

# CLASP

Policy solutions that work for low-income people

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## Early Childhood Education & Public Charge Webinar

November 7, 2018

# Overview

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- Introduction to public charge.
- Impacts on young children and early childhood programs.
- The public comment process.
- Q&A

**Submit questions in the chat box!**

# Introduction to Public Charge

# What is “public charge”?

- A provision in immigration law designed to identify individuals who are likely to become dependent on the government as their main source of support.
- A public charge determination is made when an individual is:
  - Seeking to enter the US with a visa or
  - Applying for lawful permanent residence (or a “green card”).
- It is not relevant when an individual applies to become a US citizen.
- It does not apply to certain categories of immigrants, including refugees, asylees, and others.

# Current public charge test

- Considers the use of two public benefits:
  - Cash assistance for income maintenance (e.g. TANF, SSI, general assistance)
  - Long-term institutional care at government expense
- Considers “totality of circumstances”
  - Age, Health, Family Status, Financial Status, Education and Skills, Affidavit of Support



# DHS Public Charge proposed rule

- On October 10, the Department of Homeland Security published a Notice of Proposed Rulemaking (NPRM) on “public charge”.
- The proposed regulation would:
  - Change the definition of “public charge”.
  - Expand the list of public benefits.
  - Detail new negative factors for the “totality of circumstances” test.

# Proposed change to public charge definition

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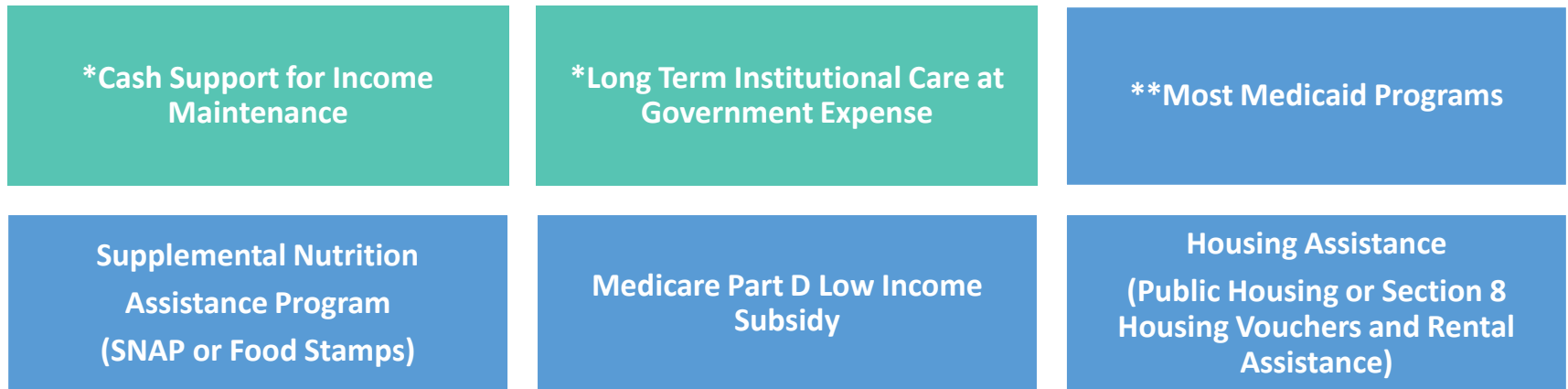
## Currently

A person “likely to become primarily dependent on the government for subsistence

## As Proposed

An immigrant “who receives one or more public benefits”

# Public benefits included in proposed rule



\* Included under current policy as well

\*\* Exceptions for emergency Medicaid & certain disability services offered in school. DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text



# Public benefits NOT included

Any benefit not specifically listed in the regulation is not included, such as:

