



Health Reform: **Beyond the Basics**

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Working with Immigrants: What Consumer Enrollment Assistance Providers Need to Know Now

Coverage Year 2020

October 29, 2019

Presented by the Center on Budget and Policy Priorities
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In partnership with the National Immigration Law Center
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Best Practices When Assisting People with Disabilities Enroll in Health Coverage

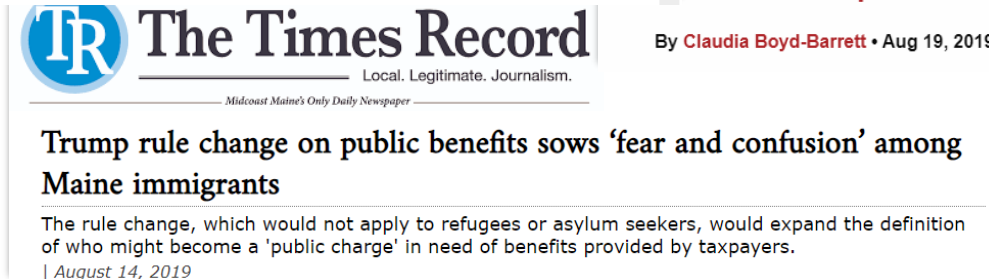
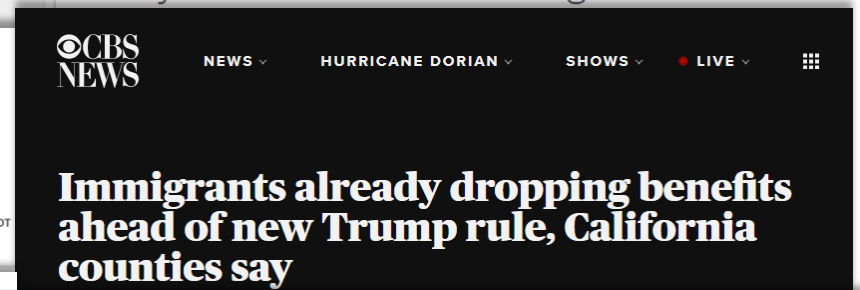
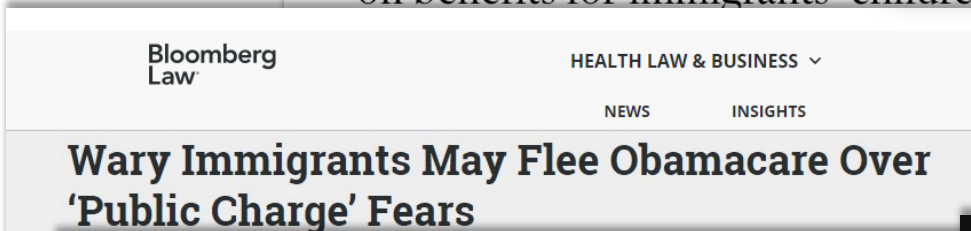
- Thursday, October 31 | 2 pm ET (11 am PT)
- Presented by the American Association on Health and Disability

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Part I:

Climate of Fear and Confusion Threaten to Thwart Health Coverage Access



- Public charge
- Proclamation mandating health insurance
- Treatment of certain immigrants who have sponsors when they try to access public benefits
- Other policies that seek to limit eligibility in benefit programs (housing assistance)

- Accessing ACA premium tax credits or cost sharing reductions to enroll in marketplace plans would not label a person a “public charge” under current policy or in the rule changes the government has proposed.
- Having insurance is a positive factor in the public charge test the government is seeking to implement.
- Most people who meet the Medicaid eligibility requirements are unlikely to ever go through a public charge assessment.
- Far more people will forgo public benefits out of fear and confusion than those whose use of benefits would result in a negative immigration consequence.

