

Only Wealthy Immigrants Need Apply: The Chilling Effects of “Public Charge”

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In August 2019, the Department of Homeland Security published a final rule on the “public charge” ground of inadmissibility for immigrants who are applying for a green card or immigrant visa from within the United States. Originally scheduled to go into effect on October 15, 2019, the rule was blocked temporarily by several federal courts. However, the U.S. Supreme Court ruled on January 27, 2020, that it can go into effect—and it does so today.

The “public charge” inadmissibility test has been part of federal immigration law for more than one hundred years. Federal law allows the government to deny permanent residence (a “green card”) to a person “likely at any time to become a public charge.” The Trump administration’s new regulations significantly stiffen this forward-looking test. It imposes higher income thresholds as well as new preferences for those over 18 and under 61, those who meet certain health requirements, and those who meet certain education and skill requirements. It also expands the type of public benefits that can be considered in a “public charge” determination.¹

The public charge rule will make it much more difficult for low- and moderate-income families to make their lives in the United States if they are considered likely to use public benefits such as nutrition, housing, and health care programs for which they may legally qualify.² The Trump administration’s version of the rule takes such a drastic view of what constitutes a benefit that if it were applied to the U.S.-born population—Americans who are not immigrants—roughly half might not be deemed acceptable to stay in the United States.³

Excluding people from being able to stay in the United States is only part of the problem of the new public charge rule. The Pennsylvania Budget and Policy Center and the New York Fiscal Policy Institute also predict that the rule will have a widespread chilling effect on the willingness of millions of immigrants who are eligible for support to seek it. Hundreds of thousands of immigrants in Pennsylvania will be unnecessarily deterred from seeking critical services for themselves or their children. These programs help working families get through hard times, maintain their health, and raise children who thrive.

In Pennsylvania, 338,000 people will experience a chilling effect, with negative impacts rippling through the economy.

The Supreme Court ruling ignored the finding of five courts that plaintiffs are likely to succeed in arguing that the DHS rule is unlawful. Yet the Supreme Court rejected these arguments and the public charge rule goes into effect today.

Updating an analysis the Fiscal Policy Institute first published in 2018, we estimate that when the rule goes into effect, 338,000 people in Pennsylvania would experience what we call a chilling effect from the public charge rule—*anxiety and confusion about whether applying for public benefits will affect their immigration status or that of their family members.* This “chilled” population includes everyone in a family with an immigrant who is not a naturalized citizen and who is currently receiving one of the public benefits named in the rule. Among the people in the chilled population are 127,000 children under 18 years old, the large majority of whom (111,000) are U.S. citizens by birth. *State-level analysis of the chilling effect is available in the table below for all 50 states and the District of Columbia.*

Not everyone who is concerned about public charge will avoid enrolling in programs for which they qualify. Based on research available at the time, which took into account past experience, our central estimate in the 2018 report projected a 25% drop-off in enrollment.⁴ An important survey conducted since that time has reinforced the appropriateness of that estimate. Even before the rule went into effect, the survey found that among immigrant families, 21% of adults in low-income families—the ones who would likely meet income eligibility requirements for most of these programs—reported that someone in their family avoided benefits.⁵ Advocates and service providers will assuredly work closely with immigrants and their families to help them understand whether they are likely to face a public charge designation and which benefits may be considered. The projected drop-off rate takes this into account since the past experience was also at a time when advocates and service providers worked to clarify the rules.

Looking only at health and nutrition supports, the two largest benefits named, this 25% drop in enrollment for the chilled population translates into \$162 million in lost federal benefits across Pennsylvania. The loss of federal benefits in turn will create negative local economic ripple effects. Businesses such as grocery stores and supermarkets will lose income due to the decrease in SNAP recipients. Hospitals, doctors, and nurses will lose income with a reduction in Medicaid and CHIP. Many other businesses will lose revenue as immigrant families that struggle to make up for the lost health care and nutrition benefits shift their spending priorities. This reduction in spending and income will result in lower investment and related job loss. The predicted loss to the Gross State Product (GSP) of Pennsylvania is as much as \$314 million, leading to a loss of 2,140 jobs, and \$12 million in lost state tax revenue.⁶

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**—U.S. District Court Judge
George B. Daniels**

The human and economic impacts are large even if we use more conservative estimates about the chilling effect. It is possible, for example, that children’s use of Medicaid will decline less than that of adults since the final rule clarifies that Medicaid use for children is not to be considered in public charge determinations.

