

April 2018

A proposed rule likely to be considered in the coming weeks from the Trump Administration will further hurt our ability to strengthen North Carolina now and for the future. It will make it more difficult for families to ensure their children have what they need to get ahead and to fully participate in our communities.

While the proposed rule is a specific attack on immigrants and people of color, it is not just an “immigration” issue—it is about the health and well-being of our entire community. If we want our communities to thrive, all families have to be able to get the care and services they need.

Current Law Allows Very Limited Access To Public Benefits For Immigrants

For more than 100 years, immigrants seeking to obtain lawful immigration status have had to prove to the government that they are not “public charges,” i.e., that they will not be dependent on the government for support. However, for almost 20 years, the federal government has clearly stated that immigrants who are eligible may use the health and nutritional programs that are key to healthy outcomes for children and families: Medicaid, ACA health coverage, WIC nutrition assistance, SNAP (food stamps), and more. Further, the current law states that any benefits used by immigrants’ U.S. citizen children or family members do not count against the immigrants themselves.

Although many immigrants are not eligible for benefit programs because of strict laws, some lawfully present immigrants are eligible. Also, their U.S. citizen children often use these benefits programs to supplement family incomes that have not kept pace with the cost of living across North Carolina.

The New Rule Will Create More Barriers to Access to Critical Programs for Immigrants and Citizens

The new draft rule states that if immigrants use critical health and nutritional programs such as the Supplemental Nutrition Assistance Program (formerly, “Food Stamps”) and “WIC” nutrition assistance for babies and moms, medical coverage through Medicaid or the ACA, or take advantage of critical supports for working families such as the Earned Income Tax Credit, that the government will use it against them in determining whether they can obtain lawful immigration status. Further, the rule says that any benefits used by an immigrant’s **U.S. citizen children or dependents** can be used against her as well.

It is important to note that so far, we have only seen a leaked draft, and it has not yet been published in the Federal Register. That means there could be changes in the published draft. The draft rule itself is also complicated and contains a number of important exceptions.

The Proposed Rule Would Hurt North Carolina

Columbia University [estimates](#) these changes could put over 670,000 children into poverty nationwide, and about 560,000 of those children would be U.S. citizens. [Data shows](#) that 219,000 children in North Carolina who are enrolled in Medicaid or CHIP have at least one immigrant parent. While not all would be affected by this rule, many of them would be.

This rule could jeopardize access to health care, sufficient food, and stable housing for thousands of North Carolina children. [Many studies](#) have shown the negative effect that food insecurity can have on children’s academic performance and outcomes, and conversely, the [positive effect](#) that nutrition support programs can have on those same children. Similarly, there is a clear link between [health](#) and academic outcomes. The Earned Income Tax Credit, another program that the new rule may place at risk for immigrant families and their U.S. citizen children, has also [been shown to improve](#) children’s academic outcomes.

Everyone is affected when their neighbors and classmates are not able to get the healthcare they need to prevent illness or are not able to eat every day or put a roof over their head. Our communities at large are hurt when more people are struggling to get by.

The New Rule Will Force Harmful Choices For Families

The proposed rule would force families, including citizen children, to choose between getting the help they need and reuniting with those they love or even keeping their families together. This is a choice that will not only put the physical and emotional well-being of families at risk but will ripple through the economy. Families unable to make ends meet will turn to private charities for help, and may be unable to participate in the local economy by purchasing food at the grocery store or paying their utility bills.

If I Am An Immigrant Or Work With Immigrant Families, What Do I Need to Know?

- The rules for immigrants who apply for a green card in the U.S. (who are not processed abroad) have not changed as of April 18, 2018. Receipt of non-cash public benefits for which you are eligible currently are not considered when you obtain a green card in the U.S. under current law.
- Many categories of immigrants, including refugees, asylees, U and T visa holders, VAWA victims of domestic violence, and more are not subject to the public charge rule.
- The public charge test considers the “totality of the circumstances” for a family, and use of public benefits is just one factor. Families will need good advice to make individual determinations based on their situation.
- Using health care and nutrition benefits can help you be stronger, healthier and less likely to be dependent on the government.
- For individuals currently receiving public assistance, there may be no advantage to terminating benefits at this time. That may change if and when the rule goes into effect.

How Can You Get Involved?

BEFORE the Proposed Rule is Published:

- Educate your networks to fight the chilling effect and prepare them to fight back.
- Identify individuals who may be willing to share their story publicly. If you or someone you know is willing to share your story about how this proposed rule might impact your family, please contact: Kate@ncjustice.org, or 919-861-2072. Se habla español.

AFTER the Proposed Rule is Published:

- Join efforts to submit public comments.
- The NC Justice Center will provide opportunities for both individuals and organizations to make public comments to the federal government about how this rule will affect your communities. We will share more information, including model comments, when the proposed rule is published.
- Educate your communities about how this rule may affect them. Contact Kate Woomer-Deters at the NC Justice Center for more information about community education on this topic.