



THE BIDEN PUBLIC CHARGE REGULATION WHAT DOES IT MEAN FOR IMMIGRANT FAMILIES?

WHAT DOES THE NEW PUBLIC CHARGE REGULATION DO?

A new “public charge” immigration regulation took effect December 23, 2022. It adds critical protections to secure immigrant families’ access to the health and social services safety net:

- Clarifies what is and is not considered in a public charge determination:

Considered

- Cash assistance for income maintenance (SSI, TANF, state or local General Assistance programs)
- Government funded long term institutional care (not short-term rehab or home- and community-based services).

Not considered

- A child’s or other family member’s use of federal safety net programs
- Medicaid unless the person is receiving long-term institutional care (short term rehabilitative care and home and community based services do not count).
- SNAP, WIC, Section 8, and other “non-cash” federal programs (and state- and locally-funded versions of those programs)

- The new regulations direct immigration officers who are making public charge determinations to consider all of an applicant’s circumstances (age, health, income, education, and family size), as well as an Affidavit of Support, when required.
- Makes it harder for future presidents to radically change public charge policy

WHY IS THE NEW POLICY IMPORTANT?

Research confirms the [now-reversed](#) Trump public charge regulations and their widespread “chilling effect” [deterred millions](#) in immigrant families from seeking health care and aid during the pandemic, undermining pandemic response and widening racial disparities in its economic and health impact. Research indicates that, long after its reversal by the Biden Administration, persistent [information gaps](#) and concerns about the Trump policy continue to drive [lower COVID-19 vaccination rates](#), [food insecurity](#), and other disparities among immigrants of color.

The Biden policy was intended to improve immigrant families’ access to health care and social services. But it will only result in improved health and well-being if immigrant families know the policy has changed. It is critical that community, state, and national leaders leverage every available communication channel to spread the word.

HOW DID THIS POLICY CHANGE HAPPEN?

The process to arrive at this final public charge regulation began in [August 2021 with an advance notice of proposed rulemaking](#) that included a 60-day window for comments from the public. It was followed in [February 2022 with a regulatory proposal](#) also with a 60-day comment period. In addition to both comment periods, DHS invited input through a series of public listening sessions in late 2021.

WHAT COMES NEXT?

It is likely that the public charge rule will be challenged in court, as many other Biden immigration policies have been. There are solid grounds for a court to uphold the rule. The Biden administration took the proper notice and comment steps in issuing the final rule. The policy is consistent with the field guidance that was in effect for 20 years and consistent with a century of prior practice.