

CHILLING EFFECTS

The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use



By Jeanne Batalova, Michael Fix, and Mark Greenberg

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Executive Summary

The Trump administration is developing a rule that would have far-reaching consequences for legal immigrants and their families—those living in the United States as well as prospective immigrants. The expected rule, which could be formally released at any time, could make it more difficult for immigrants to obtain a green card or get their temporary visa extended if they or their dependents¹—including U.S.-citizen children—use public benefits or tax credits for which they qualify. The draft proposed rule also suggests that the administration may make the use of public benefits by *legally present* noncitizens grounds for their deportation.

The expected rule could make it more difficult for immigrants to obtain a green card or get their temporary visa extended if they or their dependents—including U.S.-citizen children—use public benefits.

The new policy, signaled in a January 2017 leaked draft executive order and in January 2018 and March 2018 leaked draft rules, could lead to broad changes in how immigrants and their families' use—or likely use—of public benefits is taken into consideration in immigration decision-making. The policy that presently governs which immigrants can be denied admission or an adjustment or extension of status on the basis of “public charge” dates back to the welfare and immigration reforms of 1996. Under current standards, the federal government may make a public-charge determination if the applicant is dependent on cash benefits, such as Temporary Assistance for Needy Families (TANF), or is in government-funded, long-term institutional care. Under the most recent leaked draft, the proposed rule would broaden the factors taken into account in public-charge determinations in several key ways. Immigration officers would now consider:

- benefits use not only by the individual but by their dependents, including U.S. citizens;
- use of a much wider range of means-tested benefits, including both cash (TANF; Supplemental Security Income, or SSI; and General Assistance, GA) and noncash benefits, such as Supplemental Nutrition Assistance Program (SNAP, formerly called the Food Stamp Program), Medicaid and the Children's Health Insurance Program (CHIP), and many other federal, state, and local programs;
- use of benefits at any point in the past 36 months, in addition to present use, and likely future use; and
- receipt of any amount of benefits beyond a *de minimus* level, as opposed to being primarily dependent on benefits.

Applying this broader, new definition, the Migration Policy Institute (MPI) estimates that the share of noncitizens who use benefits that could be considered in a public-charge determination would expand considerably—from 3 percent under current policy to 47 percent under the terms of the draft proposed rule.

¹ Under the draft rule, “dependents” are defined as anyone listed as a dependent on the individual's tax return, anyone the individual is legally required to support, or any other person the individual is actually supporting and who is not contributing to the individual's income or resources.



In the March 2018 leaked draft, it appears that federal officials had not yet decided whether to apply the revised public-charge standards to deportation criteria. However, even if the proposed rule does not make benefits use grounds for deportation, its reach could still extend to most foreign-born persons seeking admission or adjustment of status to lawful permanent residence (LPR status, also known as getting a green card) as well as noncitizens applying to receive or extend a tourist, work, student, or other temporary visa (referred to as “nonimmigrants” in immigration policy).² In fiscal year (FY) 2017, about 1.1 million people received green cards. Fifty-one percent of them were new arrivals and 49 percent lived in the United States and were adjusting their status from a temporary visa. Most new arrivals (84 percent) and almost half of status adjusters (46 percent) were granted LPR status based on family ties. Family immigrants such as these are the most likely to see their applications affected by the proposed standards. By law, refugees, asylees, and certain other categories are exempt from public-charge determinations. Meanwhile, most immigrants who apply to enter or extend their status on the basis of employment have job offers and are generally well educated: strong positive factors in public-charge determinations under the draft proposed rule that are likely to outweigh any prior benefits use. In short, the expected rule could enable the administration to significantly alter the profile of new green-card recipients, especially family-based immigrants.

A. Gauging the Potential Extent of the Rule’s Chilling Effects

Beyond those waiting for a decision on their applications to enter or stay in the United States, a far larger group—including both noncitizens and U.S. nationals—would likely experience the rule’s “chilling effects.”³ That is, many immigrants and their families who are otherwise eligible may decide to forgo public benefits and services out of fear of real or perceived immigration consequences. It is worth noting that the public-charge policy under consideration would overwhelmingly affect legally present immigrants because unauthorized immigrants are already ineligible for most means-tested public benefits. Still, some unauthorized immigrants with U.S.-citizen children eligible for public benefits may also withdraw them from these programs.

Many immigrants and their families who are otherwise eligible may decide to forgo public benefits and services out of fear of real or perceived immigration consequences.

Here, history offers an important lesson: After the enactment of welfare reform in 1996, benefits-use rates fell sharply even among groups such as refugees and U.S.-citizen children whose eligibility was unchanged. Overall, studies of these chilling effects by social scientists have estimated that the use of public benefits by immigrants who were not made ineligible by the 1996 law dropped sharply. In the current political climate, with sharper rhetoric about the value of immigration, efforts to reduce legal immigration for the first time in decades, and ramped-up arrests and deportations, fear of the immigration consequences of using public benefits could be even greater.

In order to assess the potential extent of the draft proposed rule’s chilling effects, this report analyzes pooled 2014–16 American Community Survey (ACS) data from the U.S. Census Bureau on benefits use

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- ² While the number of people entering the United States on temporary visas is much larger—179 million in fiscal year (FY) 2016—than the number who receive a green card each year (about 1 million), it is not yet clear what the potential rule would mean for this group in practice. This report does not attempt to estimate the numbers seeking admission to the United States who could be denied entry under the terms of the proposed rule, as outlined in the March 2018 leaked draft.
- ³ The term “chilling effects” is widely used in the social science literature that examined the impact of the 1996 welfare reform on immigrants’ benefits use. These studies, and this report, use the term to mean that immigrants and their families who have used benefits in the past, or might have done so in the future, choose not to participate out of fear or confusion.

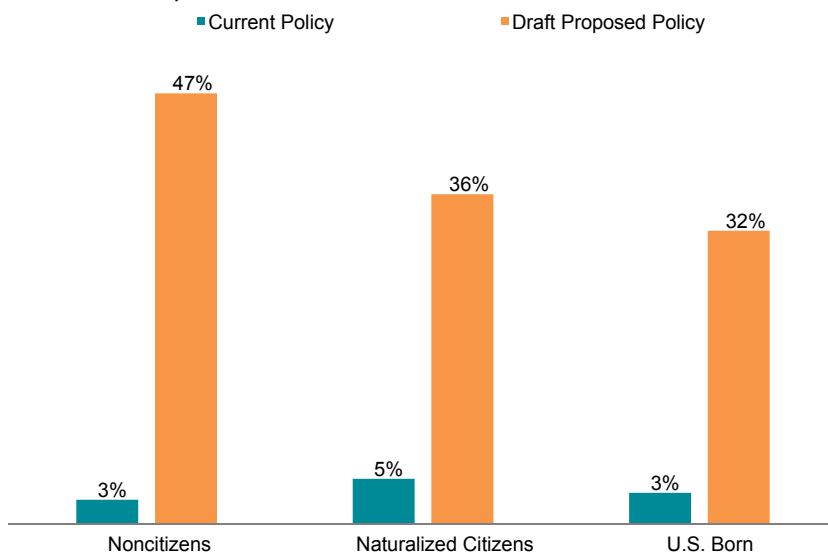


by noncitizens, naturalized citizens, and the U.S