BTC Brief

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October 2018

The Proposed "Public Charge" Rule:

An Attack on Immigrant and Working Families

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The Trump Administration published a proposed rule[1] that would fundamentally alter immigrants' ability to seek permanent residence or secure a green card or visa to remain in the United States. If the rule is finalized and put into effect, it would fundamentally change our country's approach to immigration by giving greater focus to family income and the potential use of health care, nutrition, and housing programs in decisions about whether people will be allowed to make their lives in America.

The rule will limit the ability for immigrants in North Carolina to fully participate in their community, thereby weakening our state now and for the future.

The proposed rule will have its largest impact through the chilling effect that will likely reduce a family's enrollment in essential nutrition assistance, health care, and housing supports for which they are eligible in order to avoid a public charge determination (see Appendix for Methodology). Nationwide, the Fiscal Policy Institute estimates that 24 million people will be affected by this chilling effect.[2]

In North Carolina, the chilling effect could reach 530,000 people who live in a family with non-citizen members and receive one of the income supports identified. While not all would be subject to a public charge determination, it is likely that some portion will be concerned about participation in these programs and would disenroll. These harmful realities will have significant negative effects on the health and well-being of immigrants, and create another barrier for future generations of children to reach their full potential.

This BTC Brief provides an overview of the proposed change to the public charge rule, evidence of the harm to well-being, and estimates of the reach of the chilling effect in our state.

Current law already limits 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. The first concept of public charge appeared in the Immigration Act of 1882 and was often a reason used to deny entry to those seeking to immigrate to the United States until 1940.

While the public charge rule was much less likely to be used in the post-war period, it remained on the books. With the passage of welfare reform and a major immigration reform bill in 1996, most individuals with legal permanent resident (LPR) status became ineligible for federal means-tested public benefits for their first five years in the United States, with exceptions such as those who had arrived as refugees and asylees, among others.

In 1999, the concept of public charge was further refined by the U.S. Immigration and Naturalization Service in a guidance document published by the agency. The 1999 guidance, key to the public charge definition currently in effect, states that:

- An immigrant must be "primarily dependent" on public benefits;
- Noncash benefits are not to be considered;
- Public charge determination is based on the individual applying for immigration status and not his or her dependent family members, and
- Receipt of public benefits is not to be the sole factor considered in the determination of public charge.

Although many immigrants are not eligible for benefit programs because of strict laws, some lawfully present immigrants are eligible. Those most directly impacted by the proposed Trump Rule would likely be immigrants seeking a green card through family based petitions or those seeking visas.

The new rule will erect new barriers for immigrants.

The proposed rule will hurt immigrant families with low incomes and benefit those with higher earnings. The rule will require the Department of Homeland Security to consider whether an immigrant earns at least 125 percent of the Federal Poverty Level, approximately $31,000 annually for a family of four, and will consider it a negative factor against their application if they do not earn that much. Although an immigrant can demonstrate positive factors, such as work history, education, skills, lack of public benefit use, or financial support to show that they should not be deemed a public charge, the mere fact of having a low income will count against them in the analysis.

That means that it's possible that a working person earning a low income could be deemed "likely to become a public charge," even if they have never used any public benefit program. It will also harm mothers with low incomes and caregivers who might not have a work history outside the home to balance out the "negative factor" of their family's low income.

In addition, the proposed rule states that if immigrants use critical health, nutrition, and other supportive programs, the government will use it against them in determining whether they can obtain lawful immigration status. These include the Supplemental Nutrition Assistance Program (SNAP, formerly, "Food Stamps"), medical coverage through non-emergency Medicaid, housing assistance such as Section 8 housing vouchers and public housing, and prescription medication assistance for Medicare recipients with low incomes. The use of these benefits would be calculated, assessed, and weighed against other factors.

To put this shift in context, researchers at the Fiscal Policy Institute and the Center on Budget & Policy Priorities have calculated what percent of the U.S.-born and non-citizen populations in North Carolina could be deemed a public charge under the current and proposed definition. For non-citizens the impact increases nine-fold under the proposed change. Moreover, the number of