Our more conservative estimate assumes that parents will recognize that CHIP and Medicaid for children are excluded from the public charge rule and that there will be no drop in enrollment for children. Further, we assume that the drop-off rate for SNAP and for adults in Medicaid is 15% rather than 25%.

Even with these considerably more conservative assumptions, however, the human and economic impact remains very large. The projected loss in federal benefits is \$72 million spread throughout the state. The projected decline in GSP due to economic ripple effects is as much as \$135 million; the projected job loss is 916.

Judge George B. Daniels of the United States District Court of the Southern District of New York was palpably offended by the new public charge rule. In the preliminary injunction that temporarily halted the rule from going into effect, Judge Daniels wrote that members of the Trump administration “do not articulate why they are changing the public charge definition, why this new definition is needed now, or why the definition set forth in the rule—which has absolutely no support in the history of U.S. immigration law—is reasonable. The rule is simply a new agency policy of exclusion in search of a justification.” The rule, Judge Daniels says further, “will punish individuals for their receipt of benefits provided by our government, and discourages them from lawfully receiving available assistance intended to aid them in becoming contributing members of our society.” And, he says this new public charge rule “is repugnant to the American Dream of the opportunity for prosperity and success through hard work and upward mobility.”⁷

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Who Will Experience a Chilling Effect?

Immigrants and Others with at Least One Non-Citizen in the Family Who Have Received a Benefit Named in the Public Charge Rule

| | Children Under 18 | | Adults | | All |
|----------------------|-------------------|--------------|---------------|--------------|--------------|
| | U.S. Citizens | Non-Citizens | U.S. Citizens | Non-Citizens | Total |
| Alabama | 46,000 | 3,000 | 15,000 | 42,000 | 106,000 |
| * Arizona | 290,000 | 30,000 | 160,000 | 320,000 | 810,000 |
| Arkansas | 41,000 | 5,000 | 10,000 | 44,000 | 99,000 |
| * California | 2,050,000 | 190,000 | 1,420,000 | 2,560,000 | 6,220,000 |
| Colorado | 122,000 | 21,000 | 38,000 | 142,000 | 323,000 |
| Connecticut | 52,000 | 12,000 | 38,000 | 84,000 | 186,000 |
| Delaware | 15,000 | 2,000 | 5,000 | 21,000 | 43,000 |
| District Of Columbia | 12,000 | 3,000 | 5,000 | 24,000 | 44,000 |
| * Florida | 480,000 | 100,000 | 320,000 | 760,000 | 1,660,000 |
| * Georgia | 240,000 | 30,000 | 80,000 | 260,000 | 610,000 |
| * Hawaii | 30,000 | 10,000 | 30,000 | 50,000 | 110,000 |
| Idaho | 34,000 | 2,000 | 11,000 | 33,000 | 80,000 |
| * Illinois | 300,000 | 50,000 | 190,000 | 410,000 | 950,000 |
| Indiana | 69,000 | 10,000 | 23,000 | 65,000 | 166,000 |
| Iowa | 27,000 | 6,000 | 13,000 | 37,000 | 83,000 |
| Kansas | 51,000 | 5,000 | 15,000 | 51,000 | 123,000 |
| Kentucky | 39,000 | 9,000 | 8,000 | 55,000 | 110,000 |
| Louisiana | 41,000 | 10,000 | 13,000 | 39,000 | 103,000 |
| * Maryland | 120,000 | 30,000 | 60,000 | 170,000 | 380,000 |
| * Massachusetts | 130,000 | 30,000 | 100,000 | 250,000 | 500,000 |
| Michigan | 94,000 | 20,000 | 57,000 | 113,000 | 283,000 |
| Minnesota | 74,000 | 15,000 | 35,000 | 89,000 | 212,000 |
| Nebraska | 34,000 | 5,000 | 10,000 | 37,000 | 86,000 |
| Nevada | 90,000 | 9,000 | 46,000 | 99,000 | 244,000 |
| * New Jersey | 210,000 | 40,000 | 130,000 | 310,000 | 690,000 |
| * New Mexico | 60,000 | 10,000 | 40,000 | 70,000 | 170,000 |
| * New York | 580,000 | 100,000 | 440,000 | 940,000 | 2,070,000 |
| * North Carolina | 210,000 | 40,000 | 60,000 | 220,000 | 530,000 |
| Ohio | 84,000 | 6,000 | 27,000 | 101,000 | 218,000 |
| Oklahoma | 60,000 | 6,000 | 19,000 | 63,000 | 148,000 |
| Oregon | 105,000 | 9,000 | 47,000 | 115,000 | 276,000 |
| Pennsylvania | 111,000 | 16,000 | 65,000 | 146,000 | 338,000 |
| Rhode Island | 21,000 | 4,000 | 15,000 | 29,000 | 69,000 |
| South Carolina | 36,000 | 4,000 | 9,000 | 40,000 | 90,000 |
| Tennessee | 76,000 | 10,000 | 13,000 | 82,000 | 181,000 |
| * Texas | 1,190,000 | 130,000 | 480,000 | 1,210,000 | 3,010,000 |
| Utah | 47,000 | 6,000 | 16,000 | 52,000 | 120,000 |
| Virginia | 127,000 | 24,000 | 53,000 | 151,000 | 355,000 |
| * Washington | 200,000 | 40,000 | 120,000 | 230,000 | 580,000 |
| Wisconsin | 67,000 | 6,000 | 33,000 | 58,000 | 165,000 |
| United States | 7.8 million | 1.2 million | 4.6 million | 10.2 million | 23.8 million |

