

# Immigrants and Public Benefits

Beth Englander – Oregon Law Center  
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Immigration Forum for Service Providers



# The Oregon Law Center and Legal Aid Services of Oregon

Statewide Public Benefits Telephone Hotline  
**1-800-520-5292**



# Public Benefits for Immigrants and their Families

- Some benefits do not require any immigration status.
- Mixed Status Families can receive benefits for members who have lawful status. People not applying for themselves shouldn't have to provide information about their own immigration status, place of birth, or SSN.
- Some "Qualified Aliens" can get public benefits.



# Fear of Public Charge

Currently there is an intentional climate of fear and efforts to make immigrants feel unsafe and unwelcome.

# GOAL FOR COMMUNICATION ABOUT PUBLIC CHARGE

To reduce fear about public charge, increase accurate, fact based information in the community, so that people can make good, informed decisions for themselves.



# Message to the Community on Public Charge

- Public Charge is still very limited (unless you are seeking entry into the US).
- Many different types of immigrants are EXEMPT from the public charge inquiry.
- Know the facts and make an informed decision for yourself and your family – don't go without important benefits just based on rumors or fear.
- Although the federal immigration agency is trying to change the rules about public charge, they haven't changed yet. (unless you are seeking entry into the US).
- Stay informed about changes and get advice.
- You are not alone – Community Response.



# Public Charge Now – Current Rule

The concept of Public Charge has been around for over a hundred years.

Currently:

Someone who is **likely to become primarily dependent** on the government for subsistence, as demonstrated by either the **receipt of public cash assistance** for income maintenance **or institutionalization for long term** care at government expense.

Currently, Public Charge only applies to

- SSI (Supplemental Security Income from Social Security)
- TANF (Temporary Assistance to Needy Families)
- Long Term Care in an Institution (paid for by Medicaid)



# Immigrants Who Are Exempt from Public Charge

- Refugees or persons granted asylum in the US
- Victims of trafficking
- Survivors of domestic violence who are VAWA petitioners, and "qualified" battered spouses or children
- U-visa applicants/holders
- Cuban, Nicaraguan, or Haitian entrants
- LPRs applying for Naturalization
- Lautenberg parolees
- Certain Indochinese, Polish, and Hungarian parolees applying for adjustment of status
- Registry applicants (in the US since before Jan. 1, 1972)
- Special immigrant juveniles.
- Amerasian immigrants (when they are first admitted to the US, See § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988)
- (Proposed rule adds active duty military, reserves and their families)



# When Does Public Charge Question Apply?

- Entry into the US
- Adjusting Status to be an LPR



# Public Charge – Proposed Changes

**September 24, 2018:** Federal DHS proposed changes to the Public Charge rules, trying to expand it.



## **Public Charge - Proposed Rule**

**Proposed Rule Expands the Definition of Public Charge to an immigrant “who uses or receives one or more public benefits as defined in [this rule].”**

**Proposed Rule expands which “Public Benefits” count towards Public Charge:** cash assistance (TANF, SSI, non cash benefits like SNAP, WIC, Medicare Part D low income subsidies, Section 8 and Project based Rent Assistance, Non emergency Medicaid, Long term care in an institution, and others. 9/24/2018



# Proposed Rule – Exclusions from “Public Benefits”

- Benefits paid for or earned by the person, for example
  - Social Security Retirement - Veterans Benefits - Pensions
  - Unemployment benefits - Workers Comp - Medicare (if un-subsidized)
  - Loans that require repayment - In-state college tuition - Emergency heat
  - Elementary and secondary education - IDEA benefits (Special Education)
  - Emergency Medicaid - School Based benefits (school lunch)
  - Non-cash, State only benefits (Cover all Kids?) - Private Charity
  - DV shelter - Crisis counseling

(not a complete list)



## Proposed Weighing Factors for Public Charge

- Factors to Weigh: Age, Health, Financial Resources, Work Skills, English proficiency.
- Heavily Weighted Factors : Use of Public Benefits in the past 36 months
- Positive Factor - 250% of fpl (62,000 for a family of 4)



## Public Charge – Proposed Rule

The proposed rule does NOT consider receipt or use of public benefits by any dependents, including US citizen children, as a factor in determining whether an immigrant is a public charge.



# Timing and Application of the Public Charge Proposed Rule

- Federal Rulemaking Timeline
- Look Back Period – Proposed rule is NOT retroactive



# Exemptions are the same in the Public Charge Proposed Rule

- Refugees or persons granted asylum in the US
- Victims of trafficking
- Survivors of domestic violence who are VAWA petitioners, and "qualified" battered spouses or children
- U-visa applicants/holders
- Cuban, Nicaraguan, or Haitian entrants
- LPRs applying for Naturalization
- Lautenberg parolees
- Individuals or spouse/children of individual in active military duty or ready reserve duty.
- Certain Indochinese, Polish, and Hungarian parolees applying for adjustment of status
- Registry applicants (in the US since before Jan. 1, 1972)
- Special immigrant juveniles.
- Amerasian immigrants (when they are first admitted to the US, See § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988)



# Public Charge Message for the Community continued...

- **This is not legal advice, this is a changing / evolving issue.**
- **Get legal advice and Stay Informed**

## Resources:

OLC-LASO Public Benefits Hotline – 1-800-520-5292

Oregon Immigration Attorneys – <https://oregonimmigrationresource.org/resources/?tab=legal-help>

Protecting Immigrant Families Campaign <https://www.protectingimmigrantfamilies.org/resources/>

Oregon Ready/Causa <http://oregonimmigrationresource.org/>

Latino Network Resources <http://www.latnet.org/community-resources/?locale=en>