

**JUST NEIGHBORS**  
**COMMENTS TO PROPOSED PUBLIC CHARGE CHANGES**

The Department of Homeland Security has announced a proposed rule changing the current framework which immigration officials must use when determining whether an immigrant is likely to become a “public charge”.\* As background information, “public charge” is a grounds of inadmissibility: If an immigration officer determines “an individual is likely to become primarily dependent on the government for subsistence, as demonstrated by either the receipt of **public** cash assistance for income maintenance, or institutionalization for long-term care at government expense”, the officer can deny the relief or benefit which the immigrant is seeking. Under current rules, the sponsor of the immigrant must file an I-864 Affidavit of Support whereby they promise to support the immigrant and reimburse the government if the immigrant becomes a “public charge”.

The proposed change 1) expands the definition of who is a public charge; 2) sets out both negative and positive factors which must be considered in determining if someone is a public charge; 3) expands the types of benefits that can be considered in deciding whether someone is likely to become a public charge; and 4) expands the categories of aliens to whom the public charge analysis must be applied. The outcome will be 1) immigrant families (including U.S. citizen children of LPRs or other immigrants) will not seek public assistance for which they are eligible; and 2) many more immigration cases will be denied due to the stricter criteria.

DHS published the proposed changes on 9/28/2018 and the public has until 12/10/18 to comment. We urge people to comment individually during the 60-day period. In order to comment online, please go to [Public Charge Comment Link](#). If the link doesn't work, go to <http://www.regulations.gov> Find the relevant topic [Inadmissibility on Public Charge Grounds](#) (look under “What’s Trending Now”). Click on the Comment Now link at the upper right-hand corner to comment. **All submissions received must include the OMB Control Number 1615-0116 in the body of the letter, your name (or agency name) and the Docket ID USCIS 2010-0008.**

Below is an outline of the proposed changes and brief talking points one may use to comment on the proposed changes. We encourage all to use your own words when commenting as “unique” comments are better received than those which have obviously been cut and pasted.

- 1. Generally, the proposed rule not only expands the definition of public benefits, but also uses an unwieldy calculation system for officers to try to monetize public benefits an immigrant and/or their household has already**

**received.** The proposed system is far too complicated. The proposed rule greatly expands the list of benefit programs which immigration officials must consider, including Medicaid, SNAP, Medicare Part D Low Income Subsidy, and Section 8 public housing and/or Section 8 project based rental assistance. We envision families becoming homeless and/or destabilized if they are forced to decide between receiving assistance and complying with the new rule.

2. **The proposed rule will foster discrimination against the aged, the unhealthy, unskilled and/or uneducated immigrant.** If enacted, immigration officials must consider the intending immigrant's age, health, family size, assets, resources, income and education and skills, including their ability to speak English. Therefore, those who are retired and elderly will find it difficult to immigrate as well as those who have a spotty employment history, are low income or underemployed, disabled, limited English proficiency or unhealthy. The rules as proposed will have an insidious affect.
3. **The proposed rule requires immigration officers to consider certain factors as "heavily weighted negative factors".** These new factors discriminate against those who are currently unemployed as well as those with medical conditions who need medical treatment. Without encouraging government officials to use discretion when analyzing all factors, these heavily weighted negative factors will become a bar to approval.
4. **The proposed rule requires immigration officers to consider certain factors as "heavily weighted positive factors". However, the threshold for the "positive factors" as proposed is too high.** 250% of Federal Poverty Guidelines should be reduced to 125% of the Federal Poverty Guidelines, mirroring the requirements for the sponsor's I-864 Affidavit of Support.
5. **The proposed rule would increase the use of public charge bonds which are currently rarely used. Moreover, the proposed rule would require a public charge bond of at least \$10,000 which is an exorbitant sum for most immigrants and their families.** We propose that DHS continue with the current practice of rarely requiring public charge bonds and/or lowering the amount of the bond required to NO MORE THAN \$1000.
6. **The current system in place is adequate to support the goals of ensuring those who**  
**Immigrate do not become burdens on the government:** The current system requires officers to review the I-864 Affidavit of Support and familiar supporting documents such as tax returns and is much more "user friendly" to both the immigrant and to DHS officials.

For an excellent summary of the proposed changes and more comments, please go to: <https://protectingimmigrantfamilies.org/>

\*N.B. The proposed changes do not apply to refugees, asylees, T or U Visa holders, VAWA self-petitioners; Special Immigrant Juveniles, or certain Parolees. Public charge grounds also do not apply to Naturalization applicants.