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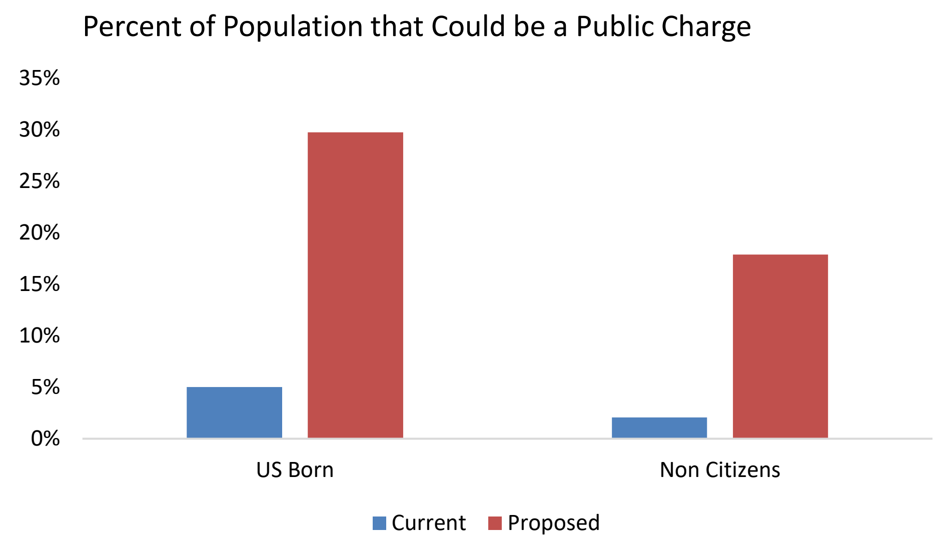
U.S.-born who would be deemed a public charge under this rule is almost twice that for Non-Citizens (See Figure 1). The bottom line is that the low-wage economy means that many people in the U.S. and North Carolina receive support to get through a job loss or illness or to ensure their children will have a foundation for future success.

Figure 1. Proposed Rule Could Subject Many More to Public Charge Determination. If Applied to U.S.-Born People in North Carolina Would Struggle to Be Deemed Acceptable



Source: Special Data Request to Fiscal Policy Institute and Center on Budget & Policy Priorities, October 2018.

Food assistance, health care, and housing programs serve as work supports to those families whose jobs do not pay enough to make ends meet. In accessing supports to put food on the table, a roof over their family's head, and access to health care, people are better able to meet immediate needs and boost the long-term potential for economic well-being for their children.

In North Carolina, an estimated 250,000 children would be impacted by the chilling effect of the new Trump Rule (See Figure 2). Eighty-four percent are U.S. citizens but in a family with at least one non-citizen and in receipt of at least one of the identified public programs.[3] While the rule does not count benefit use by U.S. citizen children against their parents in the public charge determination, we know from past experience that families may withdraw their U.S. citizen children from benefits programs out of fear or confusion about the rule.

Figure 2. The Chilling Effect on Children and Families

	U.S. Citizens, Under 18	Non-Citizens, Under 18
People who live in a family with a non-citizen	280,000	60,000
People who live in a family that both includes a non-citizen and a family member that receives SNAP, Medicaid/CHIP, housing assistance, SSI, TANF, or General Assistance	210,000	40,000

Source: Special Data Request to Fiscal Policy Institute and Center on Budget & Policy Priorities, October 2018

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By impacting children, this rule further doubles down on the policies of family separation that have been of concern nationwide. The proposed rule could lead families to choose between getting the help they need and keeping their families together. As has been noted, it is likely to impact those who are not directly or legally impacted by the change, such as U.S. citizen children. And yet, the perception of such high risks as separation from family members is likely to put the physical and emotional well-being of families at risk.

A review of the literature analyzing the impact of changes under welfare reform on the use of public benefits by immigrant families gives some indication of the chilling effect that can be expected. After welfare reform, researchers found that even immigrants or their family members who were eligible to continue receiving public benefits withdrew from those programs at increased rates. Among U.S.-born children in families with a non-citizen parent, enrollment in food assistance was cut in half from 1994 to 1998, and declines in Medicaid and TANF participation were similarly high.[4]

Additionally, there is ample existing documentation of fear in the immigrant community to engage with health care providers, early childhood centers, and public schools, largely due to increased immigration enforcement.[5] The proposed changes to the public charge rule are likely to have similar chilling effects in the immigrant community by erecting new barriers to access for children and undermining the well-being of communities.

The harm of losing benefits will ripple through communities, undermine the promise of achieving the American Dream.

The Trump Rule will ripple through the economy in harmful ways as well. Families unable to make ends meet will turn to already under-resourced private charities for help, and their reduced spending will translate into reduced economic activity in local businesses. This will also put a greater strain on the health care safety net, as more individuals become uninsured and turn to community health centers, local health departments, school-based health centers, and emergency rooms to meet their health care needs.

