Community Foundation
of Greater Dubuque

700 Locust Street, Suite 195
Dubuque, IA 52001
563.588.2700
www.dbqfoundation.org

Public Charge Rule

Prepared by JoAnna Dillon – Intern from Loras College
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A group of regulations commonly referred to as The Public Charge rule has been adjusted recently in an effort to limit immigrants from receiving their permanent residence if immigration officials deem them a significant risk to be a public charge either now or in the future. The Public Charge rule was first introduced by Congress in 1882, but historically the rule only denied immigrants if they were “primarily dependent” on cash benefits from the government. Previously, only 1% of immigrants were deemed a public charge, but this number is expected to increase greatly with the new standards. Judges at the local level across the US immediately recognized concerns and placed a nationwide injunction on the rule. The injunction was overturned in a 5-4 Supreme Court decision, and the new rule will go into effect on February 24, 2020.

Description of Changes

In general, the rule makes it much easier to deny permanent residence (a green card) to immigrants based on the discretion of immigration officers. The new regulations raise the requirements to avoid being labeled a public charge. Under the new rule, the following qualifications could lead to an immigrant having their green card denied:

1. **Use of Public Benefits:** If immigrants use any of the public assistance programs 12 times within a 36 month period, they may be considered ineligible for permanent residence. The following are benefits that are considered under the Public Charge rule:
    - General assistance programs such as Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF)
    - Medicare programs such as Medicaid (especially institutionalization for long-term care), Medicare Part D, and the Supplemental Nutrition Assistance Program (SNAP)
    - Housing Assistance such as section 8 housing assistance and section 9 public housing
    - Past use of a fee waiver in immigration applications (Services 2020)

2. **Income:** The Department of Homeland Security (DHS) has stated that the immigrant’s household income should meet or exceed 250% of the poverty guidelines. This is twice as much as what was previously expected of immigrants. An immigrant family of four would need to make $63,000 or more to be 250% above the poverty guidelines. The United States Census Bureau reports that the average income in the US is $57,652. 40% of United States born persons would not be able to meet the standards themselves.

3. **Personal and Family:** In addition to past use of benefits, officers will have the discretion to consider other factors that suggest an immigrant might use benefits in the future, including age, health status, family size, occupational skills, and current financial status. The factors specifically disadvantage vulnerable populations including people with health concerns and low economic social status.

The Public Charge rule only affects immigrants applying for their Green Card, not refugees, asylum seekers, or undocumented immigrants. It doesn’t consider the WIC program, CHIP, school-based benefits, disaster relief, Head Start, Earned Income Tax/Child Tax credit, emergency Medicaid, foster and adoption care, Benefits under the Disabilities Education Act, or private health insurance.

Who is Impacted

Of the four million immigrants that have arrived in the past five years, 2.3 million (56%) would not have met the 250% standard according to the Migration Policy Institute (MPI). Additionally, the rule will disproportionately target immigrants from certain regions of the world.

- 71% of Mexican and Central American immigrants would fail to meet threshold
- 69% of African immigrants would fail
- 52% of Asian immigrants would fail
- Only 36% of immigrants from Europe, Canada, and Oceania would fail to meet the threshold.

This means that the new regulations will serve primarily to limit the number of non-white immigrants in favor of growing the population of immigrants from Western countries.

Family reunification has traditionally been a focus of immigration policy in the US. In 2017, 66% of the total green cards issued were given to immigrants who were accepted based on having family in America, but if immigrants cannot demonstrate sufficient income, families will no longer be able to be reunited. In addition, the rule will further impact the 31% of immigrant spouses on temporary visas that do not include work authorization (student visas, travel visas, etc.), as their partners will have to meet the income threshold on their salary alone.

Finally, immigrants that are disabled are also more likely to be deemed ineligible, as a result of barriers to work and increased reliance on Medicaid and other benefits.

Consequences of Reducing Benefits

The new rule will force some immigrants to choose between their green card and sustaining a safe and healthy home life, which has ramifications for the general public.

- If individuals are not able to receive Supplemental Nutrition Assistance Program (SNAP) benefits, they are more likely to face health concerns due to lack of nutrition. This is especially dangerous for pregnant and breastfeeding woman, infants, and children. Schools often end up reallocating resources to help these children who struggle from hunger and poor nutrition.
- If immigrants choose to avoid non-emergency medical appointments because they cannot afford them, this can lead to millions of dollars in preventable emergency health costs that will be paid by local and state governments. The lack of medical care in immigrant populations may also increase the prevalence of communicable diseases, impacting the general population.
- The inability to receive public assistance when needed may reinforce financial challenges. This only increases the likelihood that immigrants will need emergency health care and be unable to secure work due to lack of transportation, child care, and other necessities.

Economy

Lawmakers have supported the new rule in an effort to preserve public aid for existing residents. However, research suggests that low-income immigrants are less likely to use Medicaid, food aid, and cash assistance in comparison to low-income individuals born in the United States.[1] Despite the common misconception that immigrants are an economic burden on the country, numerous studies show they are greatly beneficial by working in a variety of industries while also providing a positive net contribution to the economy when analyzing the benefits they receive versus the taxes they contribute.[2]

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[1] For more information visit Adam Liptak's article "Supreme Court Allows Trump's Wealth Test for Green Cards" at https://www.nytimes.com/2020/01/27/us/supreme-court-trump-green-cards.html.

[2] Visit Univision: "What's behind Trump's New Green Card Rule? Is it Really About Saving Money, or Just an Excuse to Reduce Immigration?" by David Adams at https://www.univision.com/univision-news/immigration/whats-behind-trumps-new-green-card-rule-is-it-really-about-saving-money-or-just-an-excuse-to-reduce-immigration for more information.