

Public Charge Rule: How to Take Action and Submit Comments!

Maripat Pileggi
Community Legal Services
(215) 227-4738
mpileggi@clsphila.org



Agenda

- Brief overview of public charge and proposed changes to public charge regulations.
- Overview of regulation-making process.
- Comments: why you should submit them and how to do it.
- Comment tips



Public charge overview

- Public charge has been a part of federal law since 1882. Under those laws, immigration officials can deny **some** immigrants a visa or a green card if the immigration official finds that the immigrant is a public charge.



Public charge overview

- **Many immigrants are exempt.** Federal law exempts many people from public charge rules and DHS's new rules cannot change these exemptions.
 - The following people are not subject to public charge rules when applying for status or green cards: Refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa); VAWA self-petitioners; special immigrant juveniles; and certain others.
 - People with green cards cannot be denied U.S. citizenship and cannot be denied reentry to the U.S. after trips abroad of less than 180 days because of a public charge determination.
 - U.S. citizens cannot lose citizenship because of a public charge determination.



What are current public charge policies?

- Under current policy, a public charge is someone who depends almost exclusively on the government for financial support. An immigration official may consider an immigrant's current and past receipt of cash assistance (TANF, GA and SSI) or Long-Term Care Medical Assistance (for nursing home care, for example) when making public charge determinations in the U.S. No other benefits can be considered.



What are DHS's proposed changes?

- On October 10, 2018, the U.S. Department of Homeland Security published proposed new public charge rules. These rules are not in effect today and, if advocacy in opposition to the new rules is successful, they will never take effect.
- If they are implemented, the proposed rules will expand the definition of “public charge” to mean anyone who is likely at any time in the future to use the following public benefits: federal Medicaid (except Emergency Medicaid), SNAP (Food Stamps), housing subsidies, and Medicare Part D subsidies.



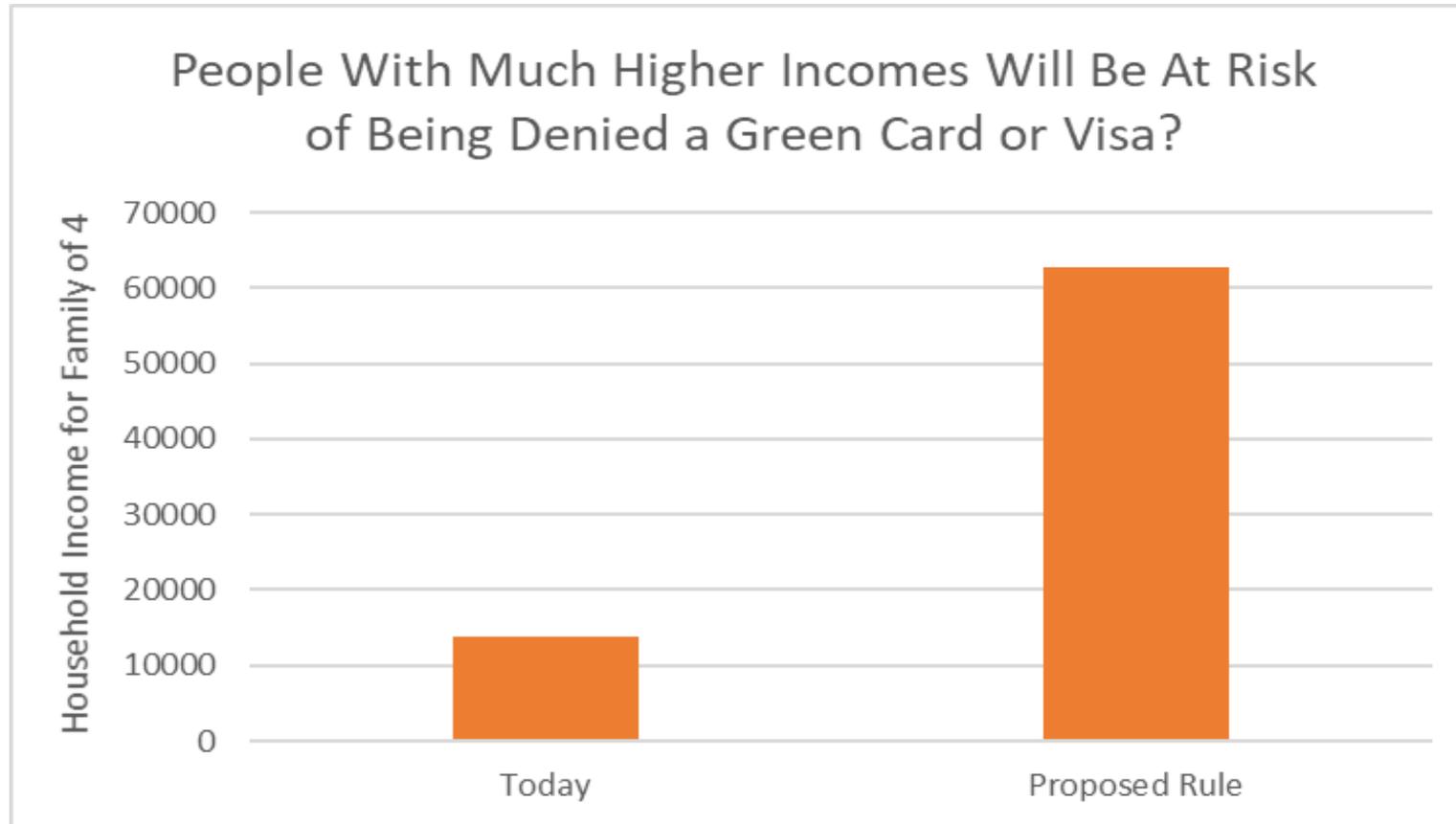
What are DHS's proposed changes?

- **Families with lower and middle incomes are targeted.** Under DHS's proposal, even an immigrant in a family of four making \$62,000/year (about \$7,000 more than the median income in Pennsylvania) could be denied a visa or green card on public charge grounds.
- **Immigrants are penalized for using a wide range public benefits.** Under DHS's proposal, an immigrant's past receipt of the benefits considered under current policy (TANF, GA, SSI, LTC MA), and an immigrant's past receipt of SNAP (Food Stamps), federal Medicaid (except Emergency Medicaid), Medicare Pt. D subsidies, or housing subsidies (section 8 vouchers and project-based) will be heavily and negatively weighed during a public charge determination.

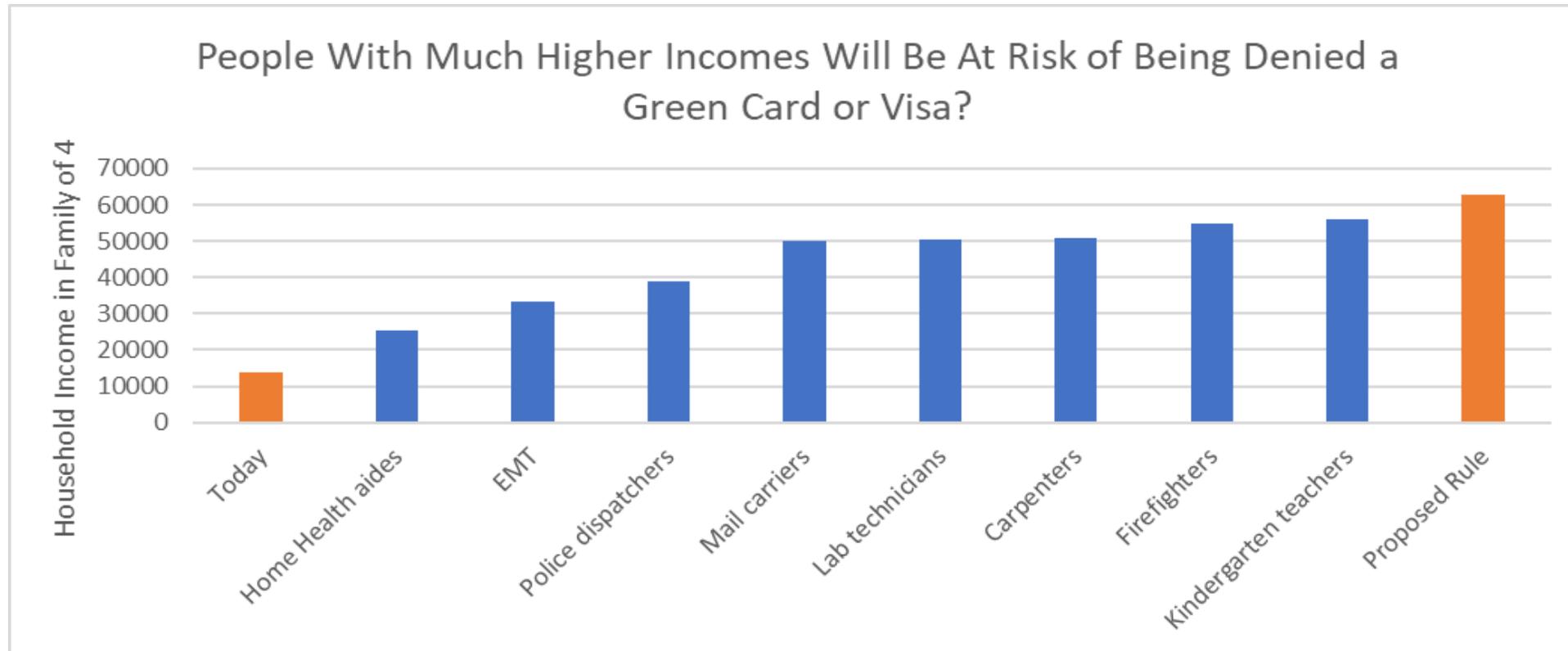
These new benefits are primarily used by working families with incomes up to 150% FPL-250% FPL (\$3138- \$5230/month for family of four). In comparison, families who receive the benefits considered under current public charge policy (TANF, GA, SSI) typically have incomes at no more than 24%-55% FPL (\$497-\$1153/month)



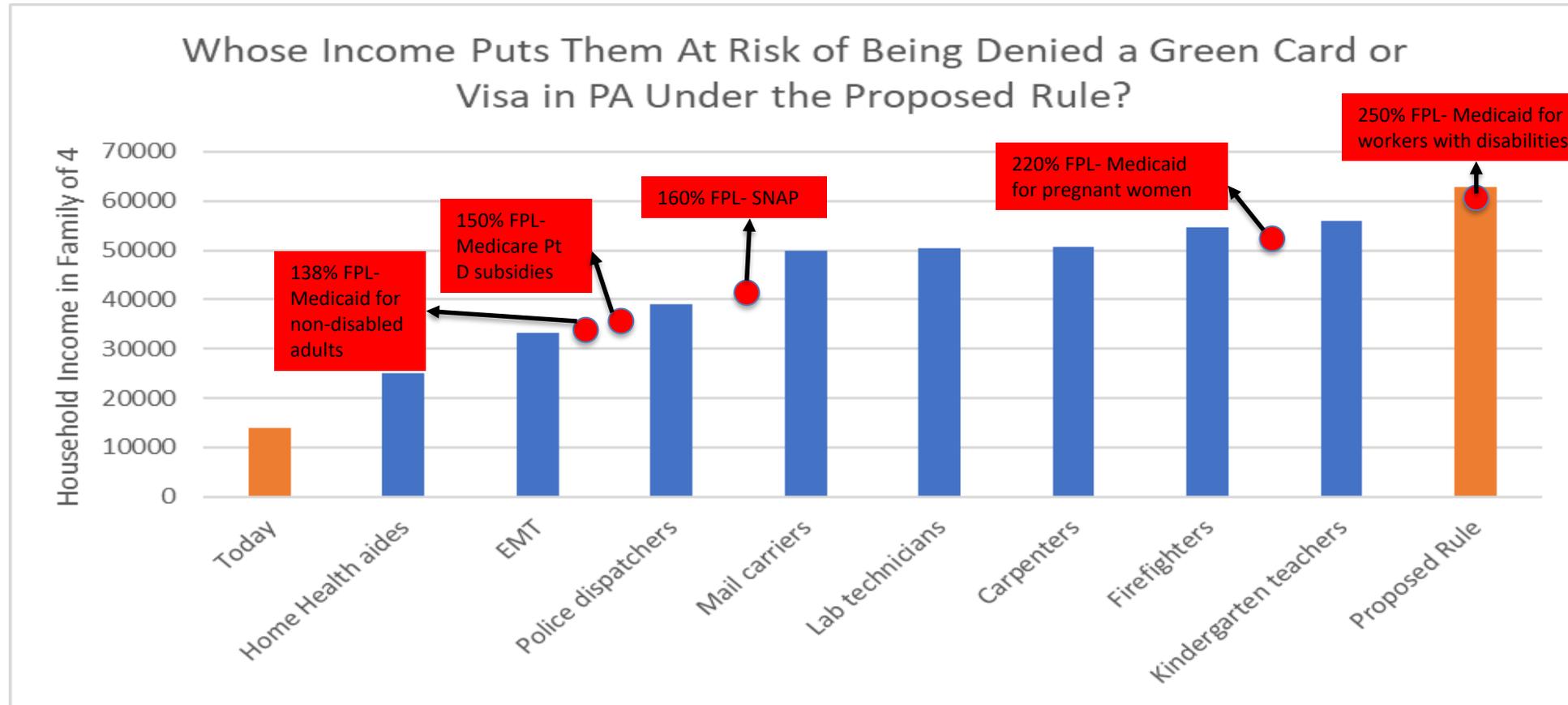
What are DHS's proposed changes?



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What are DHS's proposed changes?

- **All immigrants who are exempt from public charge (see slide 4) will remain exempt.** DHS's new rules cannot change this.
- **No retroactive application.** Benefits that were excluded before the regulation takes effect will not be considered until 60 days after the regulation takes effect. So, if the rule is finalized and implemented as currently drafted on March 1, 2019, a person's receipt of federal MA and/or SNAP before April 30, 2019 will have no effect on a future public charge determination, but a person's receipt of MA and/or SNAP on May 1, 2019 or later could potentially be considered in a future public charge determination. **No reason for people currently eligible for benefits to stop receiving or not apply for benefits.**
- **Family members' receipt of benefits is not considered.** The only person whose benefit receipt can be weighed against a visa/green card applicant during a public charge test is the visa/green card applicant him/herself. **No reason for the family members of people subject to future public charge tests to ever stop getting benefits they are eligible to receive.**



Expected harm of the proposed changes

- More people being denied green cards and visas needed to live with family in the U.S. Family instability, separation.
- More people forgoing benefits they need to meet basic needs.
- Chilling effects: even those who are exempt from public charge will forgo public benefits or immigration benefits they qualify for.
- Widespread economic impacts. State, local, and charitable resources to meet the needs of those forgoing federal benefits; uncompensated health care; fewer dollars being spent in grocery stores, etc.



Expected harm of the proposed changes

- “may have downstream and upstream impacts on state and local economies, large and small businesses, and individuals. For example, the rule might result in reduced revenues for healthcare providers participating in Medicaid, pharmacies that provide prescriptions to participants in the Medicare Part D Low Income Subsidy (LIS) program, companies that manufacture medical supplies or pharmaceuticals, grocery retailers participating in SNAP, agricultural producers who grow foods that are eligible for purchase using SNAP benefits, or landlords participating in federally funded housing programs.”
- “• Worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence; • Increased use of emergency rooms and emergent care as a method of primary health care due to delayed treatment; • Increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated; • Increases in uncompensated care in which a treatment or service is not paid for by an insurer or patient; and • Increased rates of poverty and housing instability; and • Reduced productivity and educational attainment. DHS notes that the proposed rule is likely to produce various other unanticipated consequences and indirect costs. For example, community based organizations, including small organizations, may provide charitable assistance, such as food or housing assistance, for individuals who forego enrollment in public benefit programs.”



The rulemaking process

- Agency publishes a proposed regulation and gives notice to the public of the comment period.
- Comments are accepted during the comment period.
- The comment period closes and the agency reviews comments.
- The agency responds to comments received and publishes the final regulation.
- The regulation becomes effective and is implemented at least 60 days after the final regulation is published.



Timeline of public charge regulation process

- Proposed regulation and notice of 60-day comment period published on October 10, 2018.
- Comment period will end on December 10, 2018
- No specific timeframe for final regulation publication.
- Implementation of regulation 60 days after publication of final regulation, so implementation is still several months away at least.



Why submit comments?

- Voice your opposition!
- Delay finalization/implementation of the rule.
- Put facts and real-life experiences on the record. This will be very important for potential litigation.
- Get responses from DHS. This also could be important for litigation.



Who can submit comments?

Anyone!

- Individuals
 - Immigrants who will be affected, who would've been affected had these rules been in place when they adjusted status, or who will not be directly affected but who are so fearful that they plan to forgo or are already forgoing benefits.
 - People who serve immigrant communities directly- advocates, social workers, case managers, nurses, doctors, teachers, etc.
 - Community members, neighbors, friends, and relatives of immigrants.
- Organizations and businesses: hospitals, clinics, schools, grocery stores, utility companies, food banks, charitable organizations, etc.
- Elected officials and government agencies



How to submit comments

- Regulations.gov

- Less than 5000 words can be entered in the comment box. More can be uploaded as a pdf.
- Only required identifying information is a name. All other information is optional.

- By mail

Samantha Deshommès, Office of Policy and Strategy
U.S. Citizenship and Immigration Services, Department of Homeland Security
20 Massachusetts Ave. NW, Washington, DC

- Comment microsite: submitted to regulations.gov, additional info may be requested for host org's use only.

[Protecting Immigrant Families
campaign](#)

[Anti-Hunger
Young Adults
Asian & Pacific Islanders](#)

[Child Advocacy
Access to Health Care
Faith Traditions](#)



Protecting Immigrant Families microsite (<https://protectingimmigrantfamilies.org>)



[TAKE ACTION](#) [FAQS](#) [RESOURCES](#)

A background image showing a close-up of several hands of different skin tones holding a young child's hand. The child is wearing a blue denim jacket and a white shirt. The image is overlaid with a semi-transparent dark grey box containing text and a button.

**Stop Trump's Cruel Attack on
Immigrant Families**

SUBMIT COMMENT [→](#)

Protecting Immigrant Families microsite template

- I strongly oppose the Department of Homeland Security's proposed rule change to "public charge." The policy will undermine access to essential health, nutrition and shelter for immigrants and their family. By forcing choices no family should have to make, it puts our whole country at risk.
- If finalized, the rule would fundamentally change our nation's historic commitment to welcoming immigrants. No longer would we be the country that serves as a beacon for the world's dreamers and strivers. Instead, America's doors would be open only to the highest bidder.
- The Trump Administration should immediately withdraw its proposal. How you live your life and contribute to your community should define you in this country, not how you look or how much money you have.



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Closing on Dec 10, 2018

Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children

Closing on Nov 06, 2018

International Drug Scheduling; Convention on Psychotropic Substances; Single Convention on Narcotic Drugs; ADB-FUBINACA...

Closing on Oct 31, 2018

The Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks

Closing on Oct 26, 2018

Comments Due Soon

Today (59)

Next 3 Days (99)

Next 7 Days (151)

Next 15 Days (348)

Next 30 Days (658)

Next 90 Days (926)

Newly Posted

Today (126)

Last 3 Days (126)

Last 7 Days (470)

Last 15 Days (964)

Last 30 Days (1,862)

Last 90 Days (5,703)

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FAA Section 333

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Inadmissibility on Public Charge Grounds

This Proposed Rule document was issued by the **U.S. Citizenship and Immigration Services** (USCIS)

For related information, [Open Docket Folder](#)

[Comment Now!](#)

Due Dec 10 2018, at 11:59 PM ET

Action

Notice of proposed rulemaking.

Summary

The U.S. Department of Homeland Security (DHS) proposes to prescribe how it determines whether an alien is inadmissible to the United States under section 212(a)(4) of the Immigration and Nationality Act (INA) because he or she is likely at any time to become a public charge. Aliens who seek adjustment of status or a visa, or who are applicants for admission, must establish that they are not likely at any time to become a public charge, unless Congress has expressly exempted them from this ground of inadmissibility or has otherwise permitted them to seek a waiver of inadmissibility. Moreover, DHS proposes to require all aliens seeking an extension of stay or change of status to demonstrate that they have not received, are not currently receiving, nor are likely to receive, public benefits as defined in the proposed rule.

DHS proposes to define "public charge" as the term is used in sections 212(a)(4) of the Act. DHS also proposes to define the types of public benefits that are considered in public charge inadmissibility determinations. DHS would consider an alien's receipt of public benefits when such receipt is above the applicable threshold(s) proposed by DHS, either in terms of dollar value or duration of receipt. DHS proposes to clarify that it will make public charge inadmissibility determinations based on consideration of the factors set forth in section 212(a)(4) and in the totality of an alien's circumstances. DHS also proposes to clarify when an alien seeking adjustment of status, who is inadmissible under section 212(a)(4) of the Act, may be granted adjustment of status in the discretion of DHS upon the giving of a public charge bond. DHS is also proposing revisions to existing USCIS information collections and new information collection instruments to accompany the proposed regulatory changes. With the publication of this proposed rule, DHS withdraws the proposed regulation on public charge that the former Immigration and Naturalization Service (INS) published on May 26, 1999.

Dates

Written comments and related material to this proposed rule, including the proposed information collections, must be received to the online docket via www.regulations.gov, or to the mail address listed in the ADDRESSES section below, on or before December 10, 2018.

Addresses

You may submit comments on this proposed rule, including the proposed information collection requirements, identified by DHS Docket No. USCIS-2010-0012, by any one of the following methods:

ID: USCIS-2010-0012-0001

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Document Information

Date Posted:

Oct 10, 2018

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1615-AA22

CFR:

8 CFR Parts 103, 212, 213, 214, 245 and 248

Federal Register Number:

2018-21106

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Comments

22,975

Comments Received*

Comment Tips

- Don't recommend ways to make the rule better.
- Submit individual, unique comments.
 - Using templates can be very helpful, but be sure to add your/your organization's own words, stories, experiences, expertise, ideas.
 - One comment with multiple signatories will be counted as just one comment.



Comment tips

- Submit comments on behalf of someone who is too afraid to submit comments in their own name. If possible, detail your relationship to the commenter.
 - Using the same email address for multiple comments is OK.
- Comments are only being accepted in English, unfortunately. Commenters submitting comments in other languages may want to submit a translation with the original comment along with a statement from the translator verifying the accuracy of the translation.



Comment tips

- Protecting Immigrant Families campaign releasing sector-specific templates soon. Over 40 different sectors– e.g., health care, children, hunger, etc.
- If citing research or documents, attach them.
- If including links, specifically request that DHS read the materials at the links.
- If you have expertise, say so. Attach resume or CV.



Spread the word!

- Talk to your communities. Lots of people have heard the rumors. Make sure they have good info and know how to make their voices heard.
- Host community information sessions.
- Host comment clinics or comment parties.
- Talk to local public officials and media.



Resources

- The Protecting Immigrant Families Campaign:
<https://protectingimmigrantfamilies.org/resources/>
- USCIS current public charge policy has not changed and is still available on its website: <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>
- PICC/CLS webinars.
- Stay tuned for more PA-specific data.