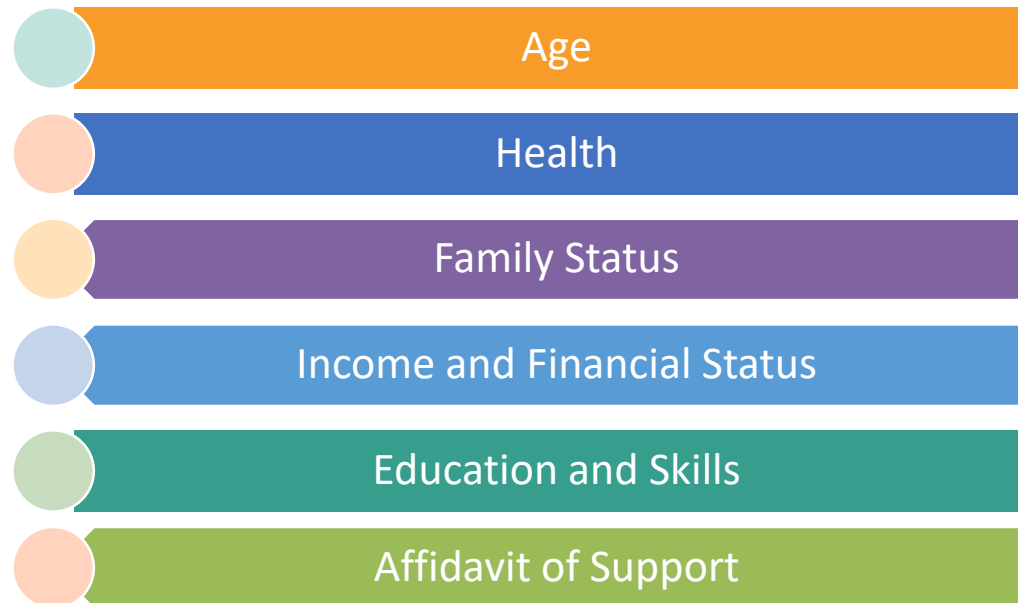
- Head Start
- Child care assistance
- WIC
- Early intervention
- CHIP\*
- School Breakfast and Lunch
- Public education services, including public pre-K
- Home Visiting
- Energy Assistance (LIHEAP)
- Disaster Relief
- Emergency medical assistance
- Transportation vouchers or services
- Non-cash TANF benefits
- Federal Earned Income Tax Credit and Child Tax Credit
- Student Loans

# Children's use of benefits

- Only an individual's benefit use would be considered under this proposal.
  - This is different from earlier leaked versions of the proposal.
- The use of benefits by U.S. citizen children will not directly be a factor in a parents' public charge test.
- For immigrant children, own benefit use counts toward own public charge determination.



# Totality of circumstances test: Factors



# Totality of circumstances test: Children

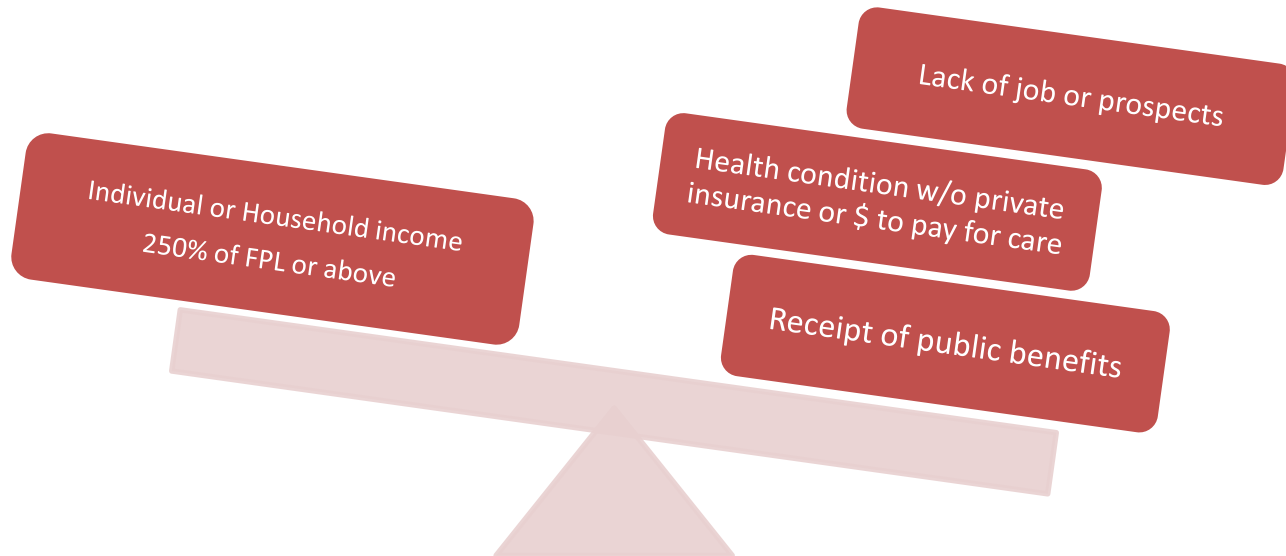
- Being a child (under age 18) is a negative factor in his/her own public charge test.
- Children are included in the calculation of household size and may make it more difficult for parents to meet income test.

