Better Measure Income: Implications for Poverty, Program Effectiveness, and Holes in the Safety Net. Working paper 21676, National Bureau of Economic Research, October 2015. www.nber.org/papers/w21676.
- Migration Policy Institute (MPI) Migration Data Hub. N.d. State Immigration Trends: Number and Share of Total State Population, 1990–2016. Accessed April 30, 2018. www.migrationpolicy.org/programs/data-hub/us-immigration-trends#history.
- Moore, Jeffrey, Linda Stinson, and Edward Welniak. 2000. Income Measurement Error in Surveys: A Review. *Journal of Official Statistics* 14 (4): 331–61.
- National Immigration Law Center. 2014. Guide to Immigrant Eligibility for Federal Programs, Table 12: State-Funded Food Assistance Programs. Updated March 2014. www.nilc.org/issues/economic-support/update-page/.
- Parmet, Wendy E. and Elisabeth Ryan. 2018. New Dangers for Immigrants and the Health Care System. *Health Affairs*, April 20, 2018. www.healthaffairs.org/doi/10.1377/hblog20180419.892713/full/.



- Pedraza, Francisco I. and Ling Zhu. 2015. The “Chilling Effect” of America’s New Immigration Enforcement Regime. *Pathways*, Spring 2015. https://inequality.stanford.edu/sites/default/files/Pathways_Spring_2015_Pedraza_Zhu.pdf.
- Personal Responsibility and Work Opportunity Reconciliation Act of 1996*. Public Law 104-193. *U.S. Statutes* 10, 1996. www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg2105.pdf.
- Pew Charitable Trusts. 2014. Mapping Public Benefits for Immigrants in the States. Policy brief, Pew Charitable Trusts, Washington, DC, September 2014. www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/mapping-public-benefits-for-immigrants-in-the-states.
- Ruggles, Steven, Katie Genadek, Ronald Goeken, Josiah Grover, and Matthew Sobek. N.d. Integrated Public Use Microdata Series: Version 7.0—Dataset. University of Minnesota, accessed February 15, 2018. <https://usa.ipums.org/usa/index.shtml>.
- Swartz, Jonas, Jens Hainmueller, Duncan Lawrence, and Maria Isabel Rodriguez. 2017. Expanding Prenatal Care to Unauthorized Immigrant Women and the Effects on Infant Health. *Obstetrics & Gynecology* 130 (5): 938-45.
- U.S. Census Bureau. N.d. The American Community Survey Questionnaire Archive. Accessed May 1, 2018. www.census.gov/programs-surveys/acs/methodology/questionnaire-archive.html.
- U.S. Citizenship and Immigration Services (USCIS). 2018. Inadmissibility on Public Charge Grounds. Draft rule, U.S. Department of Homeland Security, January 2018. https://docs.google.com/viewerng/viewer?url=https://cdn.vox-cdn.com/uploads/chorus_asset/file/10188201/DRAFT_NPRM_public_charge.0.pdf.
- . 2018. Inadmissibility on Public Charge Grounds. Draft rule, U.S. Department of Homeland Security, March 2018. <https://apps.washingtonpost.com/g/documents/world/read-the-trump-administrations-draft-proposal-penalizing-immigrants-who-accept-almost-any-public-benefit/2841/>.
- U.S. Department of Homeland Security (DHS). 2017 Inadmissibility and Deportability on Public Charge Grounds. Proposed rule 1615-AA22, Fall 2017. www.reginfo.gov/public/do/eAgendaViewRule?pubId=201710&RIN=1615-AA22.
- DHS, Office of Immigration Statistics (OIS). N.d. Nonimmigrant Admissions by Class of Admission: Fiscal Years 2014 to 2016. Data table. Accessed May 4, 2018. www.dhs.gov/immigration-statistics/yearbook/2016.
- . N.d. Legal Immigration and Adjustment of Status Report, FY2017, Q4. Dataset, DHS. Accessed April 25, 2018. www.dhs.gov/sites/default/files/publications/FY2017_Q1Q2Q3Q4_tables_D.xlsx.
- U.S. Department of State. 2018. 9 FAM 302.8, (U) PUBLIC CHARGE - INA 212(A)(4). Updated March 12, 2018. https://fam.state.gov/fam/09FAM/09FAM030208.html#M302_8.
- U.S. Department of State. Multiple Years. Immigrant and Nonimmigrant Visa Ineligibilities. Data tables, Washington, DC. <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports.html>.
- U.S. Immigration and Naturalization Service (INS). 2003. *The 2001 Statistical Yearbook of the Immigration and Naturalization Service*. Washington, DC: INS. www.dhs.gov/sites/default/files/publications/Yearbook_Immigration_Statistics_2001.pdf.
- . 1999. Field Guidance on Deportability and Inadmissibility on Public Charge Grounds. *Federal Register* 64 (101): 28689–93. www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13202.pdf.



- . 1999. Inadmissibility and Deportability on Public Charge Grounds. *Federal Register* 64 (101): 28676–88. www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13188.pdf.
- Van Hook, Jennifer and Frank D. Bean. 2009. Immigrant Welfare Receipt: Implications for Immigrant Settlement and Integration. In *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix. New York: Russell Sage Foundation.
- White House, The. 2017. President Donald J. Trump Backs RAISE Act. Briefing statement, Washington, DC, August 2, 2017. www.whitehouse.gov/briefings-statements/president-donald-j-trump-backs-raise-act/.
- Zong, Jie and Jeanne Batalova. 2018. Korean Immigrants in the United States. *Migration Information Source*, February 8, 2018. www.migrationpolicy.org/article/korean-immigrants-united-states.
- . 2017. Indian Immigrants in the United States. *Migration Information Source*, August 31, 2017. www.migrationpolicy.org/article/indian-immigrants-united-states.
- Zong, Jie, Jeanne Batalova, and Jeffrey Hallock. 2018. Frequently Requested Statistics on Immigrants and Immigration in the United States. *Migration Information Source*, February 8, 2018. www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states.



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The Migration Policy Institute is a nonprofit, nonpartisan think tank dedicated to the study of the movement of people worldwide. MPI provides analysis, development, and evaluation of migration and refugee policies at the local, national, and international levels. It aims to meet the rising demand for pragmatic and thoughtful responses to the challenges and opportunities that large-scale migration, whether voluntary or forced, presents to communities and institutions in an increasingly integrated world.

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