Center for Immigration Studies
Low-immigration, Pro-immigrant

Why the Trump Administration Weakened Its Own Public Charge Rule

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April 8, 2022

The Cato Institute again claims that immigrants consume less welfare than natives. We already responded comprehensively to an earlier version of this study. The new one is not an improvement, but it does give us the opportunity to tell a brief story about the Department of Homeland Security (DHS) under President Trump.

By way of background, the Cato study makes the familiar error of counting welfare usage by individuals rather than households or families. For example, if an immigrant parent does not qualify for Medicaid, but she signs up her U.S.-born dependent children for the program, this would count in the Cato analysis as *native* use of the welfare state. Obviously, Medicaid is a benefit to the parent in this situation since she would otherwise be responsible for her children's medical care. Comparisons of welfare consumption need to consider individuals and their dependents *together* in order to be meaningful. When they do, they show that immigrants' welfare consumption is disproportionately high.

Interestingly, Cato cites the authority of Trump's DHS for the individual-level approach. The reason is that when the administration finalized a regulation that would define a "public charge", it calculated many individual-level welfare usage statistics and chose not to count dependents' welfare use against the immigrant applicant.

This decision did not reflect the scholarly judgment of immigration analysts, to put it mildly. The policy team at U.S. Citizenship and Immigration Services (USCIS, an agency within DHS) initially developed a rule that would make immigrants more likely to be rejected on public charge grounds if their dependents used welfare programs, precisely for the reasons the Center has long advanced. (Strangely, however, the proposal in its leaked form still contained few household- or family-level statistics — a failure of communication between the lawyers and the economists at that stage of the rule's development.)

So why was the rule changed? Politics and bureaucracy. Higher-ups at DHS and in parts of the White House were generally unsupportive of immigration restriction (even though it was the theme of Trump's successful 2016 election) and worried about the optics of a rule involving children's welfare receipt. After some well-timed leaks of the initial proposal, DHS leadership decided that overlooking welfare usage by dependents was politically wiser, even though it was inconsistent with the general framework of the draft rule.

DHS leadership also dropped from the list of welfare programs one of the largest means-tested cash benefits in the U.S., the refundable portion of the earned income tax credit (EITC). There was no legal or analytical reason to do this; rather, someone in leadership was simply concerned that the rule would have too much bite if the EITC were included.

We don't mean to imply the rule was worthless. For all its weaknesses, the 2018-2019 Trump-era public charge rule was a drastic improvement over the previous policy. Nevertheless, given the politics and bureaucratic haggling that ultimately produced its farrago of a final rule, DHS is hardly an authoritative source on how to measure welfare use.