Consumer assistance providers are not expected to:

- Become immigration policy experts
- Tell people that their immigration status will be safe or at risk based on their decision to enroll in health coverage

Consumer assistance providers can:

- Walk consumers through resources that detail current policies to help them make informed decisions
- Provide information about the value of comprehensive health insurance
- Provide information about privacy protections related to information shared for enrollment purposes



PUBLIC CHARGE: GETTING THE HELP YOU NEED

UPDATED SEPTEMBER 2019

WHAT IS PUBLIC CHARGE?

“Public charge” or the “public charge test” is used by immigration officials to decide whether a person can enter the U.S. or get a green card (lawful permanent resident or “LPR” status). In this test, officials look at all of a person’s circumstances, including income, employment, health, education or skills, family situation and whether a sponsor signed a contract (“affidavit of support”) promising to support the person. Officials can also look at whether a person has used certain benefit programs (in the past, only

CHANGES TO PUBLIC CHARGE

The government is changing how it makes public charge decisions. Immigration officials will look more closely at factors like health, age, income, skills (including English language skills), and use of more public programs, including:

- Supplemental Nutrition Assistance Program (SNAP, “EBT” or “Food Stamps”)
- Federal Public Housing and Section 8 assistance
- Medicaid (except for emergency services, children under 21 years, pregnant women, and new mothers)
- Cash assistance programs (like SSI, TANF, General Assistance)

***Services that are not listed above will not be counted in the new public charge test. This includes WIC, CHIP, school lunches, food banks, shelters, and many more - these programs

Part II:

Public Charge

- Public charge is part of immigration law
- It is not an eligibility factor for the enrollment in public health insurance/coverage programs
- For many decades, immigration law has defined public charge as a person primarily dependent on the government for subsistence. Since 1999, this has been measured by use of:
 - Cash assistance for income maintenance (such as SSI, TANF, GA)(not short-term or cash intended for a specific purpose)
 - Long term care paid for by the government (i.e. Medicaid)

- The assessment is forward looking: Is this person likely to become a public charge in the future?
- The law requires immigration officials to look at many factors (totality of the circumstances)
 - Age
 - Health
 - Financial resources
 - Dependents
 - Skills and work experience
- Sponsor affidavit of support
- Benefits are considered as an indication of the person's financial status, but a person does not need to have received any benefits to be deemed likely to become a public charge

Certain people undergo a public charge assessment when they:

- Are seeking permission to come to the United States
- Trying to become a lawful permanent resident (LPR, a.k.a. green card holder)
- An LPR who leaves the U.S. for over 6 months may be assessed when they return

Examples of times when no public charge test is completed:

- When an LPR applies for citizenship
- When an LPR renews their green card

- Public charge primarily affects people seeking immigration status based on family relationship and to a lesser extent, people seeking immigration status based on employment.
- Many immigrants whose status is based on humanitarian reasons are exempt from Public Charge inadmissibility, including:
 - Refugees and asylees
 - Survivors of trafficking (T visa) and other serious crimes (U visa)
 - Many survivors of domestic violence, including self-petitioners under the Violence Against Women Act
 - Special immigrant juveniles

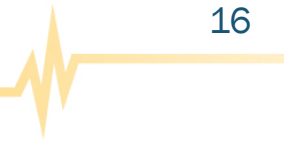
Example: Ricky, Eva and Karina



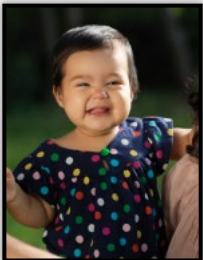
- Ricky and Eva are married and have a daughter, Karina
- Ricky became a lawful permanent resident (LPR) 6 years ago
- Eva has a student visa
- Karina is a citizen of the U.S.



Who is Likely to Undergo a Public Charge Assessment?