By jeopardizing access to health care, food, and stable housing for hundreds of thousands of North Carolina individuals and their families, it could negatively affect family well-being and broader community well-being as well. 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's short- and long-term health.[6,7] Similarly, there is a clear link between the positive effect of Medicaid on missed school days, academic outcomes, dental care, and the prevention of chronic health problems in adulthood.[8,9]

The broader economy will not be immune from the economic losses from the Trump Rule. Given the critical role that food assistance, housing assistance, and health care access play in supporting local businesses, industry, and broader economic activity, the reduction in dollars flowing locally and the use of services will ripple through the North Carolina economy. Estimates suggest that the state could lose $128 to $300 million in federal funds that would otherwise be circulating in local communities across the state (see Figure 3). Broader economic effects are nearly double and would result in some level of job loss as fewer dollars circulate in the economy and high employment industries lose demand.

Figure 3. The Ripple Effect in North Carolina's Economy of the Trump Rule

	Lower Estimate 15% disenrollment	Middle Estimate 25% disenrollment	Higher Estimate 35% disenrollment
Loss of Federal Funds to North Carolinians	$128 million	$214 million	$300 million
Potential Economic Ripple Effects	$245 million	$409 million	$573 million
Potential Jobs Lost	1,671	2,785	3,899

Sources: Estimate of direct loss was calculated by the Center on Budget and Policy Priorities; economic ripple effects and jobs lost was estimated by the Economic Policy Institute. See Methodology for details. Totals may not sum due to independent rounding. For methodology, see "Only Wealthy Immigrants Need Apply," Fiscal Policy Institute, October 10, 2018.

By reducing the chances for another generation to get a foothold in the economy and reach their full potential and ultimately obtain citizenship, the Trump rule can also block economic mobility and earnings over time. National research on the economic impact of naturalization shows that the earnings of those who become naturalized increases by between 5 percent and 14 percent compared to noncitizens, when controlled for factors such as language ability and education.[10,11] These data show that when immigrants have a path to citizenship, they experience an increase in economic potential that helps their family to make ends meet. Given the strength of the documented contribution that immigrants make to our country's economic growth now and projected into the future, further blocking opportunities to reach their full potential in our country will have a negative impact on our collective well-being as well.[12]

Everyone is affected when people struggle to get by. Communities are hurt when neighbors and classmates are not able to get the resources they need to prevent illness or eat a nutritious meal, and no one should have compromise their basic needs.

[1] Federal Register, "Inadmissibility on Public Charge Grounds", U.S. Department of Homeland Security, October 10, 2018, available at: https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds
[2] Special Data Request to Fiscal Policy Institute and Center on Budget & Policy Priorities, October 2018.
[3] Special Data Request to Fiscal Policy Institute and Center on Budget & Policy Priorities, October 2018.
[4] Batalova, J., Fix, M., & Greenberg, M. (2018). Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use. Retrieved from https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families
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[12] National Academies of Sciences, Engineering, and Medicine, The Economic and Fiscal Consequences of Immigration. Washington, DC: The National Academies Press, 2017. For a brief synopsis of major findings, see the press release at http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=23550.

APPENDIX. Description of Methodology

1. ESTIMATING THE POPULATION THAT WOULD EXPERIENCE A CHILLING EFFECT

We define the population that would experience a chilling effect as those who might be nervous and confused by the new rule, and might feel like they need to make a choice between applying for needed benefits and avoiding putting their family at risk. As noted in the body of this paper many, and perhaps even most, of the people experiencing a chilling effect are people who will not have to go through a public charge determination. Importantly, for example, the rule does not consider whether U.S. citizen children receive public benefits as part of the public charge determination.

In order to estimate the size of the population experiencing a chilling effect, the Fiscal Policy Institute uses estimates provided by the Center on Budget and Policy Priorities (CBPP) of the number of people living in families where at least one person is a non-citizen, and where someone in that family has received one of the public benefits named in the proposed public charge rule. The analysis uses the Current Population Survey and corrects for underreporting of SNAP, TANF, and SSI receipt in the Census survey using data from the Department of Health and Human Services/Urban Institute Transfer Income Model (TRIM). These TRIM corrections take into account program eligibility rules by immigration status. Three years of data are combined in order to increase sample size and improve the reliability of the estimates: 2013 to 2015, the most recent for which the TRIM-adjusted data are available.

CBPP's calculations of program participation include the newly considered programs—Medicaid, SNAP, and housing benefits—as well as those already considered—TANF, SSI, and General Assistance. The Census data for Medicaid used by CBPP also include the closely intertwined Children's Health Insurance Program (CHIP). Most participants can be expected to have a very hard time distinguishing between a program funded by Medicaid and one funded by CHIP. The proposed rule does not presently include CHIP, but the notice announcing the proposal explains that the administration is considering including it. Medicare Part D low-income subsidies are included in the proposed rule but were not included in CBPP's estimates due to a lack of a Census variable that identifies those participants. To model the current public charge benefit related test, CBPP looked at those people who get more than half of their income from TANF, SSI, and General Assistance.

