

Toolkit for State and Local Government Officials

Key Actions that States, Localities and Service Providers Can Take to Support Immigrant Access to Health, Nutrition, and Housing Programs September 2021

This toolkit highlights key actions public officials can take to ensure that immigrant communities can access the public programs that keep them healthy, nourished, and housed and to diminish the harm caused by the 2019 Department of Homeland Security (DHS) public charge rule. Materials in this toolkit can be modified to fit your needs. For a full description of the [1999 field guidance](#) regarding public charge, which is the current public charge policy that went into effect again on March 9, 2021, and to learn which immigrants are subject to a public charge assessment and who might be “chilled” from public benefits usage, please see the appendices of this document. Also listed are links to official statements and guidance from all relevant federal benefits granting agencies, as well as DHS.

This Toolkit was created by the The Protecting Immigrant Families (PIF) Coalition, a collaboration between the Center for Law and Social Policy (CLASP), National Immigration Law Center (NILC), and thousands of advocates across the country. For more information about the Coalition, you can visit: protectingimmigrantfamilies.org.

The PIF Coalition recommends the following key actions to support immigrant access to health, nutrition, and housing programs:

- [Action #1: Ensure that families have access to timely and accurate information about immigrant eligibility for benefits, including the public charge rule, through multilingual community outreach, public statements, front-line staff trainings, and inter-agency coordination.](#) 2
- [Action #2: Ensure that benefits programs protect immigrant privacy.](#) 3
- [Action #3: Strengthen and expand \(where feasible\) benefits access.](#) 4
- [Action #4: Ensure that people planning to adjust their immigration status have access to accurate legal guidance regarding their use of public benefits.](#) 5
- [Action # 5: Monitor state/ local data for signs of significant changes in enrollment for entitlement and safety-net programs, spotlighting growing unmet needs in the community in real time.](#) 6
- [Action #6: Advocate for the Federal government to improve upon the 1999 public charge guidance and enhance outreach to the public.](#) 7

Action #1: Ensure that families have access to timely and accurate information about immigrant eligibility for benefits and the public charge rule, through multilingual community outreach, public statements, front-line staff trainings, and inter-agency coordination.

Community Outreach and Public Information: Agencies should undertake significant outreach activities including:

- Distribute [educational materials](#) about public charge through existing outreach channels and [ensure all social services outreach workers share these materials](#).
- Share links to a free [online public charge screening tool](#) for individuals to understand which immigrants face a public charge assessment and which public benefits are included in the public charge test. This tool is available in English, Spanish, and Chinese languages.
- Develop clear messages, memos, and flyers with the state or city seal to demonstrate the official state or city message about public charge and reduce fears among benefits-eligible immigrants.
 - Examples of public information messages from state and city governments: [Kentucky](#), [NYC](#), [Boston](#), [Colorado](#), [Washington, DC](#), [Washington state](#), [California](#), [San Francisco](#)
- Use these [talking points](#) to share information in public speeches, statements, and town halls - messages that align with the way leading advocates for health, immigrant families, economic opportunity, and healthy nutrition talk about the issue.
 - [Alternate talking points](#) - Messages that may be more effective in politically conservative settings.
- Partner with community-based and faith-based organizations, [international consulates](#), schools, childcare and other community institutions (e.g., health centers, libraries, parks, etc.) to spread the message.
- Use outreach funding available under [SNAP](#), Medicaid, ACA Marketplaces and other programs, as well as funding for COVID-19 vaccination outreach, to support immigrant-serving organizations and other trusted community messengers. Outreach efforts are also an [allowable use of the fiscal relief funds](#) provided to states and localities under the American Rescue Plan; these funds could be used to provide cross-program outreach and enrollment assistance, or to provide wraparound funding to organizations already supported to work in one specific area.
- Partner with local media outlets to push out accurate and updated information in multiple languages on immigrant eligibility for benefits and services and public charge; work closely with ethnic media to ensure messaging reaches all immigrant communities. This includes providing ethnic media with translated materials, connecting them with bilingual government spokespeople, and identifying and preparing trusted community messengers who can serve as spokespeople. (Examples from [NYC](#), [California](#), and [Oregon](#))



- o Elected officials may want to consider using [this sample Op-Ed](#) or [sample news pitch](#) to get the word out about their efforts to reduce the chilling effect
- Pair outreach and education with accurate COVID information (examples from [Illinois](#), [Massachusetts](#), and [Seattle](#))

