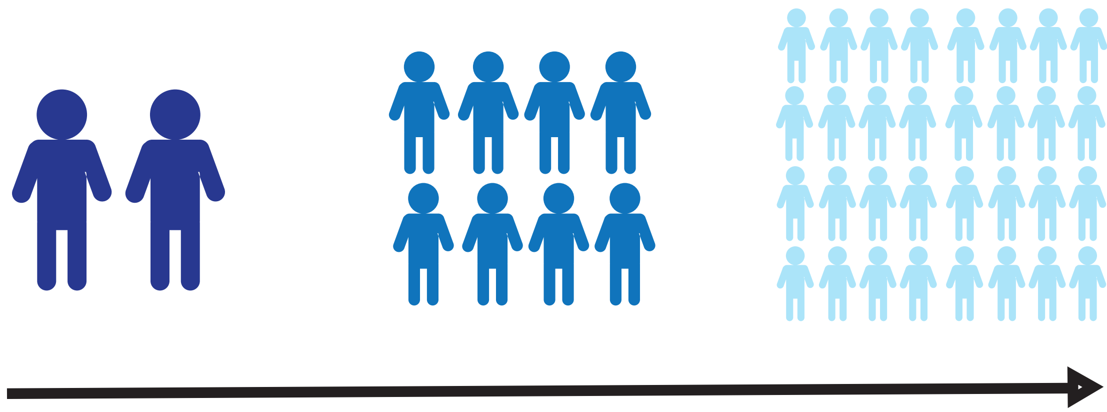
What is the “public charge” determination?

Under longstanding federal immigration law, the United States may deny admission or adjustment of status to immigrants deemed “likely to become a public charge.” A public charge determination is only made when a legal immigrant applies for lawful permanent residency and not when a lawful permanent resident (LPR) applies to become a citizen or when immigrants with certain visas (i.e. refugee and asylee) are adjusting their status to become lawful permanent residents or citizens. In making a determination of public charge, the government determines whether someone is “primarily dependent” on the government for subsistence by considering the “totality of the circumstances “including his or her age, health, family status, assets, resources, and education.

Impact of Proposed Public Charge Rule

INDIVIDUAL **FAMILY** **COMMUNITY**



For someone who might apply to become a lawful permanent resident in the future, they may refrain from accessing supports to which they are entitled or risk being denied a green card.

For family members of someone who may apply to become a lawful permanent resident, this may lead to a reduction in total household resources and these family members may not access resources to which they are themselves entitled.

For other members of immigrant communities, they may refrain from accessing resources to which they are entitled even if they are not subject to the public charge test, because of fear, rumors and misinformation.

How could public charge change?

If the draft proposed rule released by the Department of Homeland Security is finalized, it will expand the factors considered in determining whether someone is considered a public charge. Currently, there are only two benefits the government considers: Cash assistance, such as Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI), and government-funded long-term institutional and medical care. When making this determination moving forward, the government is now proposing to include these additional programs: Medicaid (with limited exceptions for benefits paid for an "emergency medical condition," and for certain disability services related to education); Medicare Part D Low Income Subsidy; the Supplemental Nutrition Assistance Program (SNAP, or food stamps); Section 8 Housing Choice Voucher Program; Section 8 Project-Based Rental Assistance and Public Housing.

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