

Public Charge and Health Benefits:



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



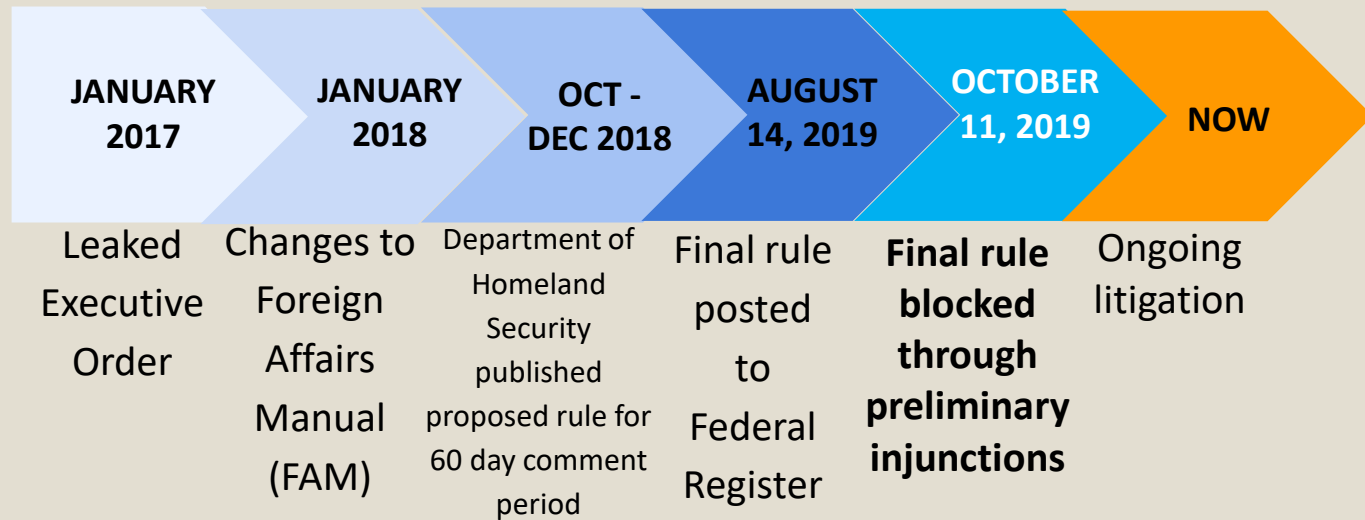
- **Founded in 1985, Non-profit 501(c)(3)**
- **Represent Massachusetts patients and consumers**
- **National partner: Community Catalyst**
- **Legal partner: Health Law Advocates**
- **Coalitions on health access, ACA Defense, oral health, immigrant health & children's health**
- **www.hcfama.org, Twitter: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

Current Definition of Public Charge and Longstanding Test



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.*

What the Blocked Rule Contained – Change of “Public Charge” Definition and Expansion of Public Benefits



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>
- ***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

Questions & Referrals



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