Staff Training: Agencies should ensure all front-line benefit enrollment staff receive basic training on immigrant eligibility for benefits and the public charge rules that includes:

- The rules regarding immigrant eligibility for benefits, including that ineligible immigrants are allowed to apply for benefits on behalf of eligible family members.
- The populations exempt from the public charge rule.
- The few public benefits programs that could cause a concern for directly impacted groups and how use of those benefits are just one factor in the broader, multi-factor “totality of circumstances” considerations of the public charge test.
- Information on local legal assistance hotlines and reputable low-cost or free legal service providers to whom they can direct individuals who need individualized legal advice.
- For sample training materials to modify for your state:
 - o [Template Training Course on immigrant eligibility for benefits](#) for front-line enrollment staff
 - o Training Course on [immigrant eligibility for health-related benefits](#)
 - o Sample [training materials on public charge](#) for front-line enrollment staff

Inter-Agency Coordination: To ensure effective, consistent and comprehensive messages and practices, states and localities should communicate clearly across agencies and ensure that stakeholders have opportunities to provide feedback and shape agency response.

- Issue clear memos to all county and state benefits enrollment offices to explain the public charge rule and how enrollment staff should respond to client concerns about public charge. (example from [Michigan](#))
- Convene inter-agency work groups that include local community leaders from immigrant communities and stakeholders from “emergency” social service resources, such as food pantries and community health centers, who can help identify barriers that prevent eligible immigrants and their families from applying for or receiving public benefits and develop strategies for overcoming these barriers.



Action #2: Ensure that benefits programs protect immigrant privacy.

Privacy concerns contribute to the reluctance of immigrants considering public benefits for themselves or eligible family members. These concerns include whether identifying information submitted with an application will be shared for immigration enforcement purposes. Confusion over existing

protections related to privacy can also deter enrollment. To protect privacy and clarify protections, agencies and immigrant-serving organizations should:

Review policies and practices for consistency with the rules that govern when public benefits programs can share information with immigration officials: A good starting point is the National Immigration Law Center's (NILC) [Privacy Protections in Selected Federal Benefits Programs](#). To ensure compliance and assuage concerns that may deter enrollment, agencies should:

- Review applications and enrollment systems, reporting systems, and guidance for eligibility and enrollment workers and make necessary corrections.
- Provide community members with easy-to-understand information about existing confidentiality protections in multiple languages.

Partner with immigrant-serving organizations to provide accurate information to immigrant families:

Partnering with faith-based organizations, community health centers, international consulates, hospitals, community-based organizations, schools, immigration attorneys, immigrant-focused media outlets, food banks, social justice organizations and others helps ensure that accurate information gets to the people that need it and that people know their rights to privacy and confidentiality.

- Make public statements about data security, privacy that can be repeated in ethnic media and used by community partners to reassure concerned clients.
- Create materials, posters, and more that reiterate the message of data privacy, in multiple languages.

Ensure that all state or locality-run health care or educational facilities are aware of ICE's "sensitive locations" guidelines and take actions to ensure those spaces are protected from immigration enforcement to the maximum degree possible:

- See [this guidance](#) from the ACLU, NILC, and Physicians for Human Rights on sensitive locations policies and practices, and these examples and guides from the [Illinois Alliance for Welcoming Healthcare](#)
- See [USDHS statement](#) that it will not conduct enforcement operations at or near COVID vaccine distribution sites or clinics, as well as NILC's recommendations for [State, City and County Actions to improve access to COVID vaccines](#).

Action #3: Strengthen and Expand (Where Feasible) Benefits Access.

Many administrative processes can be modified to ensure immigrants can supply all required proofs of eligibility to complete enrollment in benefits programs, and public benefits programs can be presented in positive framing as part of overall community benefit to reduce stigma.

Remove barriers to immigrant access to benefit programs:

- Only request information necessary to determine eligibility; in particular, applications are [not allowed to require SSNs](#) for household members not applying for benefits. Applications should also allow household members to report "other" as an immigration status.