FIG. 1 Analysis prepared by the Center on Budget and Policy Priorities for the Fiscal Policy Institute. States marked with an asterisk use data from 2013 to 2015. All other states use data from 2011 to 2015 to get a larger sample size. The United States as a whole is calculated using single-year data from 2015. The following states do not have a large enough sample to include in this table: Alaska, Maine, Mississippi, Missouri, Montana, New Hampshire, North Dakota, South Dakota, Vermont, West Virginia, and Wyoming. Totals may not sum due to independent rounding. For more details on the analysis, see the accompanying document, “Methodology for Public Charge Estimates,” also available at www.fiscalspolicy.org/publicchargemethodology. Not all who experience the chilling effect will avoid enrollment in programs for which they qualify. For projected reductions in benefits, see figure 2.

Impact of Public Charge Rule Chilling Effect on State Economies Central Estimate and a More Conservative Scenario

| | Reduction in Federal Funds for SNAP and Medicaid/CHIP in millions | | Lost State Economic Output (GDP) in millions | | Lost Jobs in State | | Lost State Tax Revenue in millions | |
|----------------------|---|--|--|--|----------------------------|--|------------------------------------|--|
| | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP |
| Alabama | \$41 | \$14 | \$77 | \$23 | 525 | 156 | \$4 | \$1.1 |
| Alaska | \$18 | \$8 | \$36 | \$15 | 243 | 105 | \$0.8 | \$0.3 |
| Arizona | \$405 | \$168 | \$785 | \$312 | 5,346 | 2,121 | \$37 | \$15 |
| Arkansas | \$46 | \$11 | \$90 | \$19 | 613 | 131 | \$7 | \$2 |
| California | \$3,613 | \$1,715 | \$7,009 | \$3,212 | 47,717 | 21,872 | \$383 | \$175 |
| Colorado | \$155 | \$72 | \$298 | \$131 | 2,028 | 890 | \$12 | \$5 |
| Connecticut | \$131 | \$64 | \$256 | \$122 | 1,744 | 829 | \$18 | \$9 |
| Delaware | \$28 | \$12 | \$54 | \$22 | 368 | 150 | \$3 | \$1.1 |
| District of Columbia | \$43 | \$18 | \$84 | \$35 | 571 | 240 | \$4 | \$2 |
| Florida | \$665 | \$355 | \$1,237 | \$618 | 8,421 | 4,209 | \$50 | \$25 |
| Georgia | \$231 | \$80 | \$437 | \$136 | 2,978 | 926 | \$17 | \$5 |
| Hawaii | \$66 | \$36 | \$127 | \$65 | 865 | 445 | \$10 | \$5 |
| Idaho | \$28 | \$9 | \$54 | \$17 | 369 | 115 | \$3 | \$1.0 |
| Illinois | \$416 | \$197 | \$797 | \$359 | 5,425 | 2,443 | \$38 | \$17 |
| Indiana | \$82 | \$33 | \$157 | \$60 | 1,068 | 412 | \$8 | \$3 |
| Iowa | \$44 | \$21 | \$83 | \$38 | 568 | 259 | \$4 | \$2 |
