AN OVERVIEW OF THE NEW PUBLIC CHARGE RULE AND HOW IT MAY IMPACT THE USE OF PUBLIC HEALTH PROGRAMS BY MASSACHUSETTS RESIDENTS

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Agenda

I. Introduction to Health Care For All
II. Introduction to Community Catalyst
III. Public Charge Final Rule
IV. Injunctions and what that means for consumers
V. Resources for Enrollment Assisters
Health Care For All

- Founded in 1985, Non-profit 501(c)(3)
- Represent Massachusetts patients and consumers
- National partner: Community Catalyst
- Legal partner: Health Law Advocates
- Coalitions on health access, ACA Defense, oral health, immigrant health & children's health
- www.hcfama.org, Twitter: @hcfa
- Facebook: Health Care For All
Community Catalyst

- A national, non-profit, health care advocacy organization
- Works to ensure everyone has access to high quality, affordable health care
- Collaborates with national, state and local consumer organizations, policymakers and foundations
- Builds and supports consumer advocacy networks in over 40 states
Final Public Charge Rule: Timeline

**EFFECTIVE DATE: TBD**

Graphic Adapted from the Protecting Immigrant Families Campaign, www.protectingimmigrantfamilies.org
To figure out if someone is a public charge, DHS will CONTINUE to use this test instead of the blocked rule:

- **Definition:**
  - A person who is considered “likely to become primarily dependent on the government for subsistence.”

- **Benefits Considered**
  1. Cash assistance for income maintenance
  2. Institutionalization for long-term care at government expense
Totality of Circumstances (ToC) Test

- Totality of Circumstances considers:
  - Age
  - Family Status
  - Health/Disability Status
  - Assets/Resources/Financial Status
  - Education and Skills
  - Affidavit of Support/Sponsorship
  - Receipt of Public Benefits
Who Does Public Charge Apply To?

- The Public charge rule is about “admissibility”
- Who needs to be “admitted”?
  - Applicants for Lawful Permanent Resident status (i.e. green cards)
  - LPRs who leave US for more than 180 days
  - Applicants to enter US (overseas visa applicants)
- **Focus of Rule**: people seeking green cards who are processed *inside the US*
- **Different rules** for *applicants* overseas
Who Does Public Charge **NOT** Apply To?

- Lawful Permanent Residents (LPRs) applying for green card renewal or applying for citizenship
  - Unless they have violated the terms of their green card;
  - They have left the country for more than 6 consecutive months; or
  - They have certain criminal convictions and seek to re-enter
Who Does Public Charge **NOT** Apply To?

- Many humanitarian statuses are exempt from the public charge rule:
  - Refugees
  - Asylees
  - U (victims of crime) and T (victims of trafficking) visas
  - Violence Against Women Act (VAWA) self-petitioners
  - Temporary Protected Status (TPS)
  - Deferred Action for Childhood Arrivals (DACA)
  - Special Immigrant Juveniles
  - And more...

*If people with any of these statuses seek LPR status on a different basis (i.e. family petition), then they could be subject to public charge, but **benefits received while in exempt status don’t count negatively**.
Under the blocked rule, a “public charge” is a person who receives one or more public benefits... for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months).”

- Expanded TOC test, including more detail about how factors are weighed.
- Public benefits expanded to include:
  - Supplemental Nutritional Assistance (SNAP) (i.e. food stamps)
  - Section 8 Housing, federal housing subsidies.
  - Federal Medicaid
  - But NOT including:
    - Emergency Medicaid (MassHealth Limited)
    - Medicaid received by people under 21 years old
    - Medicaid received by pregnant women (including 60 days postpartum)
Massachusetts Programs That Are NOT Considered Public Benefits Under the Blocked Rule

- **Health Care Programs**
  - MassHealth Limited (Emergency Medicaid)
  - MassHealth for *pregnant* women (+60 days postpartum)
  - MassHealth for young people *under age 21*
  - Fully state-funded health care programs
    - Health Safety Net
    - Children’s Medical Security Plan (CMSP)
    - MassHealth Family Assistance for PRUCOL
  - Connector Care and other Health Connector subsidized coverage (i.e., Affordable Care Act advance premium tax-credits)

- **Other health programs:**
  - WIC program (Women, Infants, and Children)
  - Free school lunch/breakfast
Public Charge Litigation and Injunctions

- There are currently nine lawsuits challenging the DHS public charge rule and 5 preliminary injunctions have been issued.
  - NEW YORK - Nationwide (protects MA residents)
  - WASHINGTON - Nationwide (protects MA residents)
  - MARYLAND - Nationwide (protects MA residents)
  - CALIFORNIA - Limited to CA, OR, DC, ME, PA
  - ILLINOIS - Limited to IL
- These preliminary injunctions prevent the rule from going into effect while the lawsuits are ongoing and means that DHS cannot use the new definition, tests or forms
- This means that all three nationwide preliminary injunctions would have to be reversed for MA residents to be negatively impacted by the public charge rule.
Key Public Charge Messages

- Most immigrants in Massachusetts should keep their benefits!
  - Most immigrants who are eligible for public benefits are not subject to the public charge test.
  - Most immigrants who are subject to the public charge test are not eligible for public benefits.

- Public charge does not impact eligibility for programs - it is solely an immigration consideration.

- Unsure? Seek immigration/benefits legal advice!
Resources for Enrollment Assisters

- **Immigrant Health Toolkit**
  - [https://www.hcfama.org/immigrant-health](https://www.hcfama.org/immigrant-health)

- **In the Loop – Massachusetts**
  - A private, online forum for Massachusetts enrollment assisters
  - A website to ask questions, chat with other assisters and receive information, updates and resources
  - Register here: [theloop@massloop.org](mailto:theloop@massloop.org)
Questions & Referrals

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