



# What Public Charge Means for Reproductive Justice

SEPTEMBER 2020

Reproductive justice is a social movement rooted in the belief that all individuals and communities should have the resources and power they need to make their own decisions about their bodies, genders, sexualities, families, and lives. Extending beyond just the right to have or not have an abortion or other reproductive health services, reproductive justice, a movement started by Black women, acknowledges the role systemic barriers such as racism and xenophobia play in access to reproductive health and the right to parent in safe and sustainable communities with dignity. The Trump Administration's crusade to expand the public charge rule is designed to sow fear, reap reproductive injustice, and damage the health and economic stability of immigrant Black, Latina/x<sup>i</sup>, and Asian American and Pacific Islander (AAPI) people, families, and communities. This brief provides an overview of the recent changes to the public charge test, its implications for immigrant communities of color, and potential harms to reproductive and sexual health and justice.

## The Public Charge Test under the 1999 Rule

When a person applies for a visa to enter the U.S. or for Lawful Permanent Resident (LPR) status (also known as a "green card"), U.S. immigration officials consider several factors to determine whether they are likely to become a "public charge."<sup>2</sup> The term "public charge" has long been understood to mean a person whose main source of financial support is provided by the government, demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.

<sup>i</sup> Note: We are conscious of the importance of the full range of gender identities and utilize gender-neutral terms throughout this issue brief. We use the term "women" only as needed to conform to cited research, laws, and regulations, recognizing that different categories of people, including cisgender women and transgender men, have reproductive health needs and may encounter reproductive injustice. "Latina/x" is a term that challenges the gender binary in the Spanish language and embraces the diversity of genders that often are actively erased from spaces. Due to the limitations of data collection, we use "Latina(s)," "Latino(s)" or "women" where research only shows findings for cisgender people. We use the term "Hispanic" when the cited research uses the term.

## Public Charge Litigation

*Status as of 9/23/2020*

Litigation over the Trump Administration's public charge rule is ongoing and our fight is far from over.<sup>1</sup> As of September 23, 2020, the final rule is in effect. A September 11, 2020, order from the U.S. Court of Appeals for the Second Circuit granted a motion from DHS to allow the rule to go back into effect. DHS made changes to its public charge [website](#) on Sept. 22, 2020, stating that it will apply the final rule and related guidance in all states. Several other legal challenges to the public charge rule continue to make their way through the courts.

To find the most up to date information on public charge litigation and enforcement, visit the Protecting Immigrant Families Campaign's [Public Charge Litigation Tracker](#).

---

The previous public charge rule, implemented in 1999, clarified that immigration officials must consider an individual's "totality of circumstances" at the time of application.<sup>3</sup> This test required immigration officials to consider, at a minimum, the following statutory factors: the applicant's age; health; family status; assets, resources and financial status; education and skills; and the sufficiency of an affidavit of support filed on behalf of the applicant.<sup>4</sup>

Many immigrants and migrants (im/migrants) are not subject to the public charge test. Refugees, asylees, survivors of domestic violence, trafficking and other serious crimes, special im/migrant juveniles (SIJS), and certain individuals paroled into the United States are exempt from public charge determinations. The public charge test does not apply when a green card holder applies to renew their status or for U.S. citizenship.<sup>5</sup>

## Changes to the Public Charge Test under the New Rule

On August 12, 2019, the Department of Homeland Security (DHS) released a [final rule](#) that makes fundamental changes to the longstanding public charge test.<sup>6</sup> Advocates and state Attorneys General filed nine lawsuits challenging the rule.<sup>7</sup> Litigation is ongoing in several cases.<sup>8</sup>

The rule, which went into effect on February 24, 2020, radically expands the longstanding meaning of a public charge. Under the old rule, a public charge was someone who was "*primarily* dependent on the government for sustenance" (emphasis added).<sup>9</sup> The new rule broadens this definition to include someone who receives one or more specified public benefits for more than an aggregate of 12 months within any 36-month period.<sup>10</sup> Receipt of two or more benefits in the same month counts as two months.<sup>11</sup>

Under the new rules, immigration officials may consider receipt of the following public benefits in their public charge assessment:

- Any federal, state, local, or tribal cash assistance for income maintenance;<sup>12</sup>
- Non-emergency Medicaid (with exceptions for children under the age of 21, pregnant women, and women within the 60-day post-partum period beginning on the last day of pregnancy);
- Supplemental Nutrition Assistance Program (SNAP);
- Section 8 Housing Choice Voucher Program and Project-Based Rental Assistance; and
- Federally subsidized housing under the Housing Act of 1937.<sup>13</sup>

In addition, immigration officials would have to consider additional positive and negative criteria for each specific factor under the "totality of circumstances" test to determine whether an individual can be denied admission into the U.S. or LPR status on public charge grounds.<sup>14</sup> Some of these factors are "heavily weighted" as positive or negative. These criteria expose which im/migrant communities the Trump Administration privileges.

For example, the test includes "significant income, assets, and resources" and incomes above 250% of the Federal Poverty Guidelines as heavily weighted positive factors in favor of admission. Although immigration officials have always considered health as a factor in the public charge test, the final rule codifies discriminatory standards for evaluating an im/migrant's health and ability to obtain health insurance. A diagnosed medical condition that would likely require extensive medical treatment or institutionalization that interferes with one's "ability to provide and care for himself or herself, to attend school, or to work upon admission or adjustment of status," and the inability to secure and afford private health insurance, or the financial resources to pay for "reasonably foreseeable medical costs" will heavily weigh against admission under the final rule.<sup>15</sup>

---

This heavily weighted negative factor expressly discriminates against people with low incomes and those who have chronic health conditions and disabilities. It also perpetuates a false narrative that im/migrants with low incomes or health diagnoses are less worthy of legal immigration status. Immigration officials should not be given the authority to make arbitrary determinations based on discriminatory standards that do little to predict one's ability for future success.

### **The final public charge rule is subject to crucial limitations and exceptions:**

- As with the previous rule, the public charge test does not apply to refugees; asylees; survivors of domestic violence, trafficking and other serious crimes; and special im/migrant juveniles (SIJS). Certain individuals paroled into the United States are exempt from public charge determinations. The public charge test does not apply when a green card holder applies to renew his or her status or for U.S. citizenship.<sup>16</sup>
- The newly expanded public charge test is not retroactive. This means that **an individual's application for, certification or approval to receive, or receipt of certain public benefits (other than cash assistance or long-term care at government expense) before February 24, 2020, will not be considered in a public charge determination.**
- **In a parent's or legal guardian's public charge determination, immigration officials cannot consider the use of public benefits by children or family members as a negative factor.** Likewise, applying for public benefits on behalf of a child cannot be used against a parent in a public charge determination.
- On March 13, 2020, DHS' U.S. Citizenship and Immigration Services [announced](#) that **COVID-19 testing, prevention, and treatment will not be used against im/migrants in a future public charge determination**, even if the services are covered through Medicaid.
- **Use of public benefits alone does not automatically make an im/migrant a public charge.**

The DHS public charge rule discussed above applies to applications for a visa, admission, or adjustment of status **processed in the United States**. Some applications are processed at consulates abroad, including for im/migrants who apply for status at consulates in their country of origin before entering the U.S., and green card applicants who are sent abroad to apply for status. This application process is called consular processing and follows the Department of State's (DOS) public charge rules.

DOS issued an interim final rule that largely mirrors the DHS public charge rule.<sup>17</sup> This rule also went into effect on February 24, 2020 and excludes the same groups of im/migrants as the DHS public charge rule. The DOS rule and the foreign affairs manual (which provides instructions for consular officials to apply the rule) have been put on hold by court order.

### **Chilling Effects on Public Benefits**

The DHS public charge rule is designed to confuse and make im/migrants and their families afraid to access public benefits to which they are entitled under federal law. The rule is creating and has already created a chilling effect on public benefits participation among eligible im/migrants and their family members, including children born in the United States. As noted above, many im/migrants will not be subject to the public charge test. An individual's participation in Medicaid and other public benefits does not automatically trigger a negative public charge determination. Nevertheless, due to this Administration's consistent and targeted threats on the wellbeing of im/migrant communities, including the expansion of the public charge rule, im/migrant women and their families are afraid to seek health care coverage they are eligible for and

---

need. The rule is designed to instill fear and stigmatize the use of public benefits among im/migrants. It is also designed to force im/migrant families to make a heartbreaking choice: participate in Medicaid and other vital public benefits for which they are eligible and risk jeopardizing future pursuits of lawful permanent residency, or forgo those benefits and grapple with health challenges, food insecurity, and housing instability.<sup>18</sup>

In 2018, one in seven adults in im/migrant families (fourteen percent) reported a “chilling effect” in which the respondent or a family member did not participate in a noncash government benefit program for fear of risking future green card status due to the public charge rule.<sup>19</sup> The chilling effects increased in 2019, particularly within families with one or more im/migrant family members who do not have a green card.

