

## **PUBLIC CHARGE: A NEW THREAT TO LGBTQ IMMIGRANT FAMILIES AND INDIVIDUALS**

### **WHAT IS PUBLIC CHARGE**

Under a longstanding provision in federal law, immigration officials must deny green cards (“lawful permanent residence”) to otherwise eligible applicants who are viewed as “likely to become a public charge.” Federal officials have always interpreted the term public charge narrowly to refer to someone who is likely to become primarily dependent on public cash assistance, such as Supplemental Security Income (SSI) or Temporary Assistance for Needy Families (TANF), or likely to end up in government-funded long-term institutional care.

For more information visit the Protecting Immigrant Families [Frequently Asked Questions](#).

### **HOW PUBLIC CHARGE COULD CHANGE**

On October 10, the Department of Homeland Security (DHS) proposed to change this long-standing policy by proposing a rule that, if finalized, would lower the historical standard as outlined above. Under the proposal, immigration officials would be required to deny green cards to otherwise eligible applicants who they believe are likely to receive even modest amounts of certain healthcare, nutrition or housing programs at any time in the future. Consequently, a person may be considered a public charge if they use any of the following programs:

- Non-emergency Medicaid (with limited exceptions for certain disability services related to public education)
- Supplemental Nutrition Assistance Program (SNAP)
- Low Income Subsidy for prescription drug costs under Medicare Part D.
- Public Housing, Section 8 housing vouchers, and Project-Based Section 8

The proposed rule would make other massive changes, including introducing an unprecedented “wealth test” and assigning a negative weight to factors that have never been considered, such as English proficiency. Although refugees, asylees, and certain other humanitarian immigrants are not subject to the public charge test, by broadening the rule, many LGBTQ immigrant families will be locked out of the U.S. based on an immigration official’s prediction that they might basic assistance at any time in the future.

If finalized, the proposed rule would fundamentally change who we are as a nation—transforming us from a country that welcomes LGBTQ people who want to achieve a better life, to one rigged in favor of the wealthy.

### **PUBLIC CHARGE RULE WOULD IMPACT LGBTQ IMMIGRANTS**

The Williams Institute estimates that about 637,000 LGBTQ adults are documented immigrants in the U.S. There are also an estimated 24,700 non-citizens who are part of a same-sex couple with a U.S. citizen and a quarter are raising children.

LGBTQ people -- including LGBTQ immigrants--- face discrimination in employment, which hurts their ability to be financially stable. LGBTQ people are more likely to be living in poverty, to face food insecurity, have health disparities, and have less access to affordable health care and housing. As a

result, they are disproportionately likely to need and seek the basic programs that the rule would encompass.

[Impact on LGBTQ immigrants](#) deemed likely to receive benefits:

- Medicaid: 1 in 5 LGBTQ people said they or their family received Medicaid in the past year, compared to 12.9 percent of non-LGBTQ people. (Note: use of any of the specified programs by family members is not counted against an applicant.)
- SNAP: LGBTQ people are twice as likely as non-LGBTQ people to say they or their families had received SNAP in the past year.
- Housing: LGBTQ people are more than twice as likely to receive housing assistance benefits. This disparity is even more notable for transgender people, who are five times more likely to receive public housing benefits than cisgender people.

Impact on LGBTQ people with medical issues and people living with HIV/AIDS:

The proposed rule's negative weighting of whether an immigrant has a medical condition that could affect their ability to work, attend school, care for themselves, require expensive care, or lack sufficient resources to cover private insurance and cover medical costs, could harm the ability of LGBTQ people and people living with HIV/AIDS to come to the U.S. or to change their immigration status. Some facts:

- LGBTQ people are more likely than the general population to be uninsured
- Over 1 million people in the U.S. are living with HIV/AIDS
- Gay and bisexual men are disproportionately likely to be living with HIV/AIDS
- Medicaid is the primary source of healthcare coverage for those living with HIV

### **CHILLING EFFECT ON ACCESS TO LGBTQ SERVICES**

Even beyond immigrants with pending green card applications, a chilling effect from the proposed rule could discourage both non-citizens and U.S. nationals from seeking the critical services they need for themselves and their families due to their fear of immigration consequences. LGBTQ service providers have already noticed an increase in LGBTQ immigrants claiming that they would stop seeking health care services, including HIV care and mental health care, if this rule were put in place for fear that it could impact their immigration status in the future.