

Immigrant Health and Changes to the Public-Charge Rule: Family Physicians' Response

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ABSTRACT

As the US federal government pursues immigration reform, changes to the federal public-charge rule have triggered confusion and concerns among patients who are immigrants. Although federal judges temporarily blocked implementation, a decision by the Supreme Court in January 2020 allowed the proposed changes to take effect. These policy changes have resulted in many legal immigrants and their family members becoming more reluctant to apply for health insurance, food, housing, and other benefits for which they are qualified. This article summarizes the changes and exclusions. Family physicians can effectively respond to patient and immigrant community concerns about these changes by providing outreach education, access to primary health care, and referrals to legal and social services.

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"I am afraid of bringing my children to the doctor," said Maria, a woman who attended a local community forum to encourage families to enroll in health insurance coverage in October 2019. Maria had heard that enrolling and using programs such as MediCal, the Medicaid program in California, could identify her family members as public charges. Many of our patients have shared similar concerns.

Recent changes to federal immigration policies including the "public charge" rule¹ have generated confusion and uncertainty among immigrants and their families. The new rule has the potential to influence the health of millions of individuals by decreasing the use of health services, exacerbating health disparities, increasing poverty rates, and increasing the costs of US health care. Some of these effects have already begun.²

Our practice is located in southern California. We serve a patient population comprised mostly of immigrants and families with incomes below the federal poverty level. We use a sliding fee scale to accommodate patients who do not have insurance. Our staff includes security workers, medical assistants, social workers, case managers, clinicians, and trainees. We collaborate with community programs and encourage our patients to enroll in all sources of support for which they may be legally eligible.

Yet we have discovered that many of our patients are reluctant to enroll in programs for which they are eligible due to concerns about the proposed rules. One mother shared that she was hesitant to bring her children for immunizations. Another patient shared that he would not enroll in the federal supplemental nutrition assistance program even though his family met income criteria due to similar concerns.

What, or who, is a public charge? What are the proposed changes to the rule? Why do these changes matter for family physicians and the patients they serve? How can family physicians respond most effectively?

"Public charge" is the term used by US immigration officials to describe a person who has been dependent on the government for more than half of their income.¹ Officials apply the public charge assessment to individuals who apply for legal permanent residency (ie, a "green card"). Unchanged

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for decades, the federal government recently proposed revisions to the definition of a “public charge” with more stringent criteria. The new definition is now being applied to individuals seeking legal immigration status from within or outside the United States.^{2,3}

Proposed changes to the public charge rule were expected to go into effect October 2019. However, several states filed motions in district courts that temporarily blocked implementation. The Supreme Court ruled in favor of implementing the new rules nationwide in February 2020.⁴ The changes have already influenced immigration officials’ decisions and immigrants’ behavior.

Previously, immigration officials defined a public charge based on an individual’s receipt of cash benefits and/or dependence on government-funded long-term institutionalization. The new rules include a prospective determination for any immigrant who “uses, receives or is likely to receive one or more public benefits” from federal, state, or local governments “at any time in the future.”⁵ The changes include a new test, the “totality of circumstances” including a person’s age, health, financial status, resources, education, and skills. Many more benefits will now be considered including assistance for housing, nutrition, and health insurance (Table 1).⁶ Concurrent use of programs will be cumulative, eg, if a person receives medical, housing, and food stamps, each will count as negative factors. With multiple benefits, individuals can reach the “public charge” threshold quickly. The determination of who counts as a public charge may be discretionary as immigration officials consider the totality of an individual’s circumstances to predict future needs. The clock for counting these benefits starts with implementation of the new law.

These changes could affect more than 43 million immigrants living in the United States, including 10 million citizen children who have at least 1 noncitizen parent, as well as their extended families and communities.⁷ Many lawfully present immigrants have become reluctant to enroll in programs for which they are legally qualified due to fear that receipt of any benefits may reduce their chances of becoming permanent

residents or citizens. When the rule was first proposed in 2018, 1 in 7 immigrants reported that they or a family member avoided using services for fear that utilization could negatively influence their green card or citizenship applications.⁸

People who do not have health insurance coverage are less likely to seek preventive services, are more likely to delay seeking care, and are more likely to present with advanced conditions that could have been prevented.⁹ Lack of access to primary and preventive services result in increases in emergency department visits and contributes to the rising costs of health care throughout the country.