- Thirty-one percent of these families reported that they avoided using non-cash public benefits in 2019, compared to twenty-two percent in 2018.
- An estimated 2.0 million to 4.7 million Medicaid and CHIP enrollees could disenroll due to the public charge rule.<sup>20</sup>
- As recently as October 2019, researchers also found that nearly half (forty-seven percent) of community health centers (CHCs) saw a decline in im/migrant patient’s enrollment in Medicaid in the past year, and nearly a third (thirty-two percent) of CHCs said that many or some patients disenrolled or declined to renew their coverage.<sup>21</sup>

Forty-seven percent of the noncitizen population in the United States, roughly 10 million people, are expected to be impacted by public charge’s chilling effects.<sup>22</sup> The chilling effect however will not be isolated to noncitizens – these individuals live in households with 12 million U.S. citizen family members, two-thirds of which are children who are fearful of placing family members in danger.<sup>23</sup>

The public charge rule discourages individuals from enrolling in government benefits such as Medicaid and SNAP. When faced with information about the expanding public charge policy, undocumented im/migrants and their family members, including citizen children, are reportedly less likely to access a host of public service programs that are not considered under the public charge test. This includes emergency health care services, services provided by Federally Qualified Health Centers, preventive health care, immunizations, WIC, early childhood programs, and free and reduced-price meals in public schools.

## **Harm to Im/migrant Communities of Color, Im/migrant Women, and LGBTQ+ Im/migrants**

The public charge rule is rooted in xenophobic and racist ideas about what types of im/migrants are considered undesirable. The first general federal immigration statute of 1882—which included the notorious Chinese Exclusion Act—allowed states to exclude “any person unable to take care of himself or herself without becoming a public charge.”<sup>25</sup> In an era of heightened im/migration enforcement marked by extreme and targeted racial, ethnic, and economic discrimination, the final public charge rule doubles down on its racist origins and sends a clear message that if you are not wealthy and white, you are not welcome in the United States. The new rule’s chilling effect on public benefits participation is disproportionately harming Black im/migrants and im/migrant communities of color. The final public charge rule also prevents many im/migrants who are seeking to reunite with their U.S. citizen or green card-holder family members in the U.S. In addition to an already restrictive and convoluted immigration system, family members separated by border policies must now also face a public charge test that discriminates based on their health and wealth.

This effect is projected to have the most impact on Latina/x and AAPI communities. According to the Migration Policy Institute, 3 million AAPIs and 16.4 million Latinos live in families in which one or more member of the family received at least one means-tested public benefit (such as Medicaid, CHIP, TANF, SNAP, and SSI) prior to the final rule.<sup>26</sup> Furthermore, because the new rule treats limited English language

---

proficiency, individuals of non-working age, and low incomes as negative factors, im/migrants of color are more likely to be denied admission or status adjustment under the rule. Specifically, im/migrants from Mexico and Central America (sixty percent), the Caribbean (forty-eight percent), Asia (forty-one percent), South America (forty percent), and Africa (thirty-four percent) are estimated to have two or more negative factors, compared to merely twenty-seven percent of im/migrants from Europe, Canada, Australia, and New Zealand expected to have two or more negative factors.<sup>27</sup> In short, im/migrants of color who are subject to public charge are at higher risk of being separated from their families under the new rule.

