



Immigration Policy and Advocacy

The information in this document is not meant to provide legal advice or to substitute for the guidance, counsel or advice of legal counsel on any matters particular to a specific primary care clinic.



Presentation Overview

- Who is CPCA and CaliforniaHealth+ Advocates?
- Public Charge Overview
 - Proposed rule Changes
 - Resources and Educational Tools
 - Advocacy: How to get Involved
- Family Separation
 - Proposed Rules to Flores Settlement
- CPCA / Advocates: What are we doing to elevate Patient Fears on Immigration?
 - Immigration Resource Page
 - Sample Policies and Procedures



California Primary Care Association

Mission

- The mission of CPCA is to lead and position community clinics, health centers, and networks through advocacy, education and services as key players in the health care delivery system to improve the health status of their communities.
- CPCA was founded in 1994 to create a unified, statewide voice for community clinics and health centers.

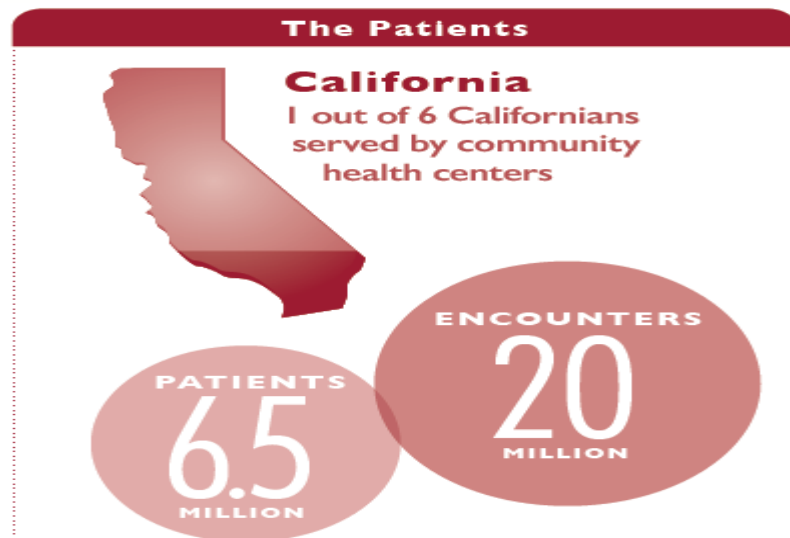
More than 1,300 Community Health Centers (CHCs) in California

CALIFORNIAHEALTH+ ADVOCATES

CaliforniaHealth+ Advocates is an independent 501(c)(4) social welfare organization that is an affiliate of the California Primary Care Association.



