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Plan to restrict immigration on public charge grounds

Unless someone has intimate knowledge of immigration laws, he or she is unlikely to even be aware of the “public charge” immigration rules. “Public charge” has been part of U.S. immigration law for many years. This refers to the test to determine who is *likely* to rely on government benefits for their primary support. Therefore, when someone applies to enter the United States, or applies to be a Lawful Permanent Resident (LPR or Green Card Holder), or re-enters the U.S. as an LPR after 180 consecutive days away, immigration officials look at the “totality of circumstances” to see who is likely to be a public charge. Admission or permanent residency can be denied on the findings. Now the U.S. Department of Homeland Security has issued proposed changes to the public charge rules which would redefine what it means to be a public charge. (<https://attorney.elderlawanswers.com/seniors-at-greater-risk-under-trump-proposal-to-restrict-immigration-on-public-charge-grounds-16958>).

Immigration officials, under the current rules, consider whether the person is likely to require cash assistance, such a Temporary Assistance for Needy Families (TNAF), SSI, state general cash assistance programs, and/or Medicaid for long term care. The officials also consider the person’s age, health, family status, financial status, education and skills, and whether there is an affidavit of support. The proposed rule changes drastically alter the definition of what it means to be a public charge. The standard is lowered to include, and thus bar, individuals who *might* become a public charge at any time, and the list of public benefits would be expanded. Included would be Medicaid, including care at home, Medicare savings programs, SNAP or food stamps, Medicare Part D low income subsidy (Extra Help), and housing assistance. New factors included, which would weigh heavily in determining the Totality of Circumstances, are negative factors such as too old (62 years or older), or too young (17 or younger), limited ability in the English language, health conditions without private insurance coverage, and receipt of public benefits. Positive factors include individual or household income at or above 250 percent of the federal poverty limit, ages 18-60, and perfect health.

Advocacy and public interest groups, such Justice in Aging and the Center for Law and Social Policy (CLASP), point out the disproportionate repercussions for seniors, children, and those with disabilities. Some people are refusing to use benefits in order to protect the immigration status of family members. This can have an expansive chilling effect even on legal immigrants and citizens because the confusing and discretionary nature of the revised rules has already resulted in preventing many from seeking public benefits.

Justice in Aging states that that they believe “it will be nearly impossible for those aged 62 and older to pass the public charge test.” This can result in many seniors who are living in immigrant families being afraid to seek the services that they need, and those with disabilities “will face insurmountable barriers.” Furthermore, the ripple effect will affect the elderly and people with disabilities who are cared for by immigrants. Those caregivers are estimated to be over one million in number.

To learn more about the “public charge” proposed changes and effects, go to Justice in Aging (<http://www.justiceinaging.org/>) or CLASP (<https://www.clasp.org>).