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UNDERSTANDING THE FINAL PUBLIC CHARGE RULE

For People At Risk for and Living with HIV

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OBJECTIVES



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- Who we are
- Resources (Public Charge and COVID-19 Response)
- Final Public Charge Rule
- Applicability to California's HIV prevention and treatment programs
- Q & A (Type your questions into the chat box)

RESOURCES



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<https://bit.ly/chprc-publiccharge>

ABOUT



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- About CHPRC
- About our Southern California Center
- About our funder
- About our collaborators

ABOUT



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About CHPRC

- To bring the most relevant and timely evidence to bear on HIV/AIDS policymaking in order to further California's efforts to develop and maintain efficient, accessible, state-of-the-art programs and services for diverse populations of Californians living with or at risk of acquiring HIV.

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About our Southern California Center

- UCLA Investigators and Staff
- APLA Health
- LA LGBT Center

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California HIV Disparities Spotlight Videos Latinx Communities

<https://youtu.be/b-xBV-uy7Nw>

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About our funder

- The California HIV/AIDS Research Program
 - Vision: Helping to achieve HIV epidemic control in California by 2025
 - List of publications found here:
<http://www.californiaaidsresearch.org/topic-areas/policy-research.html>

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About our collaborators

- Public Law Center, Jazmina Castillo
- Los Angeles Area AIDS Education and Training Center (LA AETC), Sandra M. Cuevas



What is the Public Charge rule?

- Public charge is the language used by the government to describe someone **who they think** will become **dependent on government assistance** for their **primary source of support** to live in the U.S. in the future.

WHAT IS THE RULE?



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What is the Public Charge rule?

- Immigration officials **apply** a public charge rule to help decide whether to approve an application for a **green card** (i.e. legal permanent residence or LPR status) or when deciding who they will allow to **enter** into the U.S.

WHO IS INCLUDED



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Does the Public Charge rule apply to my client or patient?

- A person who is applying for a green card (LPR status) in the U.S.
- A person who has a green card (LPR status) but has been out of the country for more than 6 months
- A person who is applying to change or extend a non-immigrant visa may be subjected to a similar rule

WHO IS INCLUDED



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Does the Public Charge rule apply to my client or patient?

- Mainly people applying for their green card (LPR) status through family-based petitions
- Exceptions to the rule (e.g. Asylum, U Visa, T Visa, VAWA, TPS)
- Does not apply to applications for naturalization (to gain citizenship)

WHO IS INCLUDED



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What about “undocumented” individuals?

- If there is **no path** for the client/patient to gain any legal status at this time, then they will not be evaluated for public charge at this time
- Given the **uncertain possibility** that a pathway to legal status might be established sometime in the future, providers may consider helping clients/patients to assess how best to **prioritize their health**

WHO IS INCLUDED



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What if my client or patient does not know their current immigration status?

- Get them the legal assistance needed to find out
 - California Department of Social Services (CDSS) - Public Charge Provider List
 - Keep Your Benefits

WHO IS INCLUDED



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What if my client or patient is not included by the rule but still afraid to access services?

- They are still affected by the rule
- This is called the “chilling effect”
- Individual-level and systemic interventions needed

INCLUDED PROGRAMS



What programs are included (if inside the U.S.)

- Cash benefits
 - SSI (Supplemental Security Income)
 - CalWORKs/TANF (Temporary Assistance to Needy Families)
 - CAPI (Cash Assistance Program for Immigrants)
 - GA (General Assistance/Relief)
- Medi-Cal/Medicaid for long-term care (e.g. nursing home)

INCLUDED PROGRAMS



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What programs are included (if inside the U.S.)

- Food stamps or Supplemental Nutrition Assistance Program (CalFresh)
- Section 8 Housing Choice Vouchers, Project-Based Rental Assistance and subsidized public housing
- Federally-funded Non-Emergency Medicaid (Medi-Cal)
 - Exceptions for people under 21 and those who are pregnant

PROGRAMS NOT INCLUDED



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What programs are **not** included (if inside the U.S.)

- State and local-funded healthcare coverage
 - My Health LA (local)
 - California State PrEP Assistance Program (state)
- Any federal program not specifically mentioned
 - Ryan White HIV/AIDS Program

OTHER CONSIDERATIONS



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“Totality of the circumstances”

- “Additional consideration of certain factors such as **health, age, education and skills, family support and sponsor, and use of some kinds of public benefits** will be weighed. The test looks at whether someone will be “likely to become a Public Charge.”

*Benefits received by an immigrant’s family members will **not** be considered in the public charge determination*

OTHER CONSIDERATIONS



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Then a pandemic sweeps across the globe...

U.S. Citizenship and Immigration Services Alert



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Exceptions to the Public Charge rule

- Communicable disease testing, screening, or treatment, including COVID-19
- Vaccines for children or adults to prevent vaccine-preventable diseases

U.S. Citizenship and Immigration Services Alert



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“USCIS will **neither** consider **testing, treatment, nor preventative care** (including vaccines, if a vaccine becomes available) **related to COVID-19 as part of a public charge inadmissibility determination**, nor as related to the public benefit condition applicable to certain nonimmigrants seeking an extension of stay or change of status, **even if** such treatment is provided or **paid for by** one or more public benefits, as defined in the rule (e.g. **federally funded Medicaid**).”

U.S. Citizenship and Immigration Services Alert



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“The list of public benefits considered for this purpose includes most forms of **federally funded Medicaid** (for those over 21), but **does not include** CHIP, or **State, local**, or tribal public health care services/assistance that are not funded by federal Medicaid.”

U.S. Citizenship and Immigration Services Alert



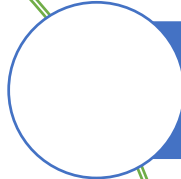
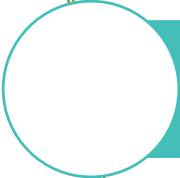
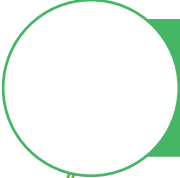

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“...the alien may **submit a statement** with his or her application for adjustment of status to **explain how** such **methods or policies** have **affected the alien** as relevant to the factors USCIS must consider in a public charge inadmissibility determination.”

WHAT CAN WE DO?



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-  **Know what funds are supporting your program's services.**
-  **Increase partnerships with legal services organizations.**
-  **Explain why asking about legal status may be necessary before asking about it.**
-  **Remember that legal status may still be relevant to the client/patient even when it may not be required to access services.**

Questions and Answers



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Please type your question into the chat box.

Please keep an eye out for the follow-up email!



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THANK YOU!

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