

National WIC Association Talking Points on Public Charge January 29, 2020

On January 27, 2020, the U.S. Supreme Court reversed a nationwide injunction that allows for implementation of the Department of Homeland Security's (DHS) [final public charge rule](#). The final rule will significantly expand the government's ability to deny immigrants legal status if they have accessed certain public benefits – namely Medicaid, SNAP, or housing assistance. With the final rule issued, the National WIC Association (NWA) recommends the following talking points:

- **WIC is not included in the final public charge rule.**
- **The Supreme Court decision is short-sighted, causing a massive disruption when the rule's legality is not yet established.** Millions of immigrant's lives will be changed by the final public charge rule, as they will lose access to vital health and nutrition services. The nationwide injunction rejected by the Supreme Court would have delayed implementation until *after* the court cases came to a final decision on the rule's legality.
- **The public charge rule will exacerbate a public health crisis as families are forced to choose between feeding their children and the long-term security of their family.** Over the past two years, many families chose to decline access to WIC and other services in order to preserve their legal status within the country.
- **The public charge rule will specifically harm children, as families will lose access to programs that put food on the table, ensure healthy parents, and put a roof over the child's head.** Nearly 20 million children live in a family with an immigrant parent. SNAP, Medicaid, and housing assistance programs serve the holistic needs of the family, and the inability of the parent to access these benefits will have a marked impact on children.
- **The public charge rule targets immigrants who are playing by the rules.** Public charge determinations are part of the legal immigration process, and the new rule includes programs that immigrants are legally permitted to use.
- **The public charge rule is part of a larger effort to restrict immigrant access to benefits.** The State Department's Foreign Affairs Manual (FAM) takes an even broader view of public charge, leading to record visa denials at certain consulates.
- **The chilling effect of the past few years is just a precursor to worse health outcomes.** Some of the largest federal programs now carry significant immigration consequences. The distrust and uncertainty will carry over even to programs that are not included in public charge, like WIC.
- **The public charge rule's Medicaid exception for pregnant women is insufficient to ensure adequate maternal health.** Access to prenatal care is vital, but healthy pregnancies depend on the mother's routine access to healthcare. In the industrialized nation with the highest maternal mortality rate, we should be removing barriers to care.
- **The public charge rule flagrantly defies Congress by denying immigrants access to public health and nutrition programs that they are legally permitted to use through the regulatory process.** In the 1990's, Congress deliberately rejected this broad

interpretation of public charge, resulting in a consensus that public charge should only be considered for income maintenance (TANF, SSI, etc.) or long-term care.

- **Early and targeted nutrition intervention leads to cost-savings in the future.** WIC complements efforts by SNAP and Medicaid to ensure healthy pregnancies, positive birth outcomes, and early child development. As families lose access to these programs, children will lose access to preventative health measures that can mitigate significant health conditions or poor health indicators in later life. Our nation – and government – will see increased emergency room costs and healthcare expenditures in later years as a result of this policy.
- **Charitable organizations are unprepared and ill equipped to fill the gap when populations are denied access to federal programs.** Many charitable organizations, such as food banks and churches, are already operating at capacity. Despite their good intentions, these organizations also lack the expertise to provide other services.

It is important to keep the following points in mind:

- DHS has not yet indicated that the final rule is legally effective. Instances of premature enforcement should be flagged to NWA's attention.
- The public charge rule cannot go into effect in Illinois, as another federal court has issued a statewide injunction that was unaffected by the Supreme Court's decision.
- Certain classes of humanitarian immigrants – such as refugees, asylees, and VAWA self-petitioners – are protected by statute and therefore not subject to public charge determinations. These immigrants are expressly exempted from the proposed rule.
- Public charge determinations do not take place during naturalization proceedings – the final step before an immigrant becomes a US citizen. However, changes to public charge will have a huge impact on the “pipeline” as immigrants move through the legal immigration process.

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