- Be flexible about how household members prove their income, including through a letter from an employer, self-attestation, or other means if needed.
- Ensure easy language access through an advertised phone-language line and compliance with [Title VI of the Civil Rights Act](#). Ensure plain language in publications and public notices in all principal languages of constituents. Maintain a contact list of qualified bilingual agency employees and instructions for accessing remote interpretation services. Consider developing in-language videos that can be viewed at agency offices. (Examples: [The San Francisco Language Access Ordinance](#); [CLASP publication on increasing equity in applications](#))

Expand eligibility where possible:

- Options to expand food assistance programs: [State Food Assistance Programs to address the gaps in SNAP eligibility for immigrants](#) (FRAC)
- Options to expand Medicaid coverage: [Medicaid coverage requirements and options](#).
 - [Table of state choices on health coverage](#),
 - More state examples: for individuals 19 to age 26 in [\(California\)](#), for low-income immigrant seniors age 65 and older [\(Illinois\)](#);
- Guidance on immigration test requirements in administering COVID relief programs: [Administering relief programs without an immigration test](#) (CBPP);
- Overview of eligibility requirements and COVID relief programs: [FAQ: Eligibility for Assistance Based on Immigration Status - National Immigration Law Center \(nilc.org\)](#);

Action #4: Ensure that people planning to adjust their immigration status have access to accurate legal guidance regarding their use of public benefits.

The community’s confusion and mis-information around the public charge rule has been compounded by a lack of access to accurate, up-to-date legal advice from immigration attorneys who are familiar with both public benefits and the current status of the public charge rule. To address this, state and local leaders should:

Expand funding for legal services related to public charge:

- Contract with local nonprofits that have community connections and capacity to do the work like [California](#), [New York](#), and Massachusetts have done.
- Allocate sufficient funding to support legal services provision each year to address immigrant access to public benefits and implications of public charge. Funding may be available from a variety of sources: Seattle/King County leveraged both state and county funding to respond to community needs. Illinois funded the [Access to Justice coalition](#) in 2020 and again in 2021 to respond to these needs.

Promote collaboration among entities that serve immigrants and their families:

- These collaborations can bring complementary expertise and greater resources to bear on the issue. The Illinois Coalition for Immigrant and Refugee Rights ([ICIRR](#)) administers the Immigrant



Family Resource Program in partnership with the [Illinois Dept. of Human Services' Welcome Centers](#), which is a network of over 40 organizations throughout the state of Illinois available to answer questions about [Public Charge and public benefits](#).

Help facilitate dissemination of accurate information on immigrant eligibility for public benefits, using state letterhead that references the USCIS letter for beneficiaries, for immigration legal services representatives:

- Public officials can refer Immigration legal services representatives to the April 2021 USCIS [letter to interagency partners](#) that makes clear that the 2019 public charge rule is no longer in effect, and the lawful receipt of Medicaid, SNAP or housing assistance will not be taken into account as part of the public charge inadmissibility determination.



Action # 5: Monitor state/ local data for signs of significant changes in enrollment for entitlement and safety-net programs, spotlighting growing unmet needs in the community in real time.

- Monitor state and local data for significant changes in enrollment due to the rule changes, including now that the 1999 public charge guidance is again in place. For example, states may track their SNAP characteristics data to monitor the trends in participation of [eligible non-citizens](#) or of [U.S. citizen children in households with a non-citizen](#).

- Ensure data is disaggregated as much as possible to analyze immigrant changes in enrollment rates.
- Collaborate with community organizations to create a feedback loop to respond to trends in community needs.
- Maintain data sets and analysis to support future comments for potential upcoming public charge rulemaking.

Action #6: Advocate for the Federal government to issue an anti-racist public charge rule and enhance outreach to the public.

- Submit comments during the current public charge rulemaking process that was initiated August 23, 2021 when the Biden Administration published its [Advance Notice of Proposed Rulemaking \(ANPRM\) in the Federal Register, opening a comment period, until October 22, 2021](#). This Advance Notice specifically seeks input from state and local benefits granting agencies about the costs and concerns that they have related to the public charge regulation. Comments can clearly demonstrate the impact of the chilling effect of the 2019 rule, the need for clear rulemaking, and the ways to create an anti-racist public charge rule.

- More detail on the ANPRM can be found [here](#).
- Advocate for the Federal government to lead and improve outreach to the public about public charge. Hearing a clear and consistent message from the Federal government allows state and local officials to echo and leverage the messages from the Federal government to educate their constituencies and allows them to use pre-existing resources (e.g. flyers in multiple languages).

Appendices

Current status of the Public Charge Regulation

On March 15, 2021, US Citizenship and Immigration Services (USCIS) published a [final rule](#) that removed its 2019 public charge regulations from the Federal Register, and discontinued the Form I-944 Declaration of Self-Sufficiency and other forms used to implement the 2019 rule. These changes, which implement USCIS' reinstatement of the [1999 field guidance](#), went into effect on March 9, 2021. On March 15, USCIS also posted a [notice](#) declaring that it stopped applying the 2019 public charge rule to all pending applications and petitions on March 9th, and advising applicants that they no longer need to provide information or evidence that is solely related to the 2019 public charge rule.