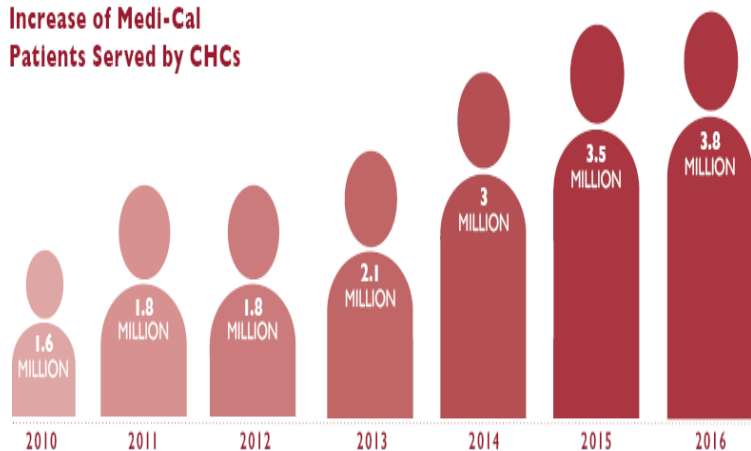
California's Community Health Centers



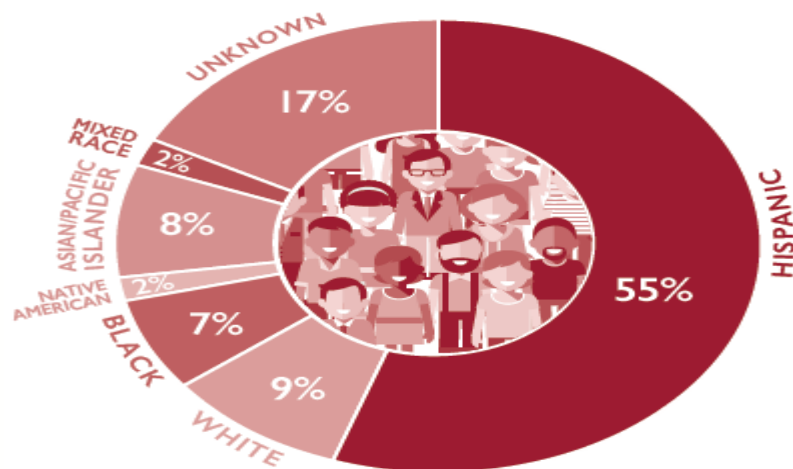
Special Populations



Increase of Medi-Cal Patients Served by CHCs



By Race | Ethnicity



Public Charge: Overview

(Information acquired from
NILC and PIF)



Public Charge: Overview

- Public Charge is a term used in immigration law to describe an individual who is dependent on the government for financial and material support.
 - Immigrant officials must consider various factors
 - A person deemed **likely** to become a public charge in the future can be denied permission to enter the country and permanent resident status.
- Public Benefits: Currently only cash assistance for income maintenance and institutionalization for long-term care at government expense could be considered in a public charge assessment
 - Includes programs like Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI)



Who can be considered a public charge?

- The likelihood that a person will become a public charge is considered when they apply to:
 - Enter or re-enter the US
 - Become a lawful permanent resident (i.e. green card).
 - Many undocumented immigrants do not qualify for a green card (including DACA and people with TPS).
 - Public charge is NOT considered for those applying for citizenship
- Public charge does not apply to: Refugees, asylees, survivors of domestic violence, victims of trafficking or other serious crimes, special immigrant juveniles, and certain other groups.

Statutory Public Charge Test

Whether a person is likely to become a public charge is based on multiple **factors** relevant to their ability to support themselves and any dependents.

- Immigration agents are **required by statute** to consider:
 - age
 - health,
 - financial resources,
 - dependents,
 - skills and work experience
- Other relevant factors may be considered:
 - Including whether the person has a sponsor
 - Whether the individual has used public benefits





Why are we Concerned about Changes to the Public Charge Rule?

- The Office of Management and Budget (OMB) has officially received draft regulations on public charge that would expand the public benefits that could be considered in the public charge determination
 - These rules can drop ANYTIME (DHS released updated language on public charge on 9/22 – not yet published on the Federal Registry)



New Proposed Regulation

- Changes **definition of public charge**: person who uses or receives one or more public benefits
 - But maintains totality of circumstances test
- Also applies public charge test when people are applying to:
 - **Extend** their non-immigrant visa
 - **Change the category** of their non-immigrant visa
- Adds certain federal non-cash **medical, housing and food** benefits in public charge test

Monetizable Benefits

- Included when the **value** of the benefit received within 12 consecutive months is **> 15% FPL** for one person (\$1,821)
- Cash assistance for income maintenance (*already included*):
 - SSI
 - TANF (CalWORKS)
 - CAPI (Cash Assistance Program for Immigrants)
- Non-cash:
 - SNAP (CalFresh/food stamps)
 - Housing assistance (e.g. Section 8 vouchers, rental assistance)





Non-Monetizable Benefits

- Included if benefits received **> 12 months cumulatively**, within 36-month period **or** if benefits received **> 9 months** while also **receiving monetizable benefit**
 - Each benefit is counted separately (*e.g. two different benefits received for 6 months each counts as 12 months total*)
- Medi-Cal, except for:
 - Emergency
 - School-based Medi-Cal for children
- Long-term care (*already included*)
- Medicare Part D low-income subsidy
- Subsidized housing



