

## PPC Public Charge Advocacy Toolkit

### Tell DHS: Rescind Proposed Rule on Public Charge Determinations

Academic Pediatricians:

The U.S. Department of Homeland Security (DHS) recently issued a proposed rule on [public charge](#) that threatens the health and wellbeing of immigrant children and families across the country. In response, the Pediatric Policy Council (PPC) is engaging academic pediatricians in concert with the broader pediatric community to oppose the proposal and protect children's health.

The proposal was officially [published](#) on October 10 and the public has until December 10 to weigh in with comments. **One of the most effective actions you can take is to submit comments to DHS** explaining what these changes to public charge will mean for children across the country.

Immigrant families have faced a variety of harmful policies and practices recently, and this new public charge proposal puts their health and well-being at further risk.

The following toolkit contains key messages, resources and information to equip you with what you need to be an effective voice for children at a crucial, consequential moment. **Please submit a comment to DHS advocating for these children.**

Sincerely,



Scott Denne, MD  
Chair, Pediatric Policy Council

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## Background & State of Play

A new proposal from DHS expands the definition of what it means to be a “public charge,” making it harder for immigrants to enter the United States and advance through the immigration process. The proposal was officially published on October 10, 2018.

“Public charge” has long been a part of our country’s immigration laws. Currently, a “public charge” is defined as someone who is primarily dependent on the government for subsistence. A public charge determination is made when a person applies for a visa to enter the United States or to adjust status to obtain a green card (not when applying for citizenship). In other words, someone who is found to be a public charge under this definition could be denied a visa or green card.

Under the new public charge proposal, an immigrant’s use, or likely use, of certain public benefits can now be considered to deny entry or permanent legal status in the United States. For the first time, the government will look at an immigrant’s use of Medicaid, the Supplemental Nutrition Assistance Program (SNAP), housing assistance, and Medicare Part D low income subsidy. The administration is also contemplating adding use of the Children’s Health Insurance Program (CHIP) to the list of programs that would count toward a public charge determination.

Additionally, the proposal would consider family income as a factor in determining whether an immigrant is a public charge, putting low-income parents with children at a disadvantage compared to adults without children. To avoid scrutiny under the public charge test, a family of four would need to earn nearly \$63,000 annually. And, the proposal would discriminate against people with preexisting conditions. Specifically, a low-income immigrant with a medical condition that may require extensive treatment who is unable to cover the cost of such treatment could be determined to be a public charge.

The use of public benefits by U.S. citizen children will not directly be a factor in a parents’ public charge test. However, if a child is an immigrant, his or her own use of benefits counts toward his or her own public charge determination. Under the proposal, benefits used *before* the proposal is finalized and effective will not be considered in the public charge determination.

It is important to note that the changes proposed in this rule will not go into effect until after the administration publishes a final rule. The PPC is encouraging academicians to make their voices heard and submit comments opposing the proposal so that the Department of Homeland Security (DHS) hears and hopefully addresses the vast impact of the proposal on immigrant children and families.

### **Public Charge FAQs:**

#### **What is public charge?**

“Public charge” is a test used to decide if someone can become a permanent U.S. resident or obtain a visa. Historically, the public charge test has relied on a narrow standard, limited to reliance on cash assistance and long-term institutionalization at government expense. The Trump administration has long signaled that it intends to rework this definition to include non-cash, public assistance programs.

#### **What has changed?**

Nothing has changed yet. The new proposed rule would expand the public charge test to consider use of Medicaid, SNAP, housing assistance, and the Medicare Part D low income subsidy. DHS is seeking public comment on whether to also include CHIP in the final rule. The test would also consider an immigrant's income and preexisting medical conditions. The proposal is subject to public comment and any changes to current practice will not take effect until after DHS considers comments it receives and the proposed rule is finalized.

### **How many children and families could be impacted?**

The Fiscal Policy institute [estimates](#) that the chilling effect of the public charge proposal would extend to 24 million people in the United States, including 9 million children.

### **Are WIC or school-based programs included?**

The proposed rule does not include WIC. Non-cash benefits that provide education, child development such as Head Start, school-based nutrition or health care, and employment or job-training are excluded from the public charge determination under current law and in the proposed rule.

### **Are state programs included?**

State programs are not explicitly included in the public charge proposal. However, many immigrants may not be able to distinguish between a public benefit such as Medicaid that is federal versus a state-only coverage expansion, for which they are eligible. Fear and confusion by families may impact their decision to remain enrolled in state-only coverage expansion programs.

### **Are all immigrants subject to the public charge test?**

The public charge test applies to immigrants at the time of their green card application or when they are seeking to enter the United States with a visa. Many categories of immigrants are not subject to public charge, including refugees, asylees, survivors of domestic violence, undocumented immigrants, and green card holders who are applying for U.S. citizenship.

