

New ‘public charge’ rule targets immigrant use of health and nutrition services

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The Trump administration's new immigration rule has provided the federal government with expansive new grounds to bar people from receiving green cards for accessing public services such as Medi-Cal and food stamps.

The so-called “public charge” rule is scheduled to go into effect Oct. 15, 2019.

The announcement made by the Department of Homeland Security (DHS) states that if an immigrant is considered a public charge, the individual could be denied residency and possibly deported.

The rule change is of greatest concern to immigrants without legal status who will receive one or more public benefits for more than 12 months during a 36-month period. The rule does not apply retroactively.

According to California Attorney General Xavier Becerra, the rule will dampen use of public health and social services if enforced. In an effort to prevent the new rule from taking effect, Becerra has joined with several other states in a lawsuit challenging the administration’s policy.

Some of the services at risk include:

Primary health care: More than 2 million Medi-Cal recipients could lose or drop their coverage as a result of the new rule and its “chilling effect,” according to an analysis from the UCLA Center for Health Policy Research. That’s despite the fact that most of these people would not be legally subject to the public charge test. (The rule won’t affect those with green cards who are seeking to become U.S. citizens, only those seeking to become green card holders.)

School-based nutrition programs: California provides free meals for more than 730,000 children, and over 310,000 children qualify for reduced-price meals if their households are eligible for Medicaid (Medi-Cal). In addition, nearly 1.6 million children in the state are eligible to receive free meals if their households qualify for SNAP. SNAP is a federal aid program, administered by the United States Department of Agriculture.

Putting Health at Risk

For many Californians, their main concern is having access to Medi-Cal benefits, the health insurance program for low-income people, especially in the case of preexisting conditions. The consideration of such Medi-Cal benefits in a public charge case depends on whether federal funds are used to provide the services. California’s recent expansion of Medi-Cal to undocumented children and young adults is barred from using federal funds so people who take

advantage of the state's new program would not be affected by the change in the public charge rule.

Irma, 52, who did not provide her last name for security reasons, is an undocumented immigrant from Guatemala with two children, ages 19 and 13, who are U.S. citizens. The new rule worries the Antelope Valley resident since she and her children receive Medi-Cal benefits. She plans to begin her legal residency application as soon as next year.

"I have a chance to fix my status once my son turns 21 because I entered the country legally," she said. "But I'm already thinking about dropping my Medi-Cal plan."

That's a perilous decision for her, since she suffers from high blood pressure and needs checkups every three months to make sure it's under control.

"Either way is difficult, but I need to adjust my immigration status, so I'm going to try to cancel (Medi-Cal) before the Oct. 15 deadline so I'm not affected," Irma said.

In 1999, the federal government defined a "public charge" as an individual primarily dependent on the government for subsistence, as demonstrated by the receipt of cash assistance, according to the Cato Institute, a libertarian research center.

Some of the benefits that would have designated a recipient as a public charge before the new rule change included receiving Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), and state or local equivalents.

Non-cash benefits, such as food stamps or Medi-Cal, were not included in the original definition of public charge until now.

Becerra's office said the new rule will also impact services such as nutrition and food support for families through CalFresh (food stamps) and jeopardize housing for families who rely on Section 8 benefits.

Undefined Exemptions

Among the 900 pages of the new DHS rule was a list of categories of people who are exempt from the public charge designation.

Exempt categories include children under the age of 21, pregnant women who receive Medicaid for up to 60 days after giving birth, and certain groups who have historically been exempt such as refugees, according to Berenice Núñez Constant, vice president of government relations at AltaMed, one of the nation's largest community health networks.

Núñez Constant added that while many details of the rule are still unknown, it will likely discourage use of Medi-Cal among undocumented immigrants ages 19 to 25, as dictated by an expansion of the program recently approved by Gov. Gavin Newsom. The expansion solely uses state funds so those who sign up will not be penalized under the new public charge rule.

About 3 million undocumented immigrants live in California, according to the nonprofit Migration Policy Institute. Approximately 130,000 undocumented children and teens receive medical coverage through Medi-Cal. By next year, when services are extended to those under age 26, an expected 90,000 additional undocumented individuals could benefit.

Núñez Constant said undocumented parents who have children who are citizens can still apply for emergency Medi-Cal, which is not considered as a factor in granting a green card under the public charge rule.

Preventing the Inevitable

Rosalba, 37, came to the United States as a child and in 2014 was able to stay in the country legally through the Deferred Action for Childhood Arrivals program.

Rosalba, who declined to give her real name for fear of retaliation, said she received Medi-Cal while pregnant but canceled her plan after giving birth.

Since then, her daughter, a U.S. citizen, has been the only family member who receives health services.

“I’ve never asked for help because if I ever fix my residence status, I don’t want (the government) telling me that they helped me with something,” said Rosalba, of Los Angeles.

“About a month ago, I received a sheet of paper saying that I could qualify for (Medi-Cal) but I didn’t want to fill it out,” said the Mexican-born woman. “I threw it away.”