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New Trump rule isn't about saving taxpayer money — it's about keeping legal immigrants out

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A new regulation would ban immigrants who the Trump administration believes will use public benefits. While I don't believe that any noncitizens should get welfare, this rule will harm taxpayers by denying visas to immigrants who even the government predicts will be largely self-sufficient in the United States.

This rule isn't about protecting taxpayer money — it's about keeping out law-abiding immigrants.

The public charge rule will not deny any immigrants welfare. Instead, it denies them the ability to immigrate legally to the United States if the government predicts that they will "likely" rely on welfare at some point in the future. Thus, even if certain immigrants never use welfare in their lives, the rule could still be used to keep them out.

Since 1891, the law has denied visas to immigrants who are "likely to become a public charge." Prior to this new regulation, "public charge" — i.e., a ward of the state — was construed narrowly to exclude only those immigrants who were "primarily" dependent on the government, meaning most of their income comes from the government

The government's new revision is so problematic because, unlike the current standard, it explicitly ignores the degree to which immigrants support themselves. It adopts a flat rate standard: If the government predicts that they will use $2.50 per person per day for a family of four in benefits, it will ban them from the country. Immigrants who even the government predicts will be 95 percent self-sufficient would still be considered public charges.

The rule has other problems. Given that this rule is about a prediction, the method of making the prediction becomes very important. Yet this rule never specifies what it means by "likely" to use benefits. How confident does the government have to be that the applicants will use welfare? Is it 70 percent? Is it 50 percent? Is it 20 percent? Apparently every Department of Homeland Security adjudicator will get to decide their own standard, leading to wildly variable outcomes and denials for people who should receive approvals.

The government does have voluminous data on noncitizen welfare, but rather than use this data to make a precise assessment, it only vaguely describes factors that adjudicators will "weight" on a case-by-case basis. Under this process, no immigrant will know in advance whether they qualify for a visa.

How much does having a job count for you? How much does having used welfare at some point in the past count against you? The rule doesn't say. From the rule, adjudicators would glean the vague impression that they should start denying more visas to people who work difficult, lower-paying jobs, who may lack college degrees — even if they haven't used welfare and are contributing significantly.

Of course, if the government estimated how many people it believes will be denied under the rule, we could work backwards to figure out who this ambiguous rule is supposed to exclude. But it didn't do that. On the most important question, the government simply "acknowledges" that some immigrants will be denied, but refuses to even ballpark how many.

Since it didn't estimate how many people will lose their chance to immigrate to the United States under the rule, it cannot estimate how much tax revenue will decline as a consequence of fewer workers living in the country. Again, the bottom line is that the government only considers immigrants as "costs," so it feels no need to figure out whether the rule will harm taxpayers or the economy.

The Trump administration's view is that immigrants to the United States are costing this country. But it's not true. In 2016, the National Academies of Sciences produced estimates of the fiscal effects of immigration on all levels of the U.S. government under several economic scenarios. Looking at the average of those estimates, we can say that the average recent immigrant benefits the U.S. government to the tune of $150,000 more in taxes than receive in benefits over their lifetime.

The ridiculous definition of a public charge, the vague prediction process, and the failure to estimate the actual costs demonstrate the true intention of the rule is not about keeping out welfare abusers, but about keeping out as many legal immigrants as possible.

This effort is just an extension of the president's repeated attempts to cut legal immigration. Every bill that he put forward in Congress was shot down, so now the president — like former President Barack Obama before him — is turning to his " pen and phone" to change the law without Congress. A narrow rule, with clear methodology, could be followed. But this rule is just a sloppy attempt to give every adjudicator ample excuses to deny hardworking immigrants the American dream.

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