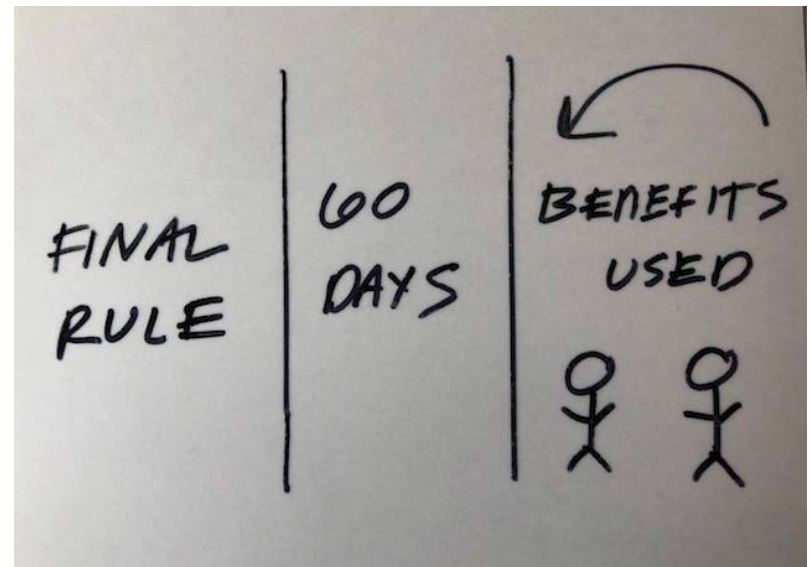
Excluded Benefits

Anything not listed is not included

- Emergency and school-based Medi-Cal
- Emergency and disaster relief
- School-based nutrition services
- Public education, including Head Start
- WIC
- ACA tax credits
- EITC
- Benefits received by others in the household
- Benefits used by members of the military, Ready Reserve, and their spouses and children
- Programs fully state, local, or tribally funded except for cash and long term care

Not Retroactive

Benefits (*other than cash and long-term care*) will not be considered until 60 days after the rule becomes final



Statutory Factors: New Standards

- **Age:** whether too young (under 18) or too old to work
- **Health:** physical or mental health condition that could affect ability to work or attend school, or require expensive care
- **Family:** household size, number of dependents
- **Financial resources:**
 - Whether person earns at least 125% FPL (*over \$62,000 for family of four*)
 - Whether person has applied for any benefit or immigration fee waiver
 - has private insurance or resources to pay for medical expenses
- **Skills:** English proficiency

Adds Heavily Weighted Factors



Negative:

- Authorized to work but not working and not a full-time student
- Currently receiving a public benefit
- Has used a public benefit within last 36 months
- Medical condition that could interfere with work or require expensive treatment
- Uninsured without the prospect of receiving private insurance/paying for care
- Previously determined to be a public charge

Positive:

- Income or resources over 250% FPL (*over \$62,000 for family of four*)