| Kansas | \$40 | \$12 | \$78 | \$21 | 530 | 142 | \$4 | \$1.1 |
| Kentucky | \$58 | \$24 | \$112 | \$44 | 765 | 301 | \$7 | \$3 |
| Louisiana | \$34 | \$13 | \$65 | \$23 | 442 | 157 | \$3 | \$0.9 |
| Maine | \$13 | \$6 | \$25 | \$11 | 173 | 73 | \$2 | \$0.7 |
| Maryland | \$203 | \$86 | \$397 | \$162 | 2,702 | 1,102 | \$22 | \$9 |
| Massachusetts | \$395 | \$192 | \$776 | \$369 | 5,281 | 2,514 | \$41 | \$19 |
| Michigan | \$153 | \$76 | \$292 | \$137 | 1,988 | 935 | \$16 | \$8 |
| Minnesota | \$165 | \$79 | \$321 | \$151 | 2,189 | 1,025 | \$24 | \$11 |
| Mississippi | \$14 | \$4 | \$28 | \$7 | 191 | 49 | \$2 | \$0.5 |
| Missouri | \$44 | \$18 | \$84 | \$31 | 573 | 212 | \$3 | \$1.3 |
| Montana | \$3 | \$1 | \$6 | \$2 | 39 | 10 | \$0.3 | \$0.1 |
| Nebraska | \$31 | \$13 | \$60 | \$23 | 406 | 155 | \$3 | \$1.0 |
| Nevada | \$101 | \$56 | \$189 | \$97 | 1,285 | 661 | \$10 | \$5 |
| New Hampshire | \$12 | \$6 | \$22 | \$11 | 153 | 74 | \$0.8 | \$0.4 |
| New Jersey | \$367 | \$174 | \$709 | \$322 | 4,826 | 2,193 | \$38 | \$17 |
| New Mexico | \$146 | \$52 | \$285 | \$96 | 1,937 | 654 | \$17 | \$6 |
| New York | \$1,845 | \$976 | \$3,599 | \$1,862 | 24,507 | 12,677 | \$158 | \$82 |
| North Carolina | \$214 | \$69 | \$409 | \$120 | 2,785 | 817 | \$21 | \$6 |
| North Dakota | \$9 | \$5 | \$17 | \$9 | 115 | 62 | \$1.2 | \$0.7 |
| Ohio | \$107 | \$51 | \$208 | \$96 | 1,416 | 651 | \$10 | \$4 |
| Oklahoma | \$74 | \$22 | \$141 | \$39 | 962 | 263 | \$7 | \$2 |
| Oregon | \$200 | \$90 | \$393 | \$172 | 2,675 | 1,174 | \$23 | \$10 |
| Pennsylvania | \$162 | \$72 | \$314 | \$135 | 2,140 | 916 | \$12 | \$5 |
| Rhode Island | \$64 | \$31 | \$125 | \$59 | 850 | 398 | \$7 | \$3 |
| South Carolina | \$55 | \$22 | \$104 | \$37 | 709 | 252 | \$5 | \$2 |
| South Dakota | \$6 | \$3 | \$11 | \$5 | 73 | 32 | \$0.4 | \$0.2 |
| Tennessee | \$103 | \$31 | \$199 | \$55 | 1,352 | 372 | \$8 | \$2 |
| Texas | \$1,325 | \$503 | \$2,520 | \$876 | 17,155 | 5,966 | \$84 | \$29 |
| Utah | \$54 | \$16 | \$104 | \$29 | 707 | 195 | \$5 | \$1.3 |
| Vermont | \$8 | \$4 | \$16 | \$8 | 111 | 56 | \$2 | \$0.8 |
| Virginia | \$96 | \$35 | \$183 | \$61 | 1,243 | 414 | \$8 | \$3 |
| Washington | \$326 | \$172 | \$631 | \$323 | 4,294 | 2,199 | \$27 | \$14 |
| West Virginia | \$5 | \$3 | \$10 | \$5 | 70 | 34 | \$0.7 | \$0.4 |
| Wisconsin | \$70 | \$35 | \$133 | \$62 | 908 | 421 | \$8 | \$3 |
| Wyoming | \$2 | \$1 | \$4 | \$2 | 30 | 11 | \$0.2 | \$0.1 |
| United States | \$12,518 | \$5,765 | \$24,151 | \$10,644 | 164,430 | 72,470 | \$1,177 | \$522 |

