



## “PUBLIC CHARGE” ATTACK ON IMMIGRANT FAMILIES

### DEFINING “PUBLIC CHARGE”

The “public charge” test is an assessment made when immigrants apply to enter the U.S. from abroad or apply to adjust status to Lawful Permanent Resident (“green” card). Currently, the “public charge” test considers many factors on a case by case basis when deciding to grant a “green” card<sup>1</sup>. One of these factors is a person’s past or probable future use of public benefits. The decision is forward-looking meaning that a decision cannot be based only on past events and no single factor determines whether a person is likely to become a “public charge”. Use of a public benefit is one of many factors including a person's age, health, family situation, income, resources, education, and skills. For decades, the test only considered cash assistance, such as TANF (CalWORKs) or SSI, and long-term care (nursing home or institutionalized care) in making a “public charge” determination.

### FEDERALLY PROPOSED CHANGES TO “PUBLIC CHARGE”

The Trump Administration has informed the Office of Management and Budget (OMB) of its plans to propose regulations that radically change longstanding policy about the meaning and application of “public charge.” The OMB is currently reviewing a Notice of Proposed Rulemaking (NPRM) on “public charge” and may publish it soon. Sadly, the leaked drafts of the NPRM widely expand the programs considered for “public charge” to include virtually any federal, state, or local public service including non-emergency Medicaid, CHIP (Medi-Cal), SNAP (CalFresh), WIC, school lunch ,

<sup>1</sup> Certain immigrants are exempt from this “public charge” test. This includes refugees, asylees, special immigrant juveniles, self-petitioners under the VAWA (Violence Against Women Act), survivors of trafficking, and others. This assessment is not made when immigrants renew their “green” card or apply for citizenship.

Section 8 housing vouchers, the Low-Income Home Energy Assistance Program, and non means tested programs. They also include the Earned Income Tax Credit (EITC) and Covered California financial assistance. This would include state only funded programs.

Additionally, the NPRM looks at the use of public benefits and tax credits by any member of the immigrant's family, including their children. **In California, nearly 1 in 2 children have an immigrant parent.** This proposed rule change targets families by aiming to punitively expand the benefits to be considered. If implemented, the rule change would make it harder for eligible immigrant families to get a "green" card or reunite with their family members if they access crucial safety net programs that they are eligible for. Thereby forcing them to choose between their children's wellbeing and reuniting with those they love or even keeping their families together.

**However, as of today no changes have been made to the "public charge" test.** This means that eligible immigrants can continue to make decisions to enroll and use services in safety net programs. These programs help Californians and their families stay healthy, thrive, and contribute to society. Community members should continue to seek vital programs and services they qualify for.

**Note:** *The "public charge" test is an assessment made when immigrants apply to enter the US from abroad or apply for a "green card". As such, the NPRM is not focused on undocumented immigrants. The "public charge" test is an assessment for immigrants who have a legal pathway to apply for immigration status.*

## **DEFENDING CALIFORNIANS AGAINST "PUBLIC CHARGE" CHANGES**

The NPRM runs contrary to California's bipartisan efforts to recognize the significance and value of integrating immigrant populations in this state. As a champion of bold and inclusive policies, California must fight to preserve and strengthen our safety net system, so families and communities can continue to thrive. Any policy that forces families to choose between accessing critical care or nutrition assistance, or their immigration status will exacerbate serious problems such as hunger, unmet health needs, child poverty, and homelessness, with lasting negative consequences for families' and our state.

### **If and when an NPRM is released, California leaders may respond by:**

1. **Informing Californians** with Accurate & Accessible Materials
2. **Speaking Publicly** Against the Proposed Changes
3. **Participating in Public Comment Period** on the NPRM

A coalition of anti-poverty, consumer, community, health care, labor, and progressive organizations are working together to fight against changes to "public charge" that undermine the health and well-being of entire families and communities. ***For more information regarding legislative efforts and community materials please contact Gina Da Silva at [gdasilva@caimmigrant.org](mailto:gdasilva@caimmigrant.org).***