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Immigration-Related Goal	Is this person likely to undergo a public charge assessment ?
 Seeking to obtain LPR status	Yes
 Seeking to become a citizen of the U.S.*	No. There is no public charge assessment in the application process to become a citizen of the U.S.
 N/A	No

*If Ricky leaves the U.S. for more than 6 months, he may go through a public charge assessment

Part III:

How Public Benefit Use is Currently Factored Into Public Charge Assessments

- Department of Homeland Security (DHS) for immigration decisions within the U.S.
- The State Department (State Dept.) for immigration decisions abroad
- The Department of Justice (DOJ) for immigration-related appeals and deportation:
 - We will not cover the DOJ public charge assessments; no policy changes have been officially proposed by the government at this time




- Completes public charge assessments within the U.S.
- Primarily for people trying to adjust their status to become LPRs
- Officials try to determine if an individual is “likely to become primarily dependent on the government for subsistence” as defined by use of these benefits:
 - Cash assistance for income maintenance
 - Long term institutional care paid for by the government (i.e. Medicaid)
- They take into account the totality of circumstances when making this forward-looking assessment
 - Age
 - Health
 - Financial resources
 - Dependents
 - Skills and work experience

- Conducts public charge assessments outside of the U.S.
 - Officials try to determine if an individual is “likely to become primarily dependent on the government for subsistence” when making public charge assessments, as defined by use of these benefits:
 - Cash assistance
 - Long term institutional care paid for by the government
 - Takes into account the totality of circumstances when making this forward-looking assessment, since January of 2018, this may include reviewing benefit use that is beyond what detailed in long standing guidance*:
 - benefit access beyond the benefits that would make a person a public charge
 - benefit access used by close family members
- * It's unclear to what extent these benefits are factored in assessments conducted outside the U.S.

Which Agency Will Process Immigration Activity?

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Immigration-Related Event	Which Agency's Policies Will Apply?
	Adjusting to LPR status DHS
	1.) Seeking to become a naturalized citizen N/A
	2.) Leaving the U.S. for more than 6 months DHS
	3.) Renewing Green Card N/A
	None N/A

Example: Ricky's Mother Wants to Immigrate After He Becomes a Naturalized Citizen

- Ricky becomes a naturalized citizen of the U.S.
- Marta, Ricky's Mother, wants to immigrate to the U.S.



Which Agency Will Process Immigration Activity?

Immigration-Related Event

Which Agency's Policies Will Apply?



Coming to the U.S.

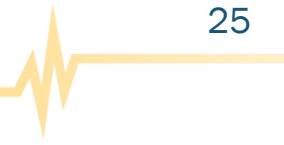
State Dept.



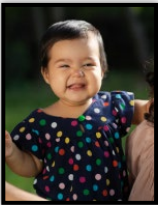

Part IV:

Use of Benefits and Public Charge Assessment

Could Benefits Use Negatively Impact a Public Charge Assessment Under DHS Policy?

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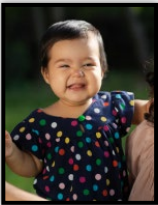



Public Charge Assessment?	Health Eligibility Based on Status	Benefits Factored in Public Charge Assessment?
 Yes, Adjusting to LPR	QHP Marketplace	No
 No. Only may occur if leaves the country for more than 6 months	Medicaid QHP Marketplace	No
 No	Medicaid/CHIP QHP Marketplace	No
 N/A	N/A	N/A

Could Benefits Used Negatively Impact a Public Charge Assessment Under State Dept. Policy

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Public Charge Assessment?	If Enrolled in Health Programs	Benefits Factored in Public Charge Assessment for Self?
 Yes, Adjusting to LPR	QHP Marketplace	No
 No. Only may occur if leaves the country for more than 6 months	Medicaid QHP Marketplace	No
 No	Medicaid QHP Marketplace	N/A
 Yes, when trying to obtain status to enter the U.S.	N/A	Enrollment of Close Family Members and Sponsor <u>May</u> be Reviewed

- Am I eligible for help getting health coverage?
- Am I likely to undergo a public charge assessment?
 - If yes, will it occur within the U.S. or outside of the U.S.?
- What would going without sufficient health coverage (and/or other supports like food and housing) mean for my family, our health and our financial status?