2. ESTIMATING THE ECONOMIC LOSS TO NORTH CAROLINA

Among the people who experience a chilling effect, some portion would go so far as to disenroll from programs for which they are eligible.

The estimate of the direct loss to North Carolinians from disenrollment from these programs begins with SNAP, Medicaid, and CHIP federal funding data. The estimates use administrative and survey data to approximate the amount of benefits received by families that include a non-citizen. This is the population that due to fear or confusion could forgo benefits even though most of them are themselves not likely to be subject to a public-charge determination. In estimating the economic consequences of the Trump rule, we assume that only a portion of this group will actually disenroll from these food, health, housing, or cash supports. While a lot is at stake for people in families with a non-citizen immigrant if they fear running afoul of the public charge rule, there is also a lot at stake in not applying and having your family go hungry or lack health insurance. Again, we include CHIP in our estimates.

In our estimates, we assume a range of 15 to 35 percent of the people experiencing a chilling effect will disenroll from SNAP and Medicaid. We provide estimates of the economic effects of the higher and lower disenrollment rates as well as the midpoint of 25 percent.

In doing this, we follow the Kaiser Family Fund's paper from February 2018, "Proposed Changes to 'Public Charge' Policies for Immigrants: Implications for Health Coverage," which provides a review of the literature leading to this estimate range.[1] We do not attempt to simulate the consequences of adverse selection—for instance, that healthier people may be more likely to withdraw from health care coverage than less healthy people. The 15, 25, and 35 percent disenrollment rates are already a broad range and not a precise prediction.

To estimate the economic ripple effects, the Fiscal Policy Institute uses an analysis provided to us by Josh Biven of the Economic Policy Institute. The analysis takes the direct benefit loss as calculated above, and applies to it an output multiplier for SNAP of 1.6, in line with estimates Bivens summarizes in a 2011 paper. [2] The Medicaid multiplier is 2.0, and is drawn from an analysis of the effects of the American Recovery and Reinvestment Act.[3]

After calculating the effect of benefit reductions on output, the output was divided by $146,880 to obtain an estimate of the effect on employment, on a full-time equivalent (FTE) basis. This employment multiplier was obtained by dividing U.S. gross domestic product in 2017 by the number of FTEs in that year.[4]

The economic impact can be expected to vary with the state of the economy. The economic and job loss of the Trump rule will be greater in times of high unemployment, and lower in times of full employment. Since the Trump rule is proposed to be permanent, the effect could be expected to vary.

[1] That report cites as the underpinning for this range of estimates: Neeraj Kaushal and Robert Kaestner, "Welfare Reform and Health Insurance of Immigrants," Health Services Research,40(3), June, 2005; Michael Fix and Jeffrey Passel, Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform 1994-97 (Washington, DC: The Urban Institute, March 1, 1999); Namratha R. Kandula, et. al, "The Unintended Impact of Welfare Reform on the Medicaid Enrollment of Eligible Immigrants, Health Services Research, 39(5), October 2004; and Rachel Benson Gold, Immigrants and Medicaid After Welfare Reform, (Washington, DC: The Guttmacher Institute, May 1, 2003).

[2] Josh Bivens, "Method Memo on Estimating the Jobs Impact of Various Policy Changes," Economic Policy Institute, November 8, 2011.

[3] Any slowdown in the growth of aggregate demand caused by reductions in spending on these programs could in theory be neutralized by the Federal Reserve Bank lowering rates to spur growth. However, this does not change the size of the fiscal drag that benefit cuts would impose on the economy. These estimates are implicitly a measure of how much harder other macroeconomic policy tools would have to work to neutralize the demand drag stemming these cuts. Further, it is deeply uncertain whether other tools of macroeconomic policy have the ability to neutralize negative fiscal shocks. See Gabriel Chodorow-Reich, Laura Feiveson, Zachary Liscow, and William Gui Woolston, "Does State Fiscal Relief During Recessions Increase Employment?," American Economic Journal: Economic Policy, August 2012, pp. 118-145.

[4] Data for the analysis come from tables 1.1.5 and 6.5 from the National Income and Product Accounts of the Bureau of Economic Analysis. The quotient was increased by the growth in its nominal value in 2017 to forecast what it would be in 2018.