



## Cuccinelli: No Public Charge Immigrants

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President Donald Trump's administration unveiled a new rule yesterday that should deny permanent residency to hundreds of thousands unskilled aliens who are unable to support themselves in the United States.

When asked about whether the rule is unfairly targeting low-income immigrants, our friend acting US Citizenship and Immigration Services Director Ken Cuccinelli said: "We certainly expect people of any income to be able to stand on their own two feet, so if people are not able to be self-sufficient, then this negative factor is going to bear very heavily against them in a decision about whether they'll be able to become a legal permanent resident. "

The much-needed rule, supported by key Trump administration immigration hawks, such as Stephen Miller, takes effect in mid-October and would reject applicants for temporary or permanent visas for failing to meet income standards or for receiving public assistance such as welfare, food stamps, public housing or Medicaid.

According to reporting by our friends at NewsMax, such a change would ensure that immigrants "are self-sufficient," in that they "do not depend on public resources to meet their needs, but rather rely on their own capabilities, as well as the resources of family members, sponsors, and private organizations," a notice published in the Federal Register said.

The new rule is derived from the Immigration Act of 1882, which according to NewsMax, allows the U.S. government to deny a visa to anyone likely to become a "public charge." Immigration officers in recent years have defined visa applicants as a public charge if they are likely to become primarily dependent on government assistance.

The 837-page rule applies to those seeking to come to or remain in the United States via legal channels and is expected to impact roughly 382,000 people seeking to adjust their immigration, according to the Department of Homeland Security.

According to David J. Bier of the CATO Institute, Section 212(a)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1182) states, "Any alien who, in the opinion of the consular [or immigration] officer.... is likely at any time to become a public charge is inadmissible." Someone who is inadmissible cannot receive a visa to travel to the country, be granted admission to it, or receive status in it. This law—which has existed largely in its current form since 1891—does not define "public charge." Rather, it requires officers to consider at a minimum the person's age, health, family status, finances, and education or skills.

In addition, the law mandates that family- and employer-sponsored immigrants receive "affidavits of support" from their sponsors in the United States. Affidavits of support are legally enforceable contracts between the U.S. government and the sponsor in which the sponsor agrees to support (and demonstrates support) for the applicant at an income not less than 125 percent of

the federal poverty line (in 2019, \$32,176 for a family of four) until the immigrant naturalizes to become a U.S. citizen or if the alien has worked 10 years. If the immigrant does receive welfare, the government can sue the sponsor for breach of contract (for at least 10 years) or otherwise seek to collect.

In 2017, family-sponsored immigrants made up about 80 percent of the new permanent residents who the public charge statute applies to. They are exclusively parents, spouses, and children of U.S. citizens and legal permanent residents (and their spouses and minor children). The law also covers employer-sponsored immigrants and their spouses and children (15 percent), as well as diversity lottery winners (5 percent).

Applicants will now need to show higher levels of income to get a visa, and the rule greatly expands the list of government benefits that would disqualify them from obtaining U.S. residency.

Open borders advocates claim this could be the most drastic of all the Trump administration's efforts to reduce immigration. Under the new rules, more than half of all family-based green card applicants would be denied, according to the Migration Policy Institute, a research organization. Some 800,000 green cards were granted in 2016.

Under the old regulations put in place in 1996, the term "public charge" is defined as someone who is "primarily dependent" on government assistance, meaning it supplies more than half their income. But it only counted cash benefits, such as Temporary Assistance for Needy Families or Supplemental Security Income from Social Security.

Officials can take into account an applicant's financial resources, health, education, skills, family status and age. But due to lax enforcement few people are rejected on those relatively narrow grounds, reports CNN.

The rule includes immigrants who use one or more designated public benefits for 12 months within a 36-month period. Each benefit is counted separately, meaning if two benefits are used in a month, it'll count as two months. The rule will take effect October 15.

Earlier this year, President Trump also issued a memorandum doubling down on a current law that requires immigrants' sponsors to take financial responsibility for certain income-based government benefits the immigrant receives.

The new rule will encourage "self-reliance and self-sufficiency for those seeking to come to or stay in the United States," said Cuccinelli, during an appearance in the White House briefing room.