

# How Would the Public Charge Rule Impact Families Seeking and Using Federal Housing Assistance?

On October 10, 2018, the U.S. Department of Homeland Security (DHS) published a proposed rule that seeks to change the way in which DHS determines whether an immigrant is likely to become a “public charge.” **The proposed rule would affect immigrant families that use or qualify for federal housing assistance.**



## What is a public charge?

Currently, many noncitizens are subject to a “public charge” test as part of their immigration process. The test looks at whether an individual is likely to be “**primarily dependent** on the government for subsistence, as shown by either the receipt of **public cash assistance** or institutionalization for long-term care at the government’s expense” (emphasis added). **The current test does not consider federal housing assistance.** If a person is determined to be a public charge, they can be denied admission into the U.S or denied a green card.



## How does the proposed rule change the public charge test?

The proposed rule would change the public charge test to examine whether an applicant **uses or receives, or is likely to use or receive, one or more public benefits, including non-cash benefits, such as certain federal housing assistance.** This means that immigrants and their families may be forced to choose between receiving critical benefits and risking their ability to enter or stay in the United States.



## What affordable housing programs are covered by the rule?

The proposed rule explicitly includes three federal housing programs: Section 8 Housing Choice Voucher Program, Project-Based Section 8 Rental Assistance (including Section 8 Moderate Rehabilitation), and Public Housing.



## Who would be directly affected by the rule?

The rule would primarily affect noncitizens who are applying for lawful permanent resident status (a green card), individuals seeking an extension of or changes to their non-immigrant status, and immigrants seeking admission into the U.S.

Some immigrants will not be subject to the public charge test. These include refugees, asylees, survivors of trafficking and other serious crimes, self-petitioners under the Violence Against Women Act, special immigrant juveniles, certain people who have been paroled into the U.S., as well as lawful permanent residents applying for U.S. citizenship.

However, certain immigrants who currently receive or are eligible to receive public housing and Section 8 subsidies (such as parolees) would be subject to the public charge test, if they apply for a green card.



## Will an applicant's children's use of housing benefits count against the applicant?

The proposed rule **will not consider whether an applicant's children, including both immigrant and U.S. citizen children, have ever sought, received, or used public benefits.** The test only looks at the applicant's personal use of these benefits — **children's use of these benefits will not be counted against their parents.** However, if a child is applying for status themselves, any subsidy they receive would be weighed against them in a public charge test.



## How else will this rule impact immigrant families?

The proposed rule will force noncitizens to choose between accessing benefits for which they are eligible and maintaining their immigration status, directly impacting thousands of immigrant families' access to housing and other lifeline assistance programs.

The chilling effect of the rule cannot be underestimated. Because the proposed rule changes long-standing federal policy and has created confusion over the extent of its reach, we are already hearing about immigrants and their families foregoing critical assistance. This means family budgets will be tightened, directly impacting the amount of money a family has for housing. The rule could place millions of immigrants at risk of homelessness.



## I am worried the rule applies to me. Should I give up my benefits?

This is only a proposed rule. **The final rule will not be in effect for several months to a year or more from now.** There is significant value for families to continue to receive housing and nutrition assistance and healthcare. Individuals with questions about their situation should consult an immigration attorney.



## What can I do?

You can fight back by submitting comments to DHS explaining why this rule would have a catastrophic impact on you, your family, friends, neighbors, tenants, and clients. The deadline to submit comments is **December 10, 2018**. You can submit comments via [regulations.gov](https://www.regulations.gov) or going to the Protecting Immigrant Families Campaign's [website](#).



## Where can I get more information?

The Protecting Immigrant Families Campaign's [website](#) has up-to-date resources on the public charge rule and related policies. This [fact sheet](#) by the Center for Law and Social Policy has more details regarding the proposed public charge rule. For a deep dive into the housing implications of the proposed rule, see our ["Technical" Public Charge Fact Sheet](#).

For further assistance, please contact Karlo Ng at [kng@nhlp.org](mailto:kng@nhlp.org), or Arianna Cook-Thajudeen at [acooktha@nhlp.org](mailto:acooktha@nhlp.org).