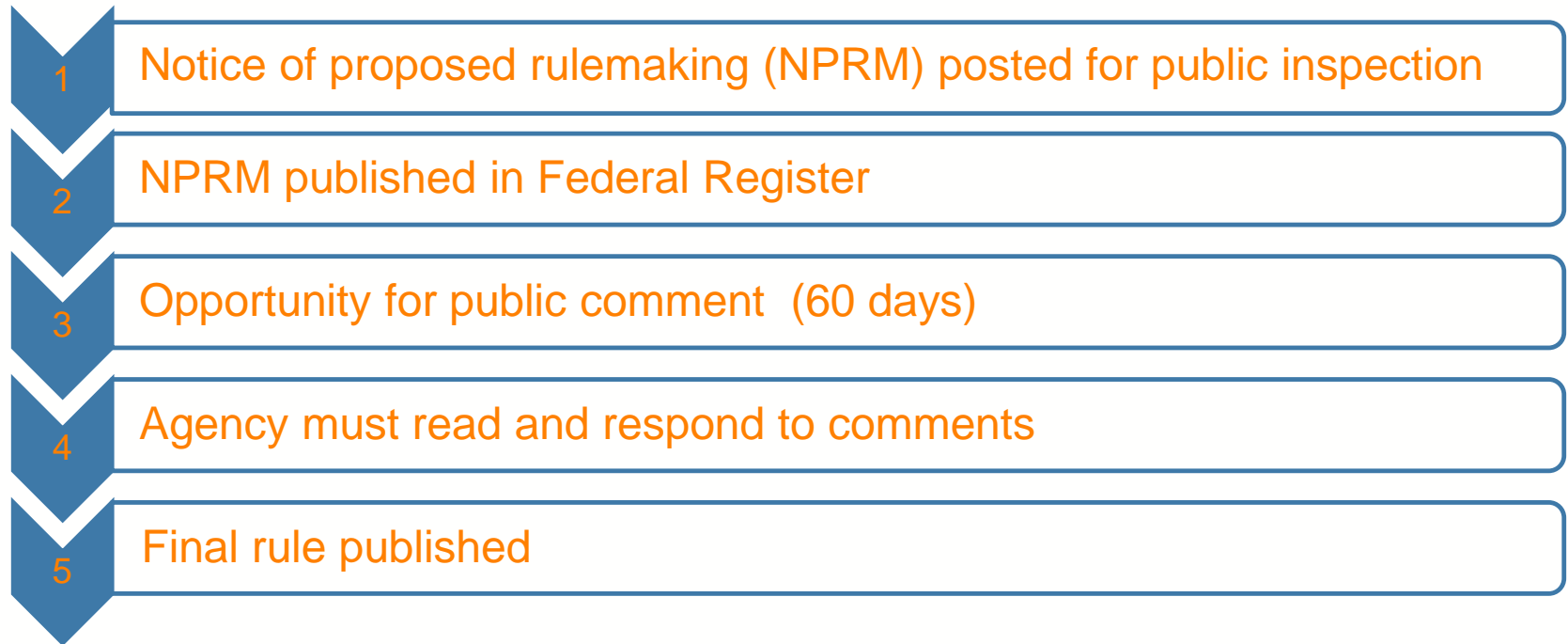
What Regulations Cannot Change

- **When** public charge test applies
- **Balance** of factors must be considered
 - Negative factors can be outweighed by positives
- **Exempt** categories of immigrants





Timeline





Public Charge: How will Communities be Impacted

- Immigrants ability to become permanent residents is jeopardized if they enroll in Medicaid, SNAP or use housing assistance.
- Discourage immigrants from enrolling in public benefit programs
- Many immigrant families may avoid seeking healthcare until their condition deteriorates, which could increase avoidable emergency room visits.

Foreign Affairs Manual (FAM)

- Officials in U.S. embassies and consulates abroad use the FAM to make decisions about whether to grant non-citizens permission to enter the U.S.
- Major changes published on January 3, 2018:
 - Apply totality of circumstances test to the applicant
 - Receipt of non-cash benefits in the past or present may be considered
 - Sufficient affidavit of support merely one positive factor
 - Consider sponsor's ability to support intending immigrant
 - Sponsor's use of benefits can be a negative factor
 - Does not impact groups who are exempt from public charge



Resources

www.protectingimmigrantfamilies.org

- “Public Charge: A New Threat to Immigrant Families”
- “How to Talk About Public Charge With Immigrants and Their Families”
- “Changes to Public Charge in the U.S. State Department Manual”



Public Charge: How to get Involved

- Inform Yourself and Your Communities
 - Train Staff, hold learning sessions for immigrants
- Join US
 - the Protecting Immigrant Families (PIF) Campaign
 - <http://bit.ly/PIFCampaign>
 - PIF Ca Coalition (Contact CIPC)
 - Sarah Dar (Sdar@CAimmigrant.org)
 - To engage in statewide coalition efforts
 - National Health Center Immigration Workgroup
 - Contact CPCA (Liz Oseguera)
- Submit Public Comments & Encourage Others to do the same

Public Charge: What are some Helpful Resources

- CPCA's Immigration Resource Page
 - Public Charge Advocacy Toolkit (available in 9 languages)
- PIF's Coalition Webpage
- Public Charge Webinar
 - CPCA, in partnership with AAPCHO and NACHC, hosted a webinar on Sept 25 to help health centers and other state PCAs better understand the public charge rule.
 - Recording:
<https://register.gotowebinar.com/recording/484799259624338434>



New Public Charge Resources

- [Legal Aid Flier on Public Charge](#)
- [IRLC Public Charge Cheat Sheet](#)
- [Legal Aid Society of San Mateo Public Charge Flyer – Who is Impacted \(Includes FAM\)](#)
- [First 5 Public Charge Fact Sheet in Spanish](#)
- [A New Threat to Immigrants' Health — The Public-Charge Rule \(New England Journal of Medicine\)](#)