### **If finalized, what could this change mean for children and families?**

The public charge proposal presents immigrant families with an impossible choice: keep their family healthy but risk being separated or forgo vital services like preventive care and food assistance so their family can remain together in this country.

Though the stakes are high, it is important to remember that the proposed regulation is currently just a proposal. No changes will take effect until after the rule is finalized, making public comments opposing the proposal all the more important.

### **Can immigrants be deported based on a public charge determination?**

In extremely rare circumstances, a person who has become a public charge can be deported. The proposed rule does not change the current standard for deportability. However, press reports indicate that the Department of Justice will be publishing proposed changes to the current standard for deportability in the future.

### **What should I tell my patients and their families?**

Reassure families that they are not alone and there is still time to oppose this proposal. The policy on public charge determinations made within the United States has not yet changed. The proposed rule is still a draft and it is open for public comment. It will not take effect until after it becomes final. Not all immigrants are subject to the public charge test. Encourage families in your practice to get help deciding what's best for their family and, if possible, consult with an immigration attorney or a Board of Immigration Appeals-accredited representative about your own situation.

### **What can I do?**

This toolkit contains many opportunities for you to engage in advocacy against this public charge proposal. One of the most effective actions you can take is to submit comments to DHS explaining what these changes to public charge will mean for children across the country.

## **Key Messages**

- The public charge proposal presents immigrant families with an impossible choice: keep your family healthy but risk being separated or forgo vital services like preventive care and food assistance so your family can remain together in this country.
- Healthy children, supported by healthy families, can reach their full potential and contribute to our communities. The expanded public charge rule—which includes health care, housing and food assistance programs—puts the health of millions of children and families at risk.

### **Supporting messages:**

#### **1. Magnitude of impact:**

- We need all children in the United States to reach their full potential if we are to reach ours as a nation.
- One in every four children in the United States lives in an immigrant family, meaning that the child or at least one parent is foreign-born.
  - Investing in nutrition, health care, and other essential needs keeps children learning, parents working, families strong, and allows all of us to contribute fully to our communities. Children enrolled in Medicaid are twice as likely to have routine check-ups and vaccinations than uninsured children. Loss of that coverage would have high short-term costs.
  - Children with Medicaid are more likely to receive proper treatment for chronic conditions and less likely to have avoidable hospitalizations.
- Children in immigrant families are more likely to face certain hardships and are already less likely to secure help due in part to flawed eligibility rules that create barriers for immigrant families. However, like all children, children in immigrant families benefit when they have access to programs and services that promote their development.
- Parents' and children's health are inextricably linked and children do better when their parents are mentally and physically healthy. Parents who are enrolled in health insurance are more likely to have children who are insured, too. Research demonstrates that safety net programs such as SNAP and

Medicaid have short and long-term health benefits and are crucial levers to reducing the intergenerational transmission of poverty.

2. Chilling effect:

- The families who will be most affected by the public charge proposal are the ones who are seeking to become legal U.S. residents, like families applying for green cards. As a result, these families will almost certainly avoid seeking services for which they are eligible, like health insurance and food assistance.
- This chilling effect could jeopardize the health of millions of families, including families with U.S. citizen children in the household.

3. Threatens family unity:

- The public charge proposed rule jeopardizes immigrant families' ability to stay together and access vital services they need to be healthy. This threat to family unity comes mere months after the administration pursued a policy of separating immigrant parents and children at the border, many of whom remain separated today.

## Public Comments for Federal Register

From now until December 10, 2018, you have the opportunity to voice your concerns about the public charge proposal to the Department of Homeland Security through an official process known as "notice and comment."

Federal law requires that the government read and consider every unique comment before issuing a final rule. These comments can help slow the process down and shape the administration's decisions. This notice and comment process is also important because it can later provide an opportunity to challenge the regulations in court if a concern with the regulation was raised in comments and not addressed in the final rule.

To make it easier for academic pediatricians to submit comments on the public charge proposal, **PPC has drafted [template comments](#) that you can customize with information about your state and your patients.**

You are welcome to use text from our template comments, but we **strongly encourage** you to personalize the comments with your perspective and, if possible, a de-identified patient story about the impact the proposed rule could have or has already had on your patients. As groups have ramped up large-scale advocacy efforts around regulatory comments, there are concerns that agency officials may give less weight to similar, "form letter"-like comments, so make sure to **make yours as specific and unique to your experience** as possible.

**To submit comments, please consult the following options:**

- 1) You can submit your comments online through [Regulations.gov](https://www.regulations.gov). Click on "comment now" and either enter your comment in the text box (must be fewer than 5,000 characters) or upload your comments as a PDF. You can personalize your comments based on the [template below](#). Follow the rest of the instructions on the website to submit your comments.
  - a. **Important:** Please use your own experiences to customize the template comments. As noted, agency officials may give less weight to form letter comments that are not personalized. Please take the additional time to personalize your comments to ensure your unique voice is heard!