Part V:

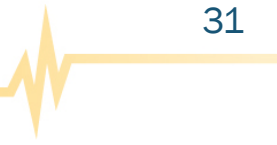
What Change to Public Charge is the Government Seeking?


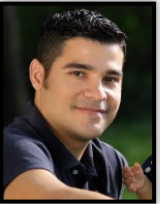
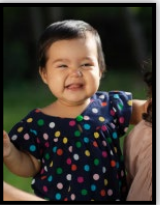

	Standard	Counted Benefits
Current Rule	A person likely to become primarily dependent on the government for subsistence.	<ul style="list-style-type: none">• Federal, state and local cash assistance for income maintenance• LTC paid for by the government (in general, under Medicaid)
Halted Rule	A person receives one or more specified public benefits... for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months)	<ul style="list-style-type: none">• Federal, state, local or tribal cash assistance for income maintenance and• Medicaid (with exceptions)• SNAP (food stamps)• Section 8: vouchers & project-based public housing

- DHS changes to public charge halted nationwide by courts.
- The State Dept. has issued an interim final rule that would significantly change public charge, but its implementation is on hold until new forms are finalized (60-day comment period for forms).

Will Benefit Use Be Factored Into Assessment Under New Rule?

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Public Charge Assessment?	If Enrolled in Health Programs	Benefits Factored in Public Charge Assessment?
 Yes, Adjusting to LPR	QHP Marketplace	No
 No. Only may occur if leaves the country for more than 6 months	Medicaid QHP Marketplace	Medicaid use could be <u>factored</u> in
 No	Medicaid QHP Marketplace	N/A
 Yes, when trying to obtain status to enter the U.S.	N/A	Medicaid use could be <u>factored</u> in, but if did not live in the U.S. previously, then not applicable

Part VI:

Proclamation Mandating Health Coverage for People Seeking Lawful Entry into the U.S.

Starting November 3 certain people seeking to enter the U.S. must:

- Have health coverage; or
- Obtain health coverage within 30 days; or
- Demonstrate they have financial means to pay for reasonable anticipated medical expenses

- Primarily people seeking family-based immigrant visas abroad, such as:
 - spouses of U.S. citizens and lawful permanent residents (LPRs);
 - children of LPRs who are 18-21 years old;
 - children under 18 if travelling with a parent who is also immigrating;
 - adult sons and daughters of U.S. citizens and LPRs;
 - parents of U.S. citizens who cannot show that their health-related expenses wouldn't impose a substantial burden on the US healthcare system
- Other groups, such as:
 - people with diversity visas or employment-based immigrant visas;

- Employer-sponsored health plans
- Unsubsidized plans purchased on the individual market
- Non-Affordable Care Act (ACA)-compliant short-term health plans
- catastrophic plans
- Family members' plans
- TRICARE plans or other coverage for military members and veterans
- Visitor health insurance plans
- Medicare plans
- Other health plans as determined by the U.S. Dept. of Health and Human Services

Medicaid is acceptable for children age 18 and younger, but subsidized ACA plans are not acceptable for either adults or children.

- This assessment will be made for some people entering the U.S. not for people in the U.S.
- By not allowing people to demonstrate they can meet the mandate via subsidized ACA coverage, many may turn to short-term plans that may expose them to significant financial risk if they need medical care
- People in the U.S. should not change how they would otherwise select to obtain health coverage.
 - If they later must leave the U.S. to get new status, they can change their health coverage at that point if needed

Part VII:

Understanding & Addressing Concerns Immigrants May Have When Applying for Health Programs

- Some immigrants fear that completing an application for health coverage — even for a U.S. citizen child — could expose that there are non-citizens in the household
- Strong privacy rules protect families applying for health insurance, including families whose members have different immigration statuses

The Marketplace, Medicaid, and CHIP laws limit the use of information collected during the marketplace application processes: it can only be used to make eligibility determinations and must be protected from unauthorized disclosure for other purposes.