FIG. 2 Estimates for direct impact were provided to the Fiscal Policy Institute by the Center on Budget and Policy Priorities and for economic impacts by the Economic Policy Institute. Modeling of impacts conducted by FPI. For details on the analysis, see the accompanying document “Methodology for Public Charge Estimates,” also available at www.fiscalpolicy.org/publicchargemethodology.

Endnotes

¹ Protecting Immigrant Families, “Changes to Public Charge: Analysis and Frequently Asked Questions,” updated February 3, 2020. Different rules currently apply for those applying for a visa from abroad.

² The rule applies a different, less restrictive charge public test to people seeking to extend or change their temporary status (such as student or employment visas) in the United States. This test for non-immigrants, looks only at whether the person has used a listed benefit for more than a total of 12 months during a 36-month period since the nonimmigrant status was granted. And non-immigrants are generally not eligible for the listed benefits.

³ Danilo Trisi, “Administration’s Public Charge Rules Would Close the Door to U.S. to Immigrants Without Substantial Means,” Center on Budget and Policy Priorities, November 11, 2019.

⁴ Several studies led us to the 25% estimate. One worth noting showed a drop in participation in public benefits programs after welfare and immigration law changes in the 1990s that was 26 percentage points greater for households with a non-citizen than it was for citizen households, a differential that can be attributed to the chilling effect for immigrants who were worried that making use of public benefits for which they qualified could create immigration status problems for themselves or other family members. See M.E. Fix and J.S. Passel, “Trends in Noncitizens’ and Citizens’ Use of Public Benefits Following Welfare Reform: 1994-1997,” Urban Institute, 1999.

⁵ H. Bernstein, D. Gonzalez, M. Karpman, and S. Zuckerman, “One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018.” Urban Institute, 2019.

⁶ Community Legal Services of Philadelphia has reported that the Pennsylvania Department of Human Services has slightly higher estimates of the potential PA immigrants who would lose SNAP and Medicaid benefits which leads to a larger estimate of lost federal SNAP and Medicaid funds in Pennsylvania state. We estimate that there are 162,000 Pennsylvania non-citizen immigrants enrolled in benefits that would be problematic under the public charge rule; PA DHS estimates that the number is 174,000. Using the higher figure, CLS calculates that direct losses of federal Medicaid and SNAP dollars in PA would come to \$186 million with a 25% enrollment reduction, \$24 million more than our estimate of \$163 million.

The difference in the estimate is likely explained by our using Census data and national aggregates rather than data directly from the PA Department of Human Services. With a slightly higher loss in benefits, our estimates of the potential losses to the state economy, losses to state tax revenue, and job losses in the state would be slightly higher.

⁷ *State of New York, City of New York, State of Connecticut, and State of Vermont v. United States Department of Homeland Security, Secretary Kevin K. McAleenan*, October 11, 2019. David Dyssegaard Kallick is an expert witness in the case.