Resources

- Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use ([Migrant Policy Institute](#))
- California PCA's webpage on immigration issues
 - Includes Sample P&Ps around immigration
- AAPCHO's webpage on Public Charge
- NACHC webpage on Caring for Immigrant Patients
- The Children's Partnership Short Video explaining Public Charge
- Fact Sheet: Proposed Rule Change on Public Charge ([National Immigrant Law Center](#))
- Things to Keep in Mind when Talking to Immigrant Families ([National Immigrant Law Center](#))
- Public Charge Fact Sheet & FAQs ([U.S. Citizenship and Immigration Services](#))
- Overview of Public Charge ([National Immigrant Law Center](#))
- Resources and Information on Public Charge ([National Immigrant Law Center](#))

Family Separation – Flores Settlement

Proposed Rules

- On September 7, the Trump administration proposed new rules that would dismantle the protections established under the Flores Settlement.
- These changes would:
 - Allow immigrant children to remain detained alongside their parents for longer than 20 days (likely for months to years) while their immigration case is pending.
 - Remove requirements to have facilities where immigrant children are detained be licensed by state or local governments and would instead allow the Department of Homeland Security (DHS) to operate self-licensed family detention centers,
 - This would reduce oversight of these facilities and ultimately increase the possibility of violating the rights of immigrant children.
- CPCA will be submitting public comments prior to the November 6 deadline, and will also be working with our immigrant partners to develop template letters with a health center focus. We hope that all of you join us in opposing these rules.

CPCA's Advocacy





“One patient, a Spanish-speaking woman in her late thirties, broke down crying as soon as I handed her the packet. She felt enormous stress due to all of the anti-immigrant policies being proposed and scared for her family, especially her children.”

- California Clinic Provider



Advocacy Efforts - CPCA's Approach

- Create resources and trainings to help CHCs:
 - Advocate for their patients
 - Create a safe and welcoming environment for ALL patients
 - Train clinic staff (especially front line staff) to answer questions patients may have concerning immigration
 - Message and speak to patients about their health rights
- Develop an Immigration Peer Network with CHCs and Consortium members

Immigration Resource Page

Know Your Rights information in various languages, including:

- Tagalog
- Spanish
- Chinese
- Arabic
- Korean
- Mongolian

FAQs and Talking Points

- immigration FAQs to help frontline staff answer patient questions.
- Immigration talking points that can be used for meetings with press or legislators

Sample Policies and Procedures

Resources for DACA and DACA employers

Free Trainings for providers, patients, and community

- Know your rights
- Legal help

New Webpage:

<http://bit.ly/cpcaResources>



Immigration Sample Policies and Procedures

- 1) Internal Protocol for Interacting with Immigration Officials and Law Enforcement
- 2) Disclosure of Personal Health Information
- 3) Private and Public Spaces in a Clinic
- 4) Creating an Integrated Rapid Response Team
- 5) Training Clinic Staff on Immigration
- 6) Messaging to Patients
 - CaliforniaHealth+ Advocates Immigration Talking Points for Clinic Staff

Sample Policies Available at: [CPCA's Immigration Resource Page](#)



Overview of Immigration Sample Policies and Procedures

- Create a Rapid Response team with members of the community, like attorneys and local media
- Specify when and what information must be provided to law enforcement, while outlining how patients should be notified of this.
 - Under certain circumstances HIPAA allows covered entities, to decide when to disclose personal health information
 - Health centers should implement policies that are protective of patient health information, and **ONLY** allow staff to disclose this information when required by law or when patient consent is provided.
- Identify signage requirements (incl. language) for organization's sites
- Designate areas in your clinic as private spaces (having an intake person by the main entrance can help create waiting room as a private space)
 - Fourth Amendment: Expectation of Privacy
 - Your policies and procedures should indicate who is allowed on the premises and who's not.

Sample Welcome Signage





Advocacy Efforts: Public Charge

- How Can your Health Center Help?
 - Educate patients and staff
 - Help gather and submit public comments when the time comes
 - Develop a fiscal impact
 - Email Elizabeth Oseguera, liz@healthplusadvocates.org, if your organization is willing and able to speak on this issue with elected officials and other state and local entities.
 - Need patient and provider stories, please email liz@healthplusadvocates.org if we could contact you for these type of requests



Getting Involved - Next Steps

- Immigration Webinar Series – Stay Tuned for more trainings
- Review CPCA's Immigration Resource Page:
<http://bit.ly/cpcaResources>
- Join Us:
 - National Health Center Immigration Workgroup
 - PIF Campaign
 - CA PIF Coalition (CIPC)
 - PIF Funded Coalition



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