The new rule disproportionately and unjustly favors individuals who: have high-wage jobs or the potential for high earnings; have a high school diploma or higher education; speak English; and have the financial means to purchase private, unsubsidized health insurance. Many of the characteristics that are considered “positive factors” under the totality of circumstances test accommodate wealthy, white im/migrants and leave out im/migrant women of color. Due to systemic inequities, im/migrants of color are more likely to work in occupations that do not provide employer health coverage or adequate salaries to cover the high cost of private insurance.<sup>28</sup> Despite being the backbone of their communities, im/migrant women of color experience the intersectional oppression of gender discrimination, xenophobia, and racism. Due to this reality, im/migrant women are more likely to experience poverty, and in many instances, face greater barriers than their male counterparts when accessing education and language proficiency services.<sup>29</sup>

LGBTQ+ im/migrants are also at a disadvantage under the new rule. Many LGBTQ+ im/migrants, similar to other LGBTQ+ individuals, face discrimination in employment, education, housing, and health care. These discriminatory experiences are heightened for LGBTQ+ im/migrants of color, who experience intersecting forms of oppression and inequity in their countries of origin or in the U.S.<sup>30</sup> Thus, LGBTQ+ im/migrants are often afforded fewer educational and employment opportunities, which can result in a negative public charge assessment.

## **Harm to Reproductive Health and Justice**

The final public charge rule’s chilling effect is especially concerning for women of color who are eligible for Medicaid. Due to systematic barriers and discrimination that link racism and poverty, women of color are disproportionately more likely to be covered through Medicaid: thirty-one percent of Black women and twenty-seven percent of Latina women aged 15–44 were enrolled in Medicaid in 2017, compared with sixteen percent of white women.<sup>31</sup> In the aggregate, nearly one-fifth of AAPI women are enrolled in Medicaid. Disaggregated data reveals much higher enrollment rates among Bhutanese women (sixty-two percent), Hmong women (forty-three percent), and Pakistani women (thirty-two percent).<sup>32</sup> Medicaid is also a major source of coverage for American Indian/Alaska Native adults at twenty-seven percent.<sup>33</sup> Over 1.1 million LGBTQ+ adults are also enrolled in Medicaid.<sup>34</sup> Medicaid and other non-cash benefits reduce poverty and help individuals with low incomes, including im/migrant women and LGBTQ+ im/migrants in low-wage jobs, provide a basic standard of living for their families.

The rule is also likely to exacerbate existing health inequities, particularly among im/migrants with low incomes. Im/migrant women of reproductive age (15–44) are already three times more likely than U.S.-born or naturalized citizens to be uninsured due to existing restrictions on im/migrant eligibility for Medicaid and other health programs.<sup>35</sup> Im/migrant women who are eligible for Medicaid are able to access critical health care services, such as: family planning services, mammograms, prenatal care, doula care, abortion care, and other reproductive and sexual health services. Medicaid also covers a broad range of gender-affirming services. Yet, widespread disenrollment from Medicaid, even from im/migrants who are not subject to public charge, means an increasing number of im/migrant women and LGBTQ+ im/migrants will not have health insurance. Lack of health coverage is a significant hurdle for people seeking reproductive and sexual health services and gender-affirming care. Latina, Black, and Asian American women in the United States are already less likely to have a personal doctor than white women.<sup>36</sup> Forgoing health care, including

---

reproductive and sexual health services, means preventable diseases or medical conditions can escalate and existing conditions will be left untreated and worsen over time.<sup>37</sup> Moreover, people with chronic or acute reproductive and sexual health conditions may face heightened scrutiny under the final public charge rule's "totality of the circumstances" test.

It is important to recognize that the public charge rule is one of many cruel im/migration enforcement policies that have emerged from the Trump Administration. Together, these policies are fueling a climate of fear and confusion that threatens access to reproductive, sexual and pregnancy health care for people across all im/migration statuses.

Undocumented pregnant immigrants are not directly affected by public charge because they are generally not eligible to apply for a green card, however many forego prenatal care due to the threat of Immigrant and Customs Enforcement (ICE) raids and deportation fears.<sup>38</sup> Black women in the U.S. are already 3–4 times more likely to die from pregnancy-related causes and more than twice as likely to experience severe maternal morbidity and related adverse maternal health outcomes compared to their white counterparts. Latina/x, Asian American, and Pacific Islander women are similarly more likely to experience negative health outcomes due to medical and structural racism during pregnancy and delivery. The threat of immigration enforcement adds to the culture of fear that surrounds punitive and discriminatory public charge policies and makes accessing basic maternal and infant health care especially difficult. This fear also exacerbates maternal and infant health disparities in populations that are already more likely to experience gaps in care. Life-threatening conditions such as preeclampsia are not being diagnosed until much later when a pregnant immigrant experiences seizures.<sup>39</sup> A study also found that Latina women have experienced more preterm births since the 2016 election, a worrisome trend that is expected to increase.<sup>40</sup> Preterm birth is linked with maternal stress, and the study found a correlation between preterm birth and the hostile im/migration climate perpetuated by anti-im/migration policies.<sup>41</sup> Im/migration-related fears are also preventing many from obtaining abortion care, especially when pregnant people must travel long distances to reach a provider.<sup>42</sup>

