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Trump Administration Seeks Rule Change Linking Immigration Status To Use Of Public Benefits

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PHOENIX – The Trump administration has proposed a policy change that could disqualify some foreigners seeking permanent residency in the United States if they or family members have used government benefits, such as the children’s health insurance program, Medicaid and the Earned Income Tax Credit.

According to the National Immigration Law Center, the rule change would prevent anyone applying for legal permanent residency, especially through family-based visas, from moving forward in the naturalization process if federal authorities declare the applicant a “public charge.”

If enacted, the policy could affect even native-born children who are legally entitled to receive government assistance.

According to the U.S. Citizenship and Immigration Services, a public charge is someone who relies heavily on the government for assistance due to a lack of income. Someone deemed a public charge can be denied lawful permanent residency and possibly then be deported.

But “certain immigrants including refugees; asylees; survivors of trafficking, domestic violence and other serious crimes; and other ‘humanitarian’ immigrants are not subject to this public-charge test,” according to the National Immigration Law Center in Los Angeles.

“When people think their use of government programs could jeopardize a green card, they don’t use the programs,” said Jenny Rejeske, a senior health policy analyst at the center.

“This policy doesn’t change what programs people have access to but forces them to make a choice” between furthering their status in the U.S. and using public benefits, she said.

Multiple non-cash public benefits have been added to this proposal, which initially was leaked in January. A more extensive draft was leaked on Wednesday. The current policy for foreigners seeking permanent residency, enacted in 1999, defines a public charge as an immigrant who depends on the government for cash benefits and long-term government care, such as Temporary Assistance for Needy Families.

The latest draft of the proposed change adds such benefits as the Affordable Care Act; Medicaid; Children’s Health Insurance Program; Special Supplemental Nutrition for Women, Infants and

Children; transportation; housing; and energy assistance. This proposal would target these immigrants seeking permanent residency and their U.S.-born citizen children, not undocumented immigrants.

“If (immigrants) were given the opportunity of getting a better paying job, then they wouldn’t need to have their kids on public assistance,” said Karina Ruiz, a Deferred Action for Childhood Arrivals recipient and the president of the Arizona Dream Act Coalition. “They wouldn’t have to be in that position where they have to ask for these benefits.”

Rejeske, at the National Immigration Law Center, said this policy change could negatively affect mixed-status families and anyone in a family who uses the benefits, even if they are a U.S.-born citizen.

Hypothetically, Rejeske said, if a husband with a green card sponsors his wife seeking her green card, the government will “look at the husband’s use of programs when examining the wife’s application.” If this couple also has a child who’s a U.S. citizen, who legally can use any public benefits, the government could consider that child’s benefits use to determine whether this family is a public charge.

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Ruiz, of the Arizona Dream Act Coalition, said the need for public benefits shows there’s a problem with the economy.

“If I as an immigrant cannot apply for the benefit, how come (immigrants) are getting blamed?” she asked. “We are the scapegoat for a crisis that is more across the board because of the economy. If citizens are asking for these public benefits, it’s because the economy is not strong.”

What public benefits are available, and who uses them

Public benefits available to people vary depending on the state they live in and their immigration status.

Common public benefits include Supplemental Security Income, Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Emergency Medicaid (including labor and delivery), Children’s Health Insurance Program, and Housing and Urban Development Public Housing.

There are multiple public benefits available to Arizona residents with different types of eligible statuses. One of these benefits includes cash assistance, which Ruiz said is known in the immigrant community as a risk to take. Out of all of the people Ruiz has met through her work with the coalition and immigration activism, she has never met anyone seeking naturalization who receives cash assistance.

According to the Libertarian Cato Institute, low-income lawful permanent residents “utilize Medicaid, SNAP, cash assistance, and SSI at a generally lower rate than comparable low-income native-born citizen children and adults.” Overall, the average use of public benefits per person is lower for those seeking citizenship than for native U.S. citizens, Cato said.

“What we see is the government, not just locally but at the federal level, trying to prevent people from having these benefits,” Ruiz said. “Which is causing all these other issues.”

Details of leaked draft confirmed, but changes still being made

The USCIS in December 2017 announced that the policy would be revised in 2018, but there were no details until a draft was leaked in January. Marilu Cabrera, a public affairs officer for the U.S. Citizenship and Immigration Services and the Department of Homeland Security, said the rule could go through several changes before it's put into place. The public will be able to comment before the policy is enacted, she said, without giving a date.

A draft of the proposal will be submitted to the Office of Management and Budget for review soon. The changes would not need congressional approval.

“This is not a proposed policy yet,” Rejeske said. “We don't want to create unnecessary (panic) when this policy hasn't even been proposed yet.”