Citations: 42 U.S.C. § 18081(g)(1); 42 U.S.C. § 1320b-7(a)(5); 42 U.S.C. § 1396a(a)(7)

State workers, Marketplace employees and assister groups are required to keep information private and secure.

Citations: 42 U.S.C. § 18081(g)(2); 42 C.F.R. § 457.1110; 45 C.F.R. § 155.260(a)

- Households may include applicants and non-applicants:
 - **Applicants** are seeking enrollment and/or eligibility
 - **Non-applicants** are part of the households of an applicant but are not seeking enrollment or eligibility for themselves
- Non-applicants do not have to share information about their citizenship or immigration status
 - But they may have to provide other information such as income

Who needs coverage

Who are you applying for health coverage for?

- ☐ Jane Taxpayer only
- ☐ Jane Taxpayer & other family members
- ☒ Other family members, not Jane Taxpayer

Add these people

Review the information you entered so far.

You've added this person who isn't applying for coverage

Gloria Taxpayer
02/13/1950

Remember: The person listed above is in your household, but isn't applying for coverage. We need some information about them to determine your eligibility for help paying for coverage.

Is this information correct?

- ☒ Yes.
- ☐ No. I need to make changes to this information.

Medicaid and CHIP

SSNs are generally required of Medicaid applicants

- Coverage cannot be denied or delayed pending issuance or verification of SSN
- Medicaid agencies must help individuals apply for an SSN if they are eligible and don't have one, or if they don't know their SSN

Some applicants do not have to provide Social Security numbers (SSN), including:

- Newborns in process of obtaining an SSN
- Persons who have a religious objection
- Certain immigrants who are not eligible for an SSN or can only get an SSN for a non-work purpose such as certain domestic violence survivors, trafficking survivors, asylum applicants, and others

Marketplace

Only applicants who have an SSN are required to provide one.

Medicaid and CHIP

Non-applicant household members do not have to provide an SSN for Medicaid and CHIP.

Marketplace

Non-applicant household members should not be required to provide an SSN unless **ALL** of the following are true:

- ✓ The non-applicant is a tax filer (SSN not required for non-applicant tax dependent)
- ✓ The non-applicant has a SSN
- ✓ The non-applicant filed a federal tax return in the last year



Providing an SSN when available, may increase the likelihood that information consumers provide in the application can be verified electronically, which can reduce the amount of paper documentation consumers may have to turn in to prove their circumstances.

People who are not eligible for SSNs may use Individual Taxpayer Identification Numbers (ITINs) to file taxes, but health insurance affordability program applications should not request ITINs.

- Do not ask non-applicants to disclose their citizenship or immigration status
- Use broad questions and share general information about immigrant eligibility to help people identify who may want to apply for insurance while providing other welcoming messages
- When asking questions about immigration and citizenship status of applicants, avoid asking if individuals are “undocumented” or “not legally in the U.S.”

→ Instead use words like “eligible immigration status” or “statuses considered eligible for the marketplace”

FOR EXAMPLE:

“ We keep your information private and safe. The application asks for some information about everyone in your family, but only a family member seeking coverage for him or herself has to answer questions about immigration or citizenship. ”

“ The Marketplace provides coverage to citizens and noncitizens who are lawfully present. Here’s a list of immigration statuses that are eligible for Marketplace coverage. ”



National Immigration Law Center (NILC) Resources:

- [Summary: President's Proclamation Requiring Immigrants to Have Health Insurance](#)

Protecting Immigrant Families Resources:

- [Public Charge: Getting the Help You Need](#)

Kaiser Family Foundation Resources:

- [President Trump's Proclamation Suspending Entry for Immigrants without Health Coverage](#)

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