UNDERSTANDING PUBLIC CHARGE
KING COUNTY NAVIGATOR TRAINING

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“Public Charge” – 1999 field guidance defines as an individual who is likely to become primarily dependent on the government for subsistence as demonstrated by either the receipt of government funded cash assistance or institutionalization for long-term care.

The public charge test is applied when certain immigrants apply to obtain a green card (lawful permanent resident status) or seek to obtain entry into the U.S., does not apply when seeking to naturalize.

The test is a forward-looking totality of the circumstances test, no one factor is dispositive.
Who does the test apply to?

Immigrants applying for green card or LPR status are subject to the Public Charge Test

• The test does not apply to:
  10 People who already have green cards (are already lawful permanent residents), as long as they do not leave the country for more than 180 days at any one time
  10 People applying for U.S. citizenship
  10 People who have received immigration status on humanitarian grounds (e.g., refugee status, asylum, U or T visa holders, relief under VAWA, or TPS)
Totality of the Circumstances

- Family Situation
- Age
- Health
- Income & Resources
- Education & Skills
- Affidavit of Support
Proposed Changes

Currently, the Public Charge test considers use of the public benefits by the individual seeking to adjust status

- Proposed changes seek to consider use of public benefits by the applicant or any tax dependent

Currently, the use of government funded cash or long term care is a negative factor

- Proposed changes seek to expand the benefits that could be considered in a public charge determination
Key Takeaway!

This is only a draft proposal

- The rule has not been formally published in the federal register
- This is only a leaked proposed rule
- It may change before it becomes final or it may never be finalized
Rarely Enforced: Grounds for Deportation

You became a public charge within 5 years of entry to the U.S.

For reasons that existed *before* you entered the U.S.

This does not apply if you become a public charge because of something that happened *after* you entered the U.S.
What has changed?

On January 3, 2018, the U.S. Department of State published revised sections that deal with “public charge”

These are instructions that officials in U.S. embassies and consulates abroad use to make decisions about whether to grant a person permission to enter the U.S. as an immigrant or on a non-immigrant visa

Includes changes to the treatment of a sponsor’s affidavit of support, and the use of non-cash benefits by applicants, sponsors and family members
You can help!

- Help us gather data on how many people are choosing to forego benefits and services they are entitled to because of immigration fears:
  
  https://childrensalliance.wufoo.com/forms/mmxc6ya0pfdjv0/
Resources


- Protecting Immigrant Families – National Campaign - https://protectingimmigrantfamilies.org/resources/
Questions
Thank You!

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