Addressing Patient Concerns

1. Encourage clinics and/or health systems to establish policies to provide access to primary health care for patients, regardless of their immigration status.
2. Provide options for sliding fee schedules, cash and/or installment payments for patients who are fearful of enrolling in government-sponsored

Table 1. Benefits Which Determine Public Charge⁶

New definition of public charge	A noncitizen who receives 1 or more public benefits for more than 12 months in the aggregate within any 36-month period (receipt of 2 public benefits in 1 month counts as 2 months)
Public benefits that may be considered for public charge purposes	<p>Previous rule: Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), federally funded long-term care</p> <p>New rule: all of the above, and:</p> <ul style="list-style-type: none"> • Federal, state, or local cash benefit programs for income maintenance • Non-emergency Medicaid for non-pregnant adults >21 years • SNAP (Federally funded nutritional assistance) [WIC is <u>not</u> included in the rule] • Section 8 Housing Assistance under the Housing Choice Voucher Program or Section 8 Project-Based Rental Assistance • Subsidized public housing
Consideration of use of public benefits in a public charge determination	<ul style="list-style-type: none"> • If someone has applied, been approved for, or received public benefits • Will not consider benefits received by or applied for on behalf of other family members (for instance, food assistance for citizen children) • Will not consider benefits received by active duty or reserve service members and their families • Will not consider benefits received by an individual during periods in which the individual was present in an immigration category that is exempt from a public charge determination • Will not consider benefits received by foreign-born children of US-citizen parents who will be automatically eligible to become citizens
Heavily weighted negative factors	<ul style="list-style-type: none"> • Has received 1 or more public benefits for more than 12 months in the aggregate within the prior 36 months • Not a full-time student, is authorized to work but is unable to demonstrate employment, recent employment, or a reasonable prospect of future employment • Has a medical condition that requires extensive treatment or institutionalization and is uninsured and does not have sufficient resources to pay for medical costs related to the condition • Previously found inadmissible or deportable on public charge grounds
Heavily weighted positive factors	<ul style="list-style-type: none"> • Household has financial assets/resources of at least 250% of the Federal Poverty Level (FPL) • Authorized to work or employed with an income of at least 250% of the Federal Poverty Level • Individual has private insurance that is not subsidized by Affordable Care Act tax credits

programs, and/or refer patients to local Federally Qualified Health Centers.

3. Educate clinical staff to educate patients about what programs are included or excluded. For example, the Women Infant and Children (WIC) program, Medicaid for minors below age 21, and school lunch programs are excluded from the rule. Educational resources are available from the National Immigrant Law Center.¹⁰ The National Immigrant Women's Advocacy Project has also created a State- and immigration-specific map to help health professionals and applicants understand what benefits are included (map.niwap.org/).¹¹
4. Establish medical-legal partnerships, referrals to local immigration attorneys or information about where to access reliable services, such as the Immigration Advocates Network to locate free or low-cost legal assistance for your patients.¹²
5. Consult with local departments of public health and/or social services; for example California's Department of Social Services' website aggregating immigration services contractors (bit.ly/immigrationhelp).¹³
6. Provide educational materials for patients at appropriate grade levels and in appropriate languages. Refer to the community outreach toolkit from the Immigrant Legal Resource Center¹⁴ and the Protecting Immigrant Families campaign.¹⁵ Additional materials may be available from your department of public health, Medicaid program, or others.
7. Build partnerships with local organizations to provide updates and support to immigrants and their families. Again, the Protecting Immigrant Families campaign is the leading coordinator of an effort to defend and protect access to health care and other essential resources for immigrants and their families at local, state, and federal level.
8. Join forces with professional organizations to develop position statements and/or coordinate efforts. The American Academy of Pediatrics established a policy statement opposing the new rule.¹⁶
9. Contact elected officials to express concerns about negative impacts of the changes.
10. Vote for candidates that support health-promoting policies.
11. Be aware of your state's legislation regarding charity care for emergency medical services. Most patients are not familiar with eligibility criteria or how to access these programs.

While implementation of changes to the federal public charge rule is underway, confusion and concerns about the changes have already influenced the behavior of immigrants and their families. Family physicians can address patient and community misperceptions through

outreach education. They can promote patients' access to primary health care and other services through clinic policies, patient education, and collaboration with local, state, and federal organizations.

To read or post commentaries in response to this article, see it online at <https://www.AnnFamMed.org/content/18/5/458>.

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