Despite the fact that the 2019 rule is no longer in effect, many immigrant families continue to be confused about the potential risk of using public benefits for which they are eligible. This is why dissemination of accurate information to immigrant families about the public benefits considered under the 1999 Field Guidance is key to mitigating the harm from the 2019 rule.

What is the definition of a public charge and which public benefits are considered under the 1999 Field Guidance?

Under the Guidance, a public charge is a person who is likely to become (for admission/adjustment purposes) "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." This determination is made based on an assessment of an individual's overall life circumstances--age, health, financial status and assets, education and skills, and family status, and, where applicable, an affidavit of support or contract signed by a sponsor. ' The **only** benefits considered are 'cash assistance for income maintenance' and 'institutionalization for long-term care at government expense. No one factor (including the receipt of cash assistance) automatically makes an individual a public charge. Each individual has the opportunity to show why the person is unlikely to rely on these benefits in the future - and can offer positive factors that outweigh any negative factors in the test. Short-term and special purpose cash payments and institutionalization for short periods of rehabilitation are not considered. Food and nutrition programs, including SNAP, and housing programs, including section 8, and utility assistance including the Emergency Broadband Benefits (EBB) are not considered. Medicaid is considered only if it is used to pay for long-term care.

Who is affected by public charge?

A **public charge** is a person who depends on the government for their support. A person deemed likely to become a public charge can be denied a visa to enter the U.S. and lawful permanent resident status (also known as a green card). In 2019, when DHS and the Department of State published regulations altering the meaning and application of public charge, many people in immigrant families avoided public

benefits. However, the Biden administration has allowed the court orders vacating or blocking the 2019 public charge regulations to take effect; the current public charge policy is the longstanding policy that was published as Field Guidance in 1999.

State and local government officials are important messengers and have multiple channels to disseminate information to diverse audiences. The two main audiences for information about the public charge regulation are:

1. Directly affected population: People applying for a green card through a pathway where public charge is relevant, such as petition for a family-based visa or certain other visas. Currently, the public charge policy considers all of a person's circumstances in determining whether the person is likely to become a public charge. Only two types of public benefits may be considered in this test: cash assistance for income maintenance purposes and long term institutionalization at government expense.
2. People who continue to experience a chilling effect: The number of people who are likely to be worried or confused about whether they should apply for (or remain enrolled in or disenroll from) housing, nutrition, and/or health public benefits if they qualify is a much larger group than the directly affected population. More specifically, this group could include anyone in a family with at least one immigrant, if someone in that family has received or may seek a public benefit. The assessment of a person's overall circumstances specified in the 2019 public charge regulation greatly emphasized the consideration of family income and potential use of health care, nutrition or housing programs. Studies show that the 2019 rule also had a chilling effect even on the use of programs not included. See [the latest research](#) on the impact of the 2019 public charge rule during the COVID pandemic.

Federal agency guidance re public charge and immigrant access to benefits

DHS

- [Public Charge | USCIS](#)
- [Public Charge Resources -- Questions and Answers | USCIS](#)
- [SOPDD Letter to USCIS Interagency Partners on Public Charge](#)
- [Federal Register :: Field Guidance on Deportability and Inadmissibility on Public Charge Grounds](#)
- [DHS Statement on Equal Access to COVID-19 Vaccines and Vaccine Distribution Sites | Homeland Security](#)

Tri-agency guidance:

- [Policy Guidance Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, SCHIP, TANF and Food Stamp Benefits | USDA-FNS](#)

HHS

- [CMCS Informational Bulletin on Public Charge and Safeguarding Beneficiary Information](#)

USDA

- [Nutrition Benefits and Public Charge: Effect on Immigration Status | USDA-FNS](#)
- [FY22 FNS Outreach Priorities Memo \(azureedge.net\)](#)
- [SNAP Non-Citizen Guidance \(azureedge.net\)](#)
- [Federal Register :: Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency](#)

HUD

- [HUD Mixed Status Rule Withdrawal - Fact Sheet Final.pdf \(govdelivery.com\)](#)
- [Federal Register :: Housing and Community Development Act of 1980: Verification of Eligible Status; Withdrawal; Regulatory Review](#)

Department of State

- [Foreign Affairs Manual](#) instructions on public charge