## Help Us Fight Back

The new public charge rule follows our country's harmful tradition of unlawfully weaving racism, xenophobia, and gender discrimination into public policies, including those designed to exclude people of color from our im/migration system. As the COVID-19 pandemic demonstrates, limiting health care access and protections for im/migrants, including im/migrants of color, im/migrants with disabilities, im/migrant women, and LGBTQ+ im/migrants, undermines our ability to safeguard and cultivate healthy communities and jeopardizes our nation's health.

Litigation over the public charge rule is ongoing and our fight is far from over. This pandemic has made clear what we've always known about this discriminatory rule: **chilling the use of health care and other benefits in the name of a racist wealth test is lethal for im/migrant communities.** As we continue to battle the final public charge rule in court, we must also work to dispel fear and confusion in our communities by ensuring everyone can access accurate information about the new public charge rule, their rights, and opportunities to fight back. The following resources contain helpful information to get started:

- A partnership of the National Immigration Law Center and the Center for Law and Social Policy, the "Protecting Immigrant Families, Advancing Our Future" (PIF) campaign is made up of hundreds of diverse organizations committed to lifting up im/migrant voices and advocating for humane im/migration policies in our communities and in our country. PIF provides [community resources](#) on public charge to help im/migrants make the best decision for themselves and for their families. It also shares emerging [opportunities for action](#).
- Because the public charge rule is complex, we encourage im/migrants and their families to contact a [legal services provider](#) in their state for help understanding whether and how the revised public charge rule could apply to them.

- The COVID-19 pandemic underscores the urgent need for everyone to have access to health care coverage, regardless of im/migration status. The Health Equity and Access under the Law (HEAL) for Immigrant Women and Families Act would strengthen im/migrant access to comprehensive health care in the following ways:
  - Eliminate the 5-year bar in Medicaid/CHIP for all lawfully present im/migrants.
  - Expand Medicaid and CHIP eligibility to all im/migrants with federally authorized presence in the U.S., including Deferred Action for Childhood Arrivals (DACA) and all temporary protected status recipients.
  - Expand marketplace coverage and advance premium tax credit and cost-sharing reductions to all im/migrants, including the undocumented community.
  - Reinstate Medicaid eligibility for COFA citizens who were inadvertently barred from the Medicaid program by the 1996 welfare law.

For more information on the HEAL for Immigrant Women and Families Act and advocacy opportunities to help secure enactment, please visit the [National Asian Pacific American Women's Forum](#).

### About the authors:



National Latina Institute for Reproductive Justice (the Latina Institute) builds Latina/x power to fight for the fundamental human right to reproductive health, dignity, and justice. We center Latina/x voices, mobilize our communities, transform the cultural narrative, and drive policy change. We amplify the grassroots power and thought leadership of Latinas/xs across the country to fuel a larger reproductive justice movement.



The National Health Law Program: Founded in 1969, the National Health Law Program (NHeLP) protects and advances the health rights of low-income and underserved individuals and families. NHeLP ad-vocates, educates and litigates at the federal and state levels.



The National Asian Pacific American Women's Forum (NAPAWF) is the only multi-issue, progressive, community organizing and policy advocacy organization for Asian American and Pacific Islander (AAPI) women and girls in the U.S. NAPAWF's mission is to build collective power so that all AAPI women and girls can have full agency over our lives, our families, and our communities.



In Our Own Voice: National Black Women's Reproductive Justice Agenda is a national Reproductive Justice organization focused on lifting up the voices of Black women at the national and regional levels in our ongoing policy fight to secure Reproductive Justice for all women and girls. Our eight strategic partners include Black Women for Wellness, Black Women's Health Imperative, New Voices for Reproductive Justice, SisterLove, Inc. SisterReach, SPARK Reproductive Justice Now, The Afii Center and Women With A Vision.

