



State of California



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October 4, 2018

TO: ALL COUNTY WELFARE DIRECTORS

FROM: CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES

SUBJECT: PROPOSED CHANGES TO THE PUBLIC CHARGE DETERMINATION

The purpose of this letter is to inform County Welfare Departments (CWDs) that recently the Federal Government released proposed regulations that could change how immigration officials determine whether applicants for lawful permanent residence, and those seeking to extend or change their immigration status, are or will become a public charge.

The Proposed Rule has not yet been published in the Federal Register for comment. This comment period will begin once the Proposed Rule is formally published in the Federal Register. This Proposed Rule could make changes to immigration determinations, but would not impact eligibility for public benefits. Nothing will change until the final rule officially goes into effect.

A “public charge” is a term used in immigration law to describe someone who is or may become dependent on government assistance. Under existing law, a person who primarily is dependent on the government for subsistence may be considered a public charge and can be denied admission to the U.S., barred from becoming a lawful permanent resident, or have their request for an extension of their visa denied on that basis. Currently, immigration officials mainly consider the use of two types of benefits when making their public charge determination: cash assistance for income maintenance and institutionalization for long-term care at government expense.

The Federal Government is proposing to change the meaning and application of the “public charge” provisions of immigration law. Any use of certain public benefits would be a significant negative factor in a public charge determination. The proposed rule also broadens the type of public benefits considered to include non-cash benefits, such as SNAP (CalFresh in California), Medicaid (Medi-Cal in California), and Section 8 housing vouchers.

The proposed changes cannot impact certain groups of immigrants, including refugees, asylees, special immigrant juvenile visa holders, victims of trafficking, victims of crime, and other special categories of immigrants, because other provisions of federal law exempt these groups from public charge determinations. Lawful permanent residents applying for citizenship are not subject to the public charge rule.

CWD staff, including eligibility workers, should not offer advice to individual applicants or continuing clients who inquire about the immigration consequences of participation in public benefits programs. Immigration advice may only be provided by authorized experts. There are many factors which determine whether a person may be considered a public charge. Everyone's case is unique and requires review by a qualified legal professional. State-funded organizations that can provide legal services to immigrants are listed on a CDSS website (www.cdss.ca.gov/ImmigrationContractors).

The Departments will provide updates when new information is available.