- 2) If you are an AAP member, visit [federaladvocacy.aap.org](https://federaladvocacy.aap.org) and log in using your AAP ID and password. Click on "Oppose the Public Charge Proposal" in the Advocacy Action Center on the homepage and enter your personalized comments based on the [template below](#) in the empty box. Please note that there is a 5,000-character limit for comments submitted through the AAP Federal Advocacy website.

### **PPC Template Comments**

**\*Please customize the highlighted portion of these comments\***

Dear Secretary Nielsen:

As an academic pediatrician **{briefly summarize your area of expertise}** from **{city, state}**, I write to offer comments on the Department of Homeland Security's Notice of Proposed Rulemaking: Inadmissibility on Public Charge Grounds (DHS Docket No. USCIS-2010-0012). Academic pediatricians are dedicated to the health, safety, and well-being of all infants, children, adolescents, and young adults—no matter where they or their parents were born. If finalized, the proposed rule on public charge would put the health of millions of children and families at risk. I urge you to rescind this rule and instead craft policies that allow immigrant children and families to be healthy and safe.

The policies proposed in this rule would deter immigrant families from accessing health and human service programs that keep them healthy and productive like Medicaid and the Supplemental Nutrition Assistance Program (SNAP). For many months, academic pediatricians have seen parents forgoing vital services to keep themselves and their children healthy out of fear that using such programs jeopardizes their chances of getting a visa or green card. **{If you have one, include a story here about a patient (examples include letting Medicaid enrollment lapse, increased no show rates, or declining WIC benefits).}** If this proposed rule were to be finalized, families will continue to avoid seeking services for which they are eligible, like health insurance and food assistance. Widespread confusion about which benefits are and are not included in a public charge determination would also lead to families avoiding programs that are not part of this proposed rule. This chilling effect would jeopardize the health of millions of families.

In my state of **{insert state}**, there are **{insert number of children enrolled in Medicaid in FY17 (data can be found [here](#))}** children who participate in Medicaid. Medicaid helps children stay healthy and reach their full potential. For example, children with Medicaid are twice as likely to have routine check-ups and vaccinations than uninsured children. They are also more likely to receive proper treatment for chronic conditions and less likely to have avoidable hospitalizations. **{Include information about how Medicaid benefits your patients (example: because of Medicaid my patient was able to receive treatment for his asthma and can now participate in school sports).}** Further, the health of children is inextricably linked to the health of their parents—children do better when their parents are mentally and physically healthy. Parents who are enrolled in health insurance are more likely to have children who are insured too. Disenrollment from health insurance by parents will result in a loss of coverage and access to preventive health care for their children.

Nutrition assistance programs also help children grow up strong. Children who are hungry and live in households where food is scarce have difficulty learning, and are more likely to experience educational, health, and behavioral problems as a result. Children of immigrants who participate in SNAP are more likely to be in good or excellent health, be food secure, and reside in stable housing. **{Include information about how SNAP benefits your patients (example: because of SNAP my patients are receiving proper nutrition and are sick less often).}**

The impact of this rule is enormous and presents immigrant families with an impossible choice: keep yourself or your children healthy but risk being separated, or forgo vital services like preventive care and food assistance so your family can remain together. One in every four children in the United States lives in an immigrant family, meaning that the child or at least one parent is foreign-born. **{Insert information about how many of your patients are immigrants or how many immigrant families live in your community.}** Investing in nutrition, health care, and other essential needs keeps children learning, parents working, families strong, and allows all of us to contribute fully to our communities. I strongly urge you to rescind this rule and to not consider use of public benefits programs like SNAP and Medicaid in public charge determinations.

Sincerely,

/s/

## **Comment FAQs**

### **Why do comments matter?**

Individual public comments:

- Raise the profile of this issue to policymakers and the public and show that this issue is important to hundreds of thousands of people across different sectors
- Delay the rulemaking process and shape the administration's decisions
- Assist with future legal challenges
- Give people who are affected by the rule a chance to raise their voice and tell their story

### **Who should submit comments?**

Anyone can submit comments! Affected families, concerned community members, organizations, and even elected officials can submit comments. In the case of public charge, academic pediatricians have valuable expertise to offer. We encourage you to submit comments yourself and to urge others to do so as well.

### **Can I sign on to comments that someone else has drafted?**

If five people or organizations sign on to one comment letter, that counts as one comment. If they each send in their own comments, that counts as five comments. It's fine to work off of a sample comment, but you should modify it to reflect your own thoughts and experiences so that it counts as a *unique* comment.

Since all comments are public, be sure to check with your employer/institution if you plan to submit comments using your professional credentialed affiliation.