- 
- <sup>1</sup> Federal judges issued preliminary injunctions in several of the cases, including three nationwide orders that prevented the rule from going into effect on October 15, 2019, the scheduled implementation date. Two federal appellate courts and the U.S. Supreme Court subsequently stayed the injunctions, clearing the way for DHS to begin implementing the rule on February 24, 2020. Then on July 29, 2020, the United States District Court for the Southern District of New York issued a nationwide injunction temporarily halting implementation and enforcement of the new public charge rule through the end of the COVID-19 public health emergency. On August 12, the U.S. Court of Appeals for the Second Circuit scaled back the injunction to only those states within the Second Circuit: New York, Vermont, and Connecticut. See *Public Charge Litigation Tracker*, MASSACHUSETTS LAW REFORM INSTITUTE & CENTER ON BUDGET AND POLICY PRIORITIES (last updated Sept. 17, 2020), <https://docs.google.com/spreadsheets/d/e/2PACX-1vTIHxPL3tRDeRYEG3ORXRvZkk11MZRtkM-HszfAs7I8D02KO5T5T3qeM1j4FvWEPRK2KAAY8uvd2Vj/pubhtml?widget=true&headers=false> [hereinafter *Public Charge Litigation Tracker*].
- <sup>2</sup> Particularly im/migrants petitioning for a family-based visa. Some, but not all, people seeking a visa or LPR status are subject to public charge.
- <sup>3</sup> Inadmissibility and Deportability on Public Charge Grounds, 64 Fed. Reg. 28676-28688 (May 26, 1999), <https://www.govinfo.gov/content/pkg/FR-1999-05-26/pdf/99-13188.pdf> [hereinafter “1999 DHS Rule”]. For additional information about the history of public charge, see Torrie Hester, et al., *Historians’ Comment on DHS’ Notice of Proposed Rule “Inadmissibility on Public Charge Grounds”* FR 2018-21106 (Oct. 5, 2018), <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge>.
- <sup>4</sup> 8 U.S.C. § 1182(a)(4)(B).
- <sup>5</sup> However, green card holders who leave the U.S. for more than 180 consecutive days may have a problem re-entering the U.S. They should talk to an im/migration attorney who understands the public charge rule before they leave the country.
- <sup>6</sup> Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41292-41508 (Aug. 17, 2019) [hereinafter “2019 DHS Final Rule”], <https://www.govinfo.gov/content/pkg/FR-2019-08-14/pdf/2019-17142.pdf> (adding 8 C.F.R. §§ 212.21(b)(2)-(5)).
- <sup>7</sup> *Public Charge Litigation Tracker*, *supra* note 1; *LPR Applicants, Their Sponsors, and Immigrant and Civil Rights Groups Sue Over Law Violations in Implementation of Trump Administration’s Public Charge “Wealth Test”*, National Immigration Law Center (Jul. 13, 2020), <https://www.nilc.org/2020/07/13/lpr-applicants-their-sponsors-and-immigrant-and-civil-rights-groups-sue-over-law-violations-in-implementation-of-trump-administrations-public-charge-wealth-test/> (discussing a new lawsuit not yet added to the litigation tracker above).
- <sup>8</sup> See *Public Charge Litigation* update on the first page of this issue brief.
- <sup>9</sup> 1999 DHS Rule, *supra* note 3.
- <sup>10</sup> 8 C.F.R. §§ 212.21(a).
- <sup>11</sup> *Id.*
- <sup>12</sup> These cash assistance benefits are a continuation of the previous rule.
- <sup>13</sup> 8 C.F.R. §§ 212.21(b).
- <sup>14</sup> *Id.*
- <sup>15</sup> See 2019 DHS Final Rule, *supra* note 6 at 41504. Additional negative factors include: an income of less than 125% of the Federal Poverty Level (FPL); a large family; an age of younger than 18 or older than 60; and limited English proficiency. See 2019 DHS Final Rule, *supra* note 6, at 41502-41504.
- <sup>16</sup> However, green card holders who leave the U.S. for more than 180 consecutive days may have a problem re-entering the U.S. They should talk to an im/migration attorney who understands the public charge rule before they leave the country.
- <sup>17</sup> *Visas: Ineligibility Based on Public Charge Grounds*, 84 Fed. Reg. 54996-55015 (Oct. 15, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-10-11/pdf/2019-22399.pdf>.
- <sup>18</sup> See Hamutal Bernstein et al., *Safety Net Access in the Context of the Public Charge Rule*, THE URBAN INST. (Aug. 7, 2019) (describing interviewee responses to a March 2019 survey, in which participants reported disenrolling or opting out of “public programs for which they or their relatives may have been eligible,” and citing “insufficient resources for food and adequate nutrition as consequences of stopping program participation”). [https://www.urban.org/sites/default/files/publication/100754/safety\\_net\\_access\\_in\\_the\\_context\\_of\\_the\\_public\\_charge\\_rule\\_1.pdf](https://www.urban.org/sites/default/files/publication/100754/safety_net_access_in_the_context_of_the_public_charge_rule_1.pdf).
- <sup>19</sup> SNAP, Medicaid, CHIP, housing subsidies, and health insurance and energy bill assistance programs were among some of the noncash public benefit programs that families reportedly avoided participating in as a result of the chilling effect. See Hamutal Bernstein et al., *One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018*, THE URBAN INST. (May 2019), [https://www.urban.org/sites/default/files/publication/100270/one\\_in\\_seven\\_adults\\_in\\_immigrant\\_families\\_reported\\_avoiding\\_public\\_benefit\\_programs\\_in\\_2018.pdf](https://www.urban.org/sites/default/files/publication/100270/one_in_seven_adults_in_immigrant_families_reported_avoiding_public_benefit_programs_in_2018.pdf).
- <sup>20</sup> Calculated assuming disenrollment rates between fifteen percent and thirty-five percent. Samantha Artiga et al., KAISER FAMILY FOUNDATION, *Estimated Impacts of Final Public Charge Inadmissibility Rule on Immigrants and Medicaid Coverage* (Sept. 18, 2019), <https://www.kff.org/report-section/estimated-impacts-of-final-public-charge-inadmissibility-rule-on-immigrants-and-medicaid-coverage-key-findings/>.

