

Information for Immigrant Families Regarding the New Final Rule on Public Charge and School-Based Services

The U.S. Department of Health and Human Services has recently finalized a new rule regarding the application of the public charge designation related to immigration status in the United States. The new rule broadens the number of public service programs that are considered as relevant to being considered a public charge, and it could have implications for families seeking visas or green cards. The following information is to help families understand the rule change as it relates to services provided through schools.

WHAT IS A PUBLIC CHARGE?

Public charge is an immigration term used to refer to a person who primarily relies on government social services for support. The United States government considers a number of factors (such as health, family status, financial status/income, receipts of public benefits, and more) to make this determination related to an individual's immigration status.

WHAT IS DIFFERENT IN THE NEW FINAL RULE ON PUBLIC CHARGE?

The new rule, set to take effect on October 15, 2019, expands the number of social service programs that are included for consideration and can count against those seeking visas or green cards. In addition to the cash assistance programs included previously, the rule now also includes nonemergency Medicaid accessed outside of school, the Supplemental Nutrition Assistance Program (SNAP), and Housing Assistance (public housing or section 8 housing vouchers and rental assistance). ***Families will not be penalized for services accessed prior to October 15, 2019.***

DO ALL IMMIGRANTS UNDERGO THE PUBLIC CHARGE TEST?

No. Exceptions include:

- refugees;
- those who are applying for or who have been granted asylum;
- those who are applying for a green card under the Violence Against Women Act (VAWA);
- those who are applying as victims of a serious crime (U visa) or victims of human trafficking (T visa) or who have one of these visas;
- children seeking Special Immigrant Juvenile Status;

- those who are enlisted in the U.S. Armed Forces or serving in active duty or in the Ready Reserve component of the U.S. Armed Forces, and the spouses and children of those serving, at the time of application or receipt of benefits;
- legal permanent residents when they apply for U.S. citizenship.

If you are in one of the above categories, you can continue to use government programs for which you are eligible without harming your ability to get a green card or improve your immigration status.

DOES THE NEW FINAL RULE AFFECT SCHOOL-BASED SERVICES?

The final rule on public charge ***does not*** penalize children/their families who access health or nutrition programs through school. This includes:

- Physical, mental, and behavioral health services accessed through Medicaid
- Special education services covered by Medicaid
- Free and reduced price meals and other school-based food programs accessed through the U.S. Department of Agriculture

For Medicaid, there should be no change in how families access services through school, and you should continue to ensure that your children have access to these services.

However, you may choose to change how you access school-based food assistance for your children if they are currently receiving meals at school as a result of your family also qualifying for the Supplemental Nutrition Assistance Program (SNAP). SNAP is now included in the new rule public charge rule. If your family withdraws from SNAP because of the new rule, you can apply for free and reduced price meals for your children directly through your school by verifying your income status through other means. Doing so will not count against your immigration status. Check with your school administrators or support staff for information on how to apply directly through the school.

CAN ACCESSING SERVICES THROUGH SCHOOL INCREASE THE RISK OF ICE ENFORCEMENT?

No. Accessing Medicaid or food support programs through school does not increase the likelihood of you coming to the attention of U.S. Immigration and Customs Enforcement (ICE). Both the healthcare law and the laws governing school food programs specifically state that information provided to schools *may not* be shared with other agencies or used by ICE for enforcement. ***Again, families will not be penalized and should not forego the Medicaid and nutrition services that their children receive through schools.***

HOW MIGHT THE NEW FINAL RULE AFFECT HOUSING SECURITY?

Section 8 housing and rental assistance programs and public housing assistance are now included in the final rule on public charge as potentially counting against immigration status approvals. Some families who choose to withdraw from these housing subsidy programs may experience housing insecurity or homelessness. If so, children may qualify for McKinney-Vento services, which can include the ability to stay in your home school if you are staying outside the district, transportation to school if necessary, and additional academic and other supports.

WHY IS IT IMPORTANT FOR ELIGIBLE STUDENTS TO RECEIVE SERVICES IN SCHOOL?

Health and nutrition services provided in school support students' physical, behavioral, and mental health and are essential to their learning and success in school. These services can include:

- Academic and mental and behavioral assessments
- Individual and group counseling
- Interventions provided as part of an Individualized Education Program (IEP) plan
- Medication and other healthcare services for children with disabilities
- Free or reduced price meals (e.g., breakfast, lunch, summer program)

Accessing these services through schools *does not* increase the risk that a family or child will be penalized when they apply for a visa or permanent residency. Furthermore, accessing these services does not increase the likelihood of coming to the attention of ICE.

School staff are available to help families understand and navigate services provided through school. Families with further, specific questions about the impact of public assistance programs outside of school should contact an immigration lawyer.

For further information, visit <https://www.nasponline.org/resources-and-publications/social-justice>

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Note: Schools and social service organizations have permission to adapt this handout to include local contact and/or resources information as long as proper credit is given to NASP. Information about the public charge rule **may not** be changed.

Please cite this document as:

National Association of School Psychologists. (2019). *Information for immigrant families on the new final rule on public charge and school-based services* [handout]. Bethesda, MD: Author.