

Public Charge Talking Points: How to Answer Patient Questions

[DO NOT GIVE LEGAL ADVICE. If you are at all uncertain, please refer patients to a lawyer.]

Throughout California and the country, health centers have seen an increase in patients expressing reservations about accessing public benefit programs, such as Medi-Cal / Medicaid, for fear of detention and deportation for themselves and their families. Much of this fear is produced by elements of the Public Charge rule.

Although the rule impacts a small subset of the population, people are confused and misinformed about how and if the rule applies to them. This confusion, which we refer to as the ‘chilling effect,’ has led many families to cease seeking lifesaving public benefit programs and services. However, as trusted members of the community, health centers like YOURS can help dispel the confusion by helping patients and communities understand if and how they may be impacted. Below are talking points formatted in an FAQ style to help. We’ve also provided core messages produced by our partners at the Protecting Immigrant Families (PIF) Campaign.

1. What is public charge?

- “Public charge” or the “public charge test” is used by immigration officials to decide whether a person can enter the U.S. or get a green card (Lawful Permanent Resident (LPR) status).
- In this test, officials MUST look at all of a person’s circumstances, including income, employment, health, education or skills, family situation and whether a sponsor signed a contract (“affidavit of support”) promising to support the person.
- As part of the assessment, officials can also look at whether a person has used specific benefit programs, but other factors mentioned above MUST be taken into consideration, as well.
- **The public charge test does not apply to green card holders who are applying for U.S. citizenship or to renew their green card ID.**

2. What does the final Public Charge rule do?

- The final rule changes the definition of public charge from a person dependent on the government for financial and material support to “a person who uses or receives one or more specified public benefits for at least 12 months in a 36-month period.”
- **The rule explicitly clarifies that receipt of or application for benefits on behalf of someone else does not constitute receipt of benefits.**

3. Who is subject to the Public Charge Assessment?

- Only people applying from abroad to enter the country or individuals holding visas who are applying for lawful permanent resident (LPR) status (i.e. green card) are subjected to the Public Charge test.
 - However, if somebody with LPR status leaves the country for more than 180 consecutive days (6 months), they can be assessed for public charge when they seek to re-enter the country.
- Public charge does not apply to: Refugees, asylees, survivors of domestic violence, and victims of trafficking or other serious crimes, special immigrant juveniles, temporary protected status (TPS), and certain other groups.
- Individuals who are renewing their TPS or DACA status will NOT be subjected to the public charge test.

4. What public benefit programs are included in the final rule?

- Federally funded Medicaid (exemptions listed below):
 - Emergency Medicaid
 - Medicaid benefits received by a person under 21 years of age
 - Medicaid benefits received by a woman during pregnancy and for 60 days after
 - Medicaid benefits received by active duty or Ready Reserve members of the armed forces and their spouses and minor children
 - Medicaid received while a person was exempt from public charge
- SNAP – which in California is referred to as CalFresh
- Section 8 vouchers & project-based assistance, public housing,
- Cash assistance programs like CAPI, SSI, General Assistance and TANF (CalWORKs).
 - Cash assistance programs are the only state or local benefits that are considered.

CORE COMMUNITY MESSAGES DEVELOPED BY PIF

Use of public benefits alone will not make you a public charge. Fight fear with facts - KNOW YOUR RIGHTS. The public charge rule was designed to be confusing, complicated, and scary on purpose. You have rights in this country no matter where you were born. We encourage you to learn more about your situation before making decisions that may harm you or your family.

It's not over - we still have a chance to stop the rule. Advocates are using every tool at their disposal to stop this rule from taking effect - including in the courtroom. La Clinica & CPCA are participating in litigation efforts to stop this rule from being implemented. On October 2nd we had a hearing to ask for a preliminary injunction to stop the rule from being implemented until the court offers a final ruling on our lawsuit. We are pleased to inform you that Southern District of New York just granted a nationwide injunction stopping the implementation of the public charge rule. **This means that the rule will NOT be implemented on October 15 as previously scheduled.**

This public charge inadmissibility test does not apply to every immigrant. Exempt immigrants include: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; and certain people paroled into the U.S. Benefits received when people are in one of these statuses will not be counted against them. And lawful permanent residents (green card holders) are not subject to a public charge test when they apply for U.S. citizenship.

Use of public benefits will not automatically make you a public charge. Immigration officials must look at all your circumstances in determining whether you are likely to become a public charge in the future. This includes your age, health, income, assets, resources, education/skills, family you must support, and family who will support you. Positive factors, like having a job or health insurance, can be weighed against negative factors, like having used certain benefits or having a health condition. Either way, you will have a chance to show why you are not likely to rely on certain benefits in the future.

This public charge test does not consider benefits used by family members. Most immigrants who are applying for a green card are not eligible for the benefits listed in the rule. And benefits used by eligible family members are not counted unless the family members are also applying for a green card. Health care, nutrition, and housing programs can help you and your children remain strong, productive, and stable.

The rule does not consider any newly listed benefits that are used before October 15, 2019. Benefits that were previously excluded from the public charge test (such as Medicaid and SNAP) will only be considered if they are received after October 15, 2019. The new rule applies only to people whose green card application was filed (postmarked or submitted electronically) on or after October 15, 2019. Using benefits now can help you or your family members become healthier, stronger, and more employable in the future.

Your personal information is protected. Federal and state laws protect the privacy of people who apply for or receive health care coverage, nutrition, economic support, or other public benefits. Applications for public programs should not ask for information about the immigration status of people applying to get benefits for another person in their family or the household. Benefit agencies may share information with other government agencies only for purposes of administering their programs, with limited exceptions. You can provide only the information necessary and should never misrepresent anything when completing public benefit applications or dealing with any government agency.

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