- <sup>21</sup> Jennifer Tolbert et al., *Impact of Shifting Immigration Policy on Medicaid Enrollment and Utilization of Care Among Health Center Patients*, KAISER FAMILY FOUNDATION (October 2019), <http://files.kff.org/attachment/Issue-Brief-Impact-of-Shifting-Immigration-Policy-on-Medicaid-Enrollment-and-Utilization-of-Care-among-Health-Center-Patients>.
- <sup>22</sup> Jeanne Batalova et al., *Millions Will Feel Chilling Effects of U.S. Public-Charge Rule That Is Also Likely to Reshape Legal Immigration*, MIGRATION POL'Y INST. (Aug. 2019), <https://www.migrationpolicy.org/news/chilling-effects-us-public-charge-rule-commentary>.
- <sup>23</sup> *Id.*
- <sup>24</sup> Tom K. Wong et al., *The Impact of Changes to the Public Charge Rule on Undocumented Immigrants Living in the U.S.*, U.S. IMMIGRATION POLICY CTR. (Aug. 13, 2019), <http://usipc.ucsd.edu/publications/usipc-public-charge-final.pdf>; See also Fact Sheet, *Changes to "Public Charge" Inadmissibility Rule: Implications for Health and Health Coverage*, KAISER FAMILY FOUNDATION (Aug. 2019), <http://files.kff.org/attachment/Fact-Sheet-Changes-to-Public-Charge-Inadmissibility-Rule-Implications-for-Health-and-Health-Coverage> (reporting "chilling effects on program participation will likely extend broadly beyond individuals directly affected by the rule's changes").
- <sup>25</sup> Act of August 3, 1882 (22 Stat. 214; 8 U.S.C.)
- <sup>26</sup> Jeanne Batalova et. al, Migration Policy Institute, *Millions Will Feel Chilling Effects of U.S. Public-Charge Rule That is Likely to Reshape Legal Immigration* (Aug. 2019) <https://www.migrationpolicy.org/news/chilling-effects-us-public-charge-rule-commentary>.
- <sup>27</sup> MIGRATION POL'Y INST., *Gauging the Impact of DHS' Public-Charge Rule on U.S. Immigration* (Nov. 2018), <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.
- <sup>28</sup> Jeanne Batalova, *Immigrant Women and Girls in the United States*, MIGRATION POLICY INST. (Mar. 4, 2020), <https://www.migrationpolicy.org/article/immigrant-women-and-girls-united-states#Employment%20and%20Occupations>.
- <sup>29</sup> *Id.* Im/migrant women are also more likely to live in poverty, and, depending on the country of origin, less likely to have completed a high school education compared to their male counterparts. Women from several countries in Africa and the Middle East are also more likely to be limited English proficient compared to men from the same countries.
- <sup>30</sup> *Paying an Unfair Price: The Financial Penalty for LGBT People of Color in America*, CTR. FOR AMERICAN PROGRESS AND MOVEMENT ADVANCEMENT PROJECT (2015), <http://www.lgbtmap.org/file/paying-an-unfair-price-lgbt-people-of-color.pdf>.
