



## WHAT YOU NEED TO KNOW ABOUT PUBLIC CHARGE

The Federal Department of Homeland Security has submitted a proposed rule which would significantly expand the list of programs immigration officials can consider when making a public charge determination. The notice and comment period began on October 10 and ends on December 10, 2018. *The policy change will go into effect 60 days after the final rule is published.*

### UNDERSTAND THIS PROPOSED REGULATION BEFORE QUITTING ANY BENEFIT PROGRAMS OR SERVICES

#### **What is Public Charge?**

When an individual applies for Lawful Permanent Residency (LPR) status (aka a “Green Card”), the US Customs and Immigration Service (USCIS) evaluates whether one has used – or is likely to use – certain public benefits that could make them a “public charge.” Under current regulation, an applicant is a public charge if he or she is primarily dependent on cash assistance (TANF or SSI) or is institutionalized in government-funded long-term care.

#### **What Changes Would Be Made?**

The proposed rule would expand the range of contributing factors to determine one’s status as a public charge. Benefits that could be considered a public charge determination will focus on those that help families meet their basic needs, including:

- ❖ Non-emergency Medicaid (with limited exceptions)
- ❖ Supplemental Nutrition Assistance Program (SNAP)
- ❖ Low Income Subsidy for prescription drug costs under Medicare Part D
- ❖ Housing Assistance (Sec. 8 vouchers & subsidized housing) and Rental Assistance (Sec.8)

The proposed rule will also consider whether the immigrant has private insurance or can pay healthcare costs; and health conditions that could affect work or study.

#### **Who will be affected by the Proposed Change?**

The proposed change will affect applicants for LPR status (aka “green cards”) and LPRs seeking readmission in the United States after an extended absence.

#### **Who will NOT be affected by the Proposed Changes?**

The proposed rule will NOT affect applicants for citizenship or those who are naturalized US citizens. It will also NOT affect applicants for LPR status that are:

- ❖ Refugees and Asylees
- ❖ Survivors of human trafficking (T-visa applicants/holders)
- ❖ Survivors of domestic violence and other serious crimes (U-visa applicants/holders)
- ❖ Violence Against Women Act (VAWA) self-petitioners
- ❖ Special Immigrant Juveniles
- ❖ Other special groups of immigrants holding humanitarian status

#### **Should Immigrant Families stop receiving Public Benefits?**

Receipt of these benefits will not be considered a “public charge” until 60 days after rule’s final publication. **Federal officials will only look at the applicant’s use of public benefits, NOT whether any of the immigrant’s family members (including U.S. citizen children) receive public benefits.** Family members may continue to receive these benefits even after the final rule is published.

#### **Looking Forward**

Being a public charge is one negative factor USCIS considers when adjudicating a green card application; other factors include: age, family status, health, finances, education, skills/work experience, and an affidavit of support from an immigrant’s sponsor. The new rule may also require applicants to complete a Declaration of Self-Sufficiency which will examine the applicant’s education and finances. It is important for potentially affected immigrants to seek educational materials and resources to help improve financial standing.