Thawing the Chill From Public Charge Will Take Time and Investment

Health Equity

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Last month, the Biden administration reversed the Trump-era "public charge" rule, which had discouraged many immigrant families from using public benefits for which they were eligible. Even before the pandemic, we've spoken out on the harms posed to children by this rule. While we welcome the administration's action and its potential to improve the health and well-being of kids and families, we know there has been a great deal of confusion about the public charge rule within immigrant communities. To combat this confusion, significant investment in resources and longer-term solutions are necessary to reverse its harmful effects and ensure protection for immigrant families.

What is the "public charge" rule?

A "public charge" is defined as a legal immigrant or person seeking to immigrate who is deemed likely to become dependent on the United States government through the utilization of certain public benefits. Those deemed to be a public charge may be less likely to receive green cards and eventual citizenship. While this rule has been in effect since the Immigration Act of 1882, in October 2018, the Trump administration proposed widening the definition of who qualifies as a public charge to include those who use vital non-cash programs such as the Supplemental Nutrition Assistance Program (SNAP).

Despite widespread concerns from the immigration and public health communities, including PolicyLab, the rule was passed and then was implemented in February 2020. The rule has continually faced court challenges that have at times provided protection to immigrants in some states. But these resulting court decisions were often

contradictory and only heightened confusion for immigrant communities.

How did the public charge rule hurt immigrant families?

As we have previously discussed on our blog, the effect of the public charge rule on immigrant families' uptake of public safety net programs was significant. Even before the rule was implemented, our partners and community health centers throughout the U.S. described a dramatic increase in immigrant families choosing not to enroll in or disenrolling from the Children's Health Insurance Program (CHIP) and Medicaid, despite the fact that Medicaid coverage for children and pregnant women was exempt from the rule. In 2019, one in five adults in immigrant families with children reported they were avoiding public benefits for fear of risking their future green card eligibility. This rate was even higher among low-income immigrant families. Health centers similarly reported decreased enrollment in programs that were not subject to the public charge rule, and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) providers described panicked families seeking to disenroll from the program, even though the public charge rule did not apply to WIC. This phenomenon of not enrolling or actively disenrolling from public health insurance or other public benefits has been called the "chilling effect," and it makes clear that fear and confusion surrounding public charge extends well beyond the programs written into the rule.

These harms have only been exacerbated by the COVID-19 pandemic. U.S. Citizenship and Immigration Services (USCIS) posted an alert in March 2020 stating that utilizing COVID-19 testing, treatment and preventive care services (including eventual vaccines) would not impact public charge determinations. However, the unclear messaging surrounding the rule continued to create significant confusion among many immigrant families, leading to a reluctance by many to seek assistance.

In June 2020, PolicyLab and community partners distributed an online survey to Pennsylvania stakeholders working with immigrant and limited-English-proficient communities. The survey asked respondents to identify major needs and barriers faced by these communities during the pandemic, as well as their sources of strength and resilience, and to weigh in on possible solutions.

In the survey, respondents cited "unemployment or other loss of income" as the most significant challenge faced by the immigrant families they served and they emphasized the need for livelihood support. Some respondents specifically mentioned the impact of the public charge rule. For instance, one respondent stated, "for those who are in different stages of being [documented] and eligible, fear of public charge prevents them from seeking access to these programs." Another said "the COVID-19 and public charge exemptions are difficult to understand in English if English is your first language. We've fielded multiple calls from immigrants who are scared to apply for SNAP benefits and have no food to feed their families because of the public charge laws."

Our recent white paper and policy brief include more of these survey responses, and it's clear from what these respondents shared that the chilling effect prevented many families from seeking much-needed help during this economic and public health crisis.

What should stakeholders and policymakers do next?

We welcome the rescindment of the Trump-era public charge rule as a vital step to ensuring the health and well-being of children, both during this public health emergency and in the long term. However, as we emphasized in our policy brief, merely reversing the rule is not sufficient to mitigate its impact. Significant efforts will be required to explain the rule change to immigrant communities, alleviate confusion and fear, and support families through the process of enrolling in benefits for which they are eligible. This will take time and concrete investment by safety net program leadership, health care systems and public health organizations. However, we stress the importance of coordinating these efforts with local leaders and organizations who serve immigrant populations given their earned trust within their communities. We also underscore the necessity of language

access in all social service programs, so that families with limited-English proficiency can successfully sign up for public benefits.

Finally, it's important to note that even though the rule is now reversed, the chilling effect among immigrant communities may be long-lasting. Immigrants may fear that a new administration could simply reinstate a similar rule in the future. And even with the return to a narrower interpretation of "public charge," this rule has throughout its history contributed to confusion, uneven implementation and racial discrimination. We need to look to permanent and comprehensive solutions to warm the chill and ensure that immigrants can access the public benefits for which they are eligible.

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