# Totality of Circumstances Test: Heavily Weighed Factors



Heavily Weighed  
**Positive** Factors

Heavily Weighed  
**Negative** Factors

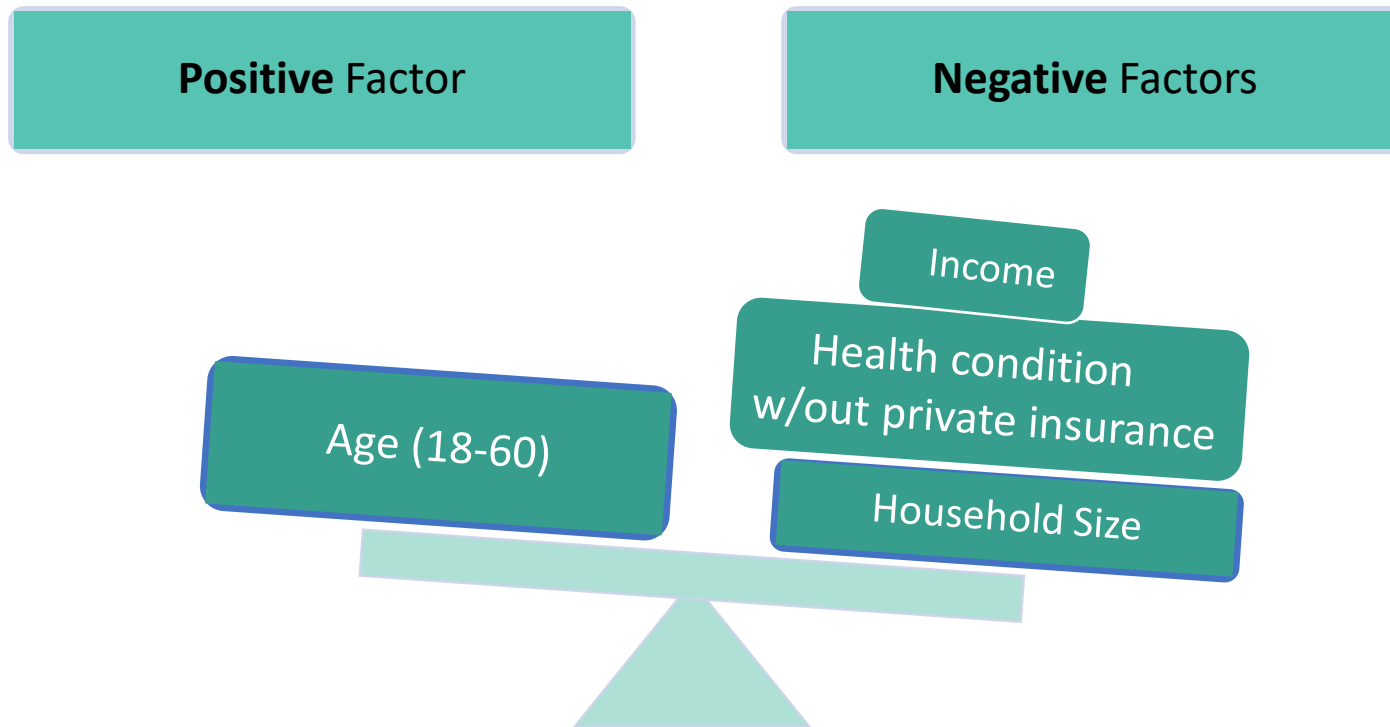


# Example: Jasmine's Story

**Jasmine** is a 4-year-old U.S. citizen. Her mother is a graduate student from Mexico with DACA since 2012.

- Her mother works as a student instructor and research assistant to pay for school, as she's ineligible for any federal loans.
- Jasmine's father is a U.S. citizen and works as a teaching assistant, earning \$30,000 per year.
- Jasmine and her father both receive Medicaid. Her mother is not eligible and relies on her school clinic to treat her severe asthma.
- Jasmine's father petitioned for her mother's green card 6 months ago.

