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Public Charge Rule Blocked

In August of last year the Trump administration unveiled a [new rule](#) which took a more stringent approach to the long-standing immigration law stating that an immigrant may be deemed inadmissible if they are considered likely to become dependent on the government for cash aid or long-term institutionalized care. According to the Department of Homeland Security (DHS), the intention of the new rule was to formalize the way the agency determines whether an applicant is likely to become a public charge. Under the new rule, DHS significantly broadened the types of public benefits to be considered and increased the discretion of immigration officers in determining who is “more likely than not” to become a public charge. Previously, immigration officials only considered dependence on social security, Temporary Assistance for Needy Families (TANF) or other cash assistance programs when making their determinations. The new rule instructs immigration officials also to consider an applicant’s likelihood of using, or history of having used, Medicaid, Supplemental Nutrition Assistance Program (SNAP), public housing and/or any benefits relating to institutionalized long-term care when considering admissibility. The rule also includes a lengthy list of “negatively weighted factors,” including:

- Being younger than 18 years old or older than 61 years old
- Poor health
- Large family size (larger households require more support)
- Lack of private health insurance
- Low income, low credit score, and/or being in debt
- Current or prior (only those received after the final rule is published) receipt of public benefits
- Having little or no employment history
- Lack of high school diploma, higher education and/or job skills and training;
- Inability to speak English

The rule was immediately met with heavy criticism. Opponents argued that the rule unfairly targeted the most at-risk immigrants and would dissuade eligible immigrants from seeking important benefits available to them, ultimately creating a chilling effect that would deprive those most in need from seeking benefits they are entitled to. Critics also argued that the rule was disproportionately exclusionary to people from Latin American, African and Asian countries.

The rule was set to take effect on October 15, 2019 but, on October 11, multiple courts enjoined the final rule from taking effect. The courts also enjoined the government from implementing the use of any new or updated forms whose submission would be required under the Final Rule. On December 5, a divided federal appeals court lifted several injunctions, but two nationwide injunctions from judges in Maryland and New York City remained, leaving the rule’s fate unclear.

As of January 8, 2020 a three-judge panel at the U.S. Court of Appeals for the 2nd Circuit in New York refused to lift the injunction blocking the enforcement of the rule, thus maintaining a nationwide halt on the implementation of the final rule.