### **When should I submit a comment?**

You can submit a comment to the Federal Register any time before December 10, 2018.

### **Can comments be submitted anonymously?**

If an individual does not want to disclose their name or contact information, we recommend having a friend or representative submit the comment on their behalf rather than submitting the comment anonymously. A pediatrician could submit comments on behalf of a patient and should acknowledge their relationship in the comment to provide context and legitimacy.

## Is commenting considered lobbying?

No. Unlike asking a member of Congress to vote for or against a specific bill, submitting public comments to an agency is not considered lobbying under federal law.

## Can I see what comments other people have submitted?

All comments submitted to regulations.gov are public; however, there is often a lag time between when comments are submitted to the federal government and when they are available publicly.

## Impact Analysis & State-Specific Data

An [analysis](#) from the Kaiser Family Foundation on the estimated impacts of the proposed public charge rule on immigrants and Medicaid

[This chart](#) contains the number of children enrolled in Medicaid in your state. Please use the “Medicaid FY 2017” number to personalize your advocacy.

This [data dashboard](#) from Manatt estimates the chilling effect of the proposed regulation by state and age group. You can use the tabs at the top of the to navigate by age group, state and more.

This [analysis](#) from the California Health Care Foundation on how changing public charge rules could impact children who need care

Colorado – This [webpage](#) from the Colorado Health Institute shows how changes to public charge could impact health insurance coverage.

New York – This [fact sheet](#) from the Fiscal Policy Institute estimates how the chilling effect will harm the state.

[AAP public charge infographic](#)

## Public Charge News Coverage

Below are recent news articles and segments covering public charge and the health impact on children and families:

- [The Los Angeles Times: Patient advocates decry Trump administration move to restrict immigrants' access to healthcare](#)
- [PRI's The World: New rules for green card eligibility](#)
- [Modern Healthcare: Healthcare groups blast proposed rule penalizing immigrants for using public benefits](#)
- [Rio Grande Guardian: Report: Public Charge rule change will have 'chilling effect' on immigrant community](#)
- [Associated Press: Immigrants refuse aid for fear it will doom green card hopes](#)
- [NPR: Trump Administration Moves To Penalize Immigrants For Using Government Benefits](#)

## Op-Ed Guidelines: Write to Your Local Newspaper

Please consider writing in your local newspaper about the impact of public charge on children's health. Op-eds are an effective medium to communicate your opinion about a timely issue. The issue of public charge



lends itself well to being used as a topic for an op-ed, as it allows academic pediatricians like you to share how the proposal would impact the patients you see and how you may have already witnessed the chilling effect in your practice. You can also speak extensively to the importance of programs like Medicaid and SNAP for children, and how children's health would suffer if they were not enrolled in those programs.

Op-eds are typically 500-600 words in length, though it is always important to check the individual publication for specific length requirements (most have guidelines listed on their websites).

### **Drafting your op-ed:**

To get started, think of your answers to these questions: How would this proposal impact children's health? Why are you concerned as an academic pediatrician? How can you illustrate these concerns?

It is important to remember the two things that will make your op-ed most desirable to a newspaper: **your child health expertise/patient stories** as well as **state-specific information**. You will want to weave in both throughout your piece to make it unique to your voice and region.

The foundation of your piece should include key messages about how the public charge proposal could impact child health. The key messages on public charge can be found [here](#) in the toolkit. To personalize your piece, below are a few prompts to get you started (please be sure to remove or alter any identifiable information about your patients when sharing stories in an op-ed to protect their privacy):

- Have you already witnessed the chilling effect of the proposal in your practice/clinic/hospital? Have you encountered families who are refusing services or disenrolling from programs out of fear? If so, share these stories.
- Write from your experience as a child health expert about the importance of programs like Medicaid and SNAP and how children's health could suffer if they stop receiving or are disenrolled from these programs.
- Incorporate state-specific data to illustrate the potential magnitude of the proposal. State-specific data on Medicaid can be found [here](#) in the toolkit.
- If appropriate, consider writing about how to reconcile recommending a vital service like SNAP to a family while recognizing it could mean implicating them as a public charge. How does being put in this position make you feel as an academic pediatrician? What concerns do you have for the regulation's implications on your ability to provide the best recommended care for your patients and their families?

### **Submitting your op-ed:**

Once you have initiated a draft op-ed, please contact Matt Mariani ([mmariani@aap.org](mailto:mmariani@aap.org)) in the AAP Washington Office, who can provide any suggestions or feedback, answer any questions or provide assistance with pitching the piece.

**Please note that many op-eds are considered "exclusive;"** you can only submit your piece to one newspaper at a time. Should one publication decline to publish your piece, you can resubmit to another, but you should avoid sending your op-ed to several newspapers at once.