# Jasmine's mother under the proposed rule



# Keep in Mind

- This is a proposal—current guidance on public charge remains in effect.
- The proposal is not retroactive—proposed changes would only apply to benefits received after a date in the future (after a final rule).
- The final regulation could look different from the proposed regulation—or could never be finalized.



# Impacts of the Proposed Rule

# Harm to Children and Families

- Makes it significantly harder for low-income immigrant parents to obtain long-term stability for their families.
  - When adults are denied green cards, families are destabilized and sometimes separated.
- Increases stress among immigrant parents—risk of poorer health and financial instability.
  - Children’s health and well-being is linked to their parents.

# DHS predicts harmful outcomes

“Disenrollment or forgoing enrollment in a public benefits program by aliens otherwise eligible for these programs could lead to

- worse health outcomes, including increased prevalence of **obesity** and **malnutrition**, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence;
- **increased use of emergency rooms** and emergent care as a method of primary health care due to delayed treatment;
- **increased prevalence of communicable diseases**, including among members of the U.S. citizen population who are not vaccinated;
- **increases in uncompensated care** in which a treatment or service is not paid for by an insurer or patient;
- increased rates of **poverty** and **housing instability**; and
- **reduced productivity and educational attainment .”**

– Department of Homeland Security, p. 51270 of NPRM

# Effects on Early Childhood Programs

- Increases reluctance to use public benefits or early childhood programs—including for children.
  - One estimate puts “chilling effect” at 26 million people, including approximately 9.2 million children.

# Keep in Mind

- Nothing in this proposed rule changes immigrant *eligibility* for public benefits or early childhood programs.



# Harm to our Country

- Favors wealthy immigrants and blocks others from having a permanent, secure future in US.
- Puts the health and wellbeing of millions at risk—making us a hungrier, poorer, and sicker nation.



# **The Public Comment Process: Your Opportunity to Speak Out!**

# Immigration Policy is a Children's Issue





The logo for "Protecting Immigrant Families" features three overlapping trapezoidal shapes in blue, orange, and teal on the left. To the right, the text "PROTECTING IMMIGRANT FAMILIES" is displayed in a bold, sans-serif font. "PROTECTING" is in blue, "IMMIGRANT" is in teal, and "FAMILIES" is in orange.

**PROTECTING  
IMMIGRANT  
FAMILIES**

- Co-chaired by CLASP and the National Immigration Law Center.
  - Over 275 active member organizations in 30 states and growing.

Information & resources at:  
[protectingimmigrantfamilies.org](http://protectingimmigrantfamilies.org)

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# Early Childhood Sector Template

- The PIF campaign is using a sector-based strategy to develop model comments.
  - CLASP early childhood sector template will be emailed to you at the conclusion of this webinar.
  - You may receive and use more than one sector template.
- Use the template as a *guide* to drafting your comments.
  - The template includes prompts to modify and personalize.
- Feel free to distribute the template widely among your network!

# Who?

- Everyone!
  - Individuals
  - Organizations
  - Teachers, Program Directors, Family Support Workers
  - Parents
- Submitting public comments to an agency is not considered lobbying under federal law and will not hurt your organization's Section 501(c)(3) tax exemption.

# What?

- A unique comment opposing the proposed rule.
  - Modify the comment template
    - Use your own words
    - Include state/local data
    - Share personal experiences and stories
    - Explain why this matters to YOU and/or YOUR organization.
- You can comment on *any* aspect of the proposal. You do not have to cover *every* aspect of the proposal.
  - It's more important that your comment is *\*unique\**.

## Where and When?

- All comments should be submitted by **December 10.**
  - Organizations and programs can submit comments to [Regulations.gov](https://www.regulations.gov).
  - A user-friendly portal for individuals to comment is available at [protectingimmigrantfamilies.org](https://protectingimmigrantfamilies.org)

# Dos and Don'ts of Commenting

- DO

- Request the rule be withdrawn.
- Personalize your comments.
- Submit comments **before** December 10.

- DON'T

- Don't suggest corrective language.
- Don't discuss programs that aren't mentioned in the NPRM.
- Don't sign on to group comments.

# Additional Actions

- **EDUCATE** immigrant families to fight the chilling effect
  - Talking points at [protectingimmigrantfamilies.org](http://protectingimmigrantfamilies.org)
  - Free, low-cost legal options at [immigrationadvocates.org/nonprofit/legaldirectory](http://immigrationadvocates.org/nonprofit/legaldirectory)
- **SPEAK OUT** against the proposed rule
  - Use #ProtectFamilies on social media
- **DOCUMENT** the harm and identify individuals who may be willing to share their story publicly
  - [bit.ly/PIFstory](http://bit.ly/PIFstory)

# For more information

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Q&A  
October 2018

## The Proposed Public Charge Rule & Young Children

On October 9, a Notice of Proposed Rulemaking (NPRM) by the U.S. Department of Homeland Security (DHS) was published in the Federal Register, outlining the administration's intent to dramatically change the meaning and application of "public charge" provisions in immigration law.

This proposal could harm the health and wellbeing of millions of people and is of great concern for young children's development and the early childhood field. One in four young children has at least one immigrant parent. This proposal could put the health, nutrition, and long-term development at risk for millions of children. That's why it's critical for policymakers, advocates, service providers, and the early childhood workforce to understand the content and implications of the proposed rule so they can communicate information clearly to their staff, community members, and immigrant families.

This Q&A provides an overview of the proposed public charge provisions and other important information specifically for the early childhood community.

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**PUBLIC CHARGE: A THREAT TO CHILDREN'S HEALTH AND WELLBEING**

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The Trump Administration is proposing a rule that would hurt millions of children. The "public charge" proposal could put an individual's legal immigration status at risk if they use critical programs that support health, nutrition, and economic stability. If enacted, the proposed rule would make immigrant families afraid to seek programs that help them stay productive and raise thriving children. That puts the health and wellbeing of millions of children at risk.

Part of federal immigration law for over a hundred years, the "public charge" test is designed to identify people who may depend on the government as their main source of support. If the government believes someone is likely to become a "public charge," it may choose to deny them admission to the U.S. or lawful permanent residence ("green card" status). Historically, the federal government has considered a very short list of benefits when determining who is likely to become a "public charge." The administration's proposal would expand this list, adding non-emergency Medicaid (with limited exceptions for certain disability services related to education), the Supplemental Nutrition Assistance Program (SNAP), and housing assistance.

### THE HEALTH AND WELLBEING OF CHILDREN OF IMMIGRANTS IS VITAL TO OUR COUNTRY'S FUTURE

#### Children with immigrant parents are a large, growing segment of the U.S. child population.

One in four U.S. children has at least one parent born outside the U.S. The vast majority (88 percent) of these children are U.S.-born citizens.<sup>1</sup> A smaller share (approximately 12 percent) of children are immigrants themselves.<sup>2</sup>

#### Children benefit when they—and their family members—can access programs and services that meet basic needs and promote healthy development.

Children need healthy foods; safe, stable housing, and adequate health care throughout childhood to grow up healthy and succeed as adults. The wellbeing of children now is essential to their own development and our country's future success.

#### Experiencing stress and instability—such as economic insecurity and not having enough to eat—harms children's development.

Substantial, persistent adversity—sometimes called toxic stress—in early childhood can interfere with brain development. That affects how children learn and their ability to manage emotions.<sup>3</sup> It can also lead to physical and mental health problems that last into adulthood.<sup>4</sup> Not having enough food, inadequate or unstable housing, and economic insecurity are all examples of adverse experiences that can lead to toxic stress.

[www.clasp.org](http://www.clasp.org)



# Q&A

Please submit your questions in the chat box.



# Thank you!

**Thank you for standing up for immigrant children and families.**

**Contact us with questions or for help with commenting:**

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