Updates on USDA proposed rules

September 2019
Federal law provides the basic eligibility rules for SNAP.

There are two basic pathways to gain financial eligibility for SNAP: (1) having income and resources below specified levels set out in federal SNAP law; and (2) being “categorically,” or automatically, eligible based on receiving benefits from other specified low-income assistance programs.

If a client is eligible for or receives benefits from TANF, Supplemental Security Income (SSI), or state-financed GA programs they are therefore categorically, or automatically, eligible for SNAP.
The proposed rule takes away SNAP benefits from as many as 46,000 vulnerable Nevadans. For California, that number would be over 250,000 vulnerable people.

Many low-income people, including low-income working families, older Americans, people with disabilities will lose benefits and some children will lose access to the free school lunch program.

The proposed rule puts pressure on hunger-relief organizations, like you!

It is unlikely that Feeding America or the Food Bank of Northern Nevada can shoulder this burden. For each meal provided by Feeding America, SNAP provides 9 meals. Private charity simply cannot compensate for the breadth of the impact of cuts to the program.
A single parent with two kids making $12.75 an hour would receive $96 a month from SNAP under normal rules. If she got a 50-cent raise, that individual would exceed the 130-percent SNAP eligibility threshold and lose all their benefits. Under broad-based categorical eligibility, her SNAP benefits would just be reduced to $65 a month.
“Public charge” or the “public charge test” is used by immigration officials to decide whether a person can enter the U.S. or get a green card (Lawful Permanent Resident (LPR) status).
The final rule goes into effect on Oct. 15, 2019, and will only be applied to applications and petitions postmarked (or, if applicable, submitted electronically) on or after Oct. 15, 2019. Applications and petitions postmarked (or, if applicable, submitted electronically) before Oct. 15, 2019 do not apply.

The final rule changes the definitions for public charge and public benefits, and changes the standard that DHS uses when determining whether an alien is likely to become a “public charge” at any time in the future and is therefore inadmissible and ineligible for admission or adjustment of status.

THE PROPOSED CHANGES DO NOT AFFECT A PERSON’S ELIGIBILITY FOR BENEFITS!
Many immigrants are not subject to public charge:

- Refugees and asylees
- Special Immigrant Juvenile Status
- U nonimmigrant status
- Violence Against Women Act self-petitioners (VAWA)
- T nonimmigrant status
- DACA
- Temporary Protected Status
- Others (Amerasians; Afghan and Iraqi military translators; certain Cuban and Haitian adjustment applicants; certain Nicaraguans and Central Americans under NACARA; Registry applicants; Soviet and Southeast Asian Lautenberg parolees)
- Most legal permanent residents
- U.S. citizens
Immigration officials are required by law to consider:

- age
- health
- assets, resources, and financial status
- family status
- education and skills
- affidavit of support
- other factors may be considered

DHS must consider the totality of circumstances
Programs that **currently “count”**
- Cash assistance
- Long term institutionalization

Programs that **do not “count”**
- Health and nutrition programs
- Any non-cash assistance

*Use of Benefits by Family members do not count against you*
Public Charge Final Rule

Weighted Factors

**Positive**—Includes having income and assets of at least 250 FPL

**Negative**—Includes receiving public benefits in the past 36 months

Benefits Considered in the Final Rule

- Medicaid (federally-funded Medi-Cal), **NOT including**:
  - Emergency services
  - School-based benefits to children
- Food Stamps- SNAP (federally-funded CalFresh)
- Section 8 housing assistance
  - Subsidized housing
  - Financial assistance under Medicare Part D
- Long-term care
  - Cash assistance: SSI, TANF, General Assistance, Long Term Care
Public Charge Final Rule

What does NOT count against the immigrant?

- **BENEFITS USED BY U.S.-CITIZEN FAMILY MEMBERS!!**
- Children’s Health Insurance Program (CHIP) – this may change in final rule
- Emergency and school-based Medicaid
- Emergency and disaster relief
- Services available to the community as a whole (no income requirement)
- WIC
- Public health services
- School-based nutrition services and public education, including Head Start
- Earned benefits, such as unemployment, social security retirement, workers compensation
- Tax credits
- Any other federal, state, or local benefit that is not listed on the prior list
- Benefits used by members of the military, Ready Reserve, and their spouses and children

Receipt of benefits by dependents (including U.S. citizen children) will not directly be a factor in applicant’s public charge test.
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If a child or family member is an immigrant, his/her own use of benefits counts toward his/her own public charge determination.

Dependents are included in the calculation of household size and may make it harder for immigrants to meet the income test.

All immigrants and their family members can and should apply for and receive all benefits they are otherwise eligible for.