- <sup>31</sup> ALL ABOVE ALL, IN OUR OWN VOICE NAT'L BLACK WOMEN'S REPRODUCTIVE JUSTICE AGENDA, NAT'L ASIAN PACIFIC AMERICAN WOMEN'S FORUM, NAT'L HEALTH LAW PROG., NAT'L LATINA INST. FOR REPRODUCTIVE HEALTH, *Medicaid & Reproductive Justice* (Aug. 2018), [https://healthlaw.org/wp-content/uploads/2018/08/Joint-NHeLP\\_Medicaid-and-RJ.pdf](https://healthlaw.org/wp-content/uploads/2018/08/Joint-NHeLP_Medicaid-and-RJ.pdf).
- <sup>32</sup> *Id.*
- <sup>33</sup> *Id.*
- <sup>34</sup> Kerith J. Conron & Shoshana K. Goldberg, THE WILLIAMS INST., *LGBT Adults with Medicaid Insurance 1* (2018), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Medicaid.pdf>.
- <sup>35</sup> Adam Sonfield, GUTTMACHER INST., *U.S. insurance coverage, 2018: The Affordable Care Act is still under threat and still vital for reproductive-age women* (2020), <https://www.guttmacher.org/article/2020/01/us-insurance-coverage-2018-affordable-care-act-still-under-threat-and-still-vital>.
- <sup>36</sup> KAISER FAMILY FOUNDATION, *Percent of Women Who Report Having No Personal Doctor*, <https://www.kff.org/disparities-policy/state-indicator/no-personal-doctor/?currentTimeframe=0&sortModel=%7B%22colld%22:%22Location%22,%22sort%22:%22asc%22%7D>.
- <sup>37</sup> Steffie Woolhandler & David U. Himmelstein, ANNALS OF INTERNAL MEDICINE, *The Relationship of Health Insurance and Mortality: Is Lack of Insurance Deadly* (2017), <http://annals.org/aim/fullarticle/2635326/relationship-health-insurance-mortality-lack-insurance-deadly>; Rachel West, CENTER FOR AMERICAN PROGRESS, *Expanding Medicaid in All States Would Save 14,000 Lives Per Year* (2018); Committee on the Consequences, Board on Health Services, Institute of Medicine, *Care Without Coverage: Too Little, Too Late* (2002); Adam Sonfield, GUTTMACHER POLICY REVIEW, *Beyond Contraception: The Overlooked Reproductive Health Benefits of Health Reform's Preventive Services Requirement*, (2012) <https://www.guttmacher.org/gpr/2012/10/beyond-contraception-overlooked-reproductive-health-benefits-health-reforms-preventive>.
- <sup>38</sup> Anna North, *Immigrants are skipping reproductive health care because they're afraid of being deported*, Vox (Jul. 2019), <https://www.vox.com/2019/7/22/20698285/immigration-ice-raids-cities-pregnancy-abortion-health>.
- <sup>39</sup> *Id.*
- <sup>40</sup> Jacqueline Howard, *A rise in premature births among Latina women may be linked to Trump's election, study says* (Jul. 19, 2019), <https://www.cnn.com/2019/07/19/health/preterm-births-latina-presidential-election-study/index.html>.
- <sup>41</sup> *Id.*
- <sup>42</sup> Brianna Sacks, *Undocumented Immigrants Are Canceling Abortion Appointments Because They're Afraid Of Getting Deported*, BUZZFEED (Jul. 2019), <https://www.buzzfeednews.com/article/briannasacks/undocumented-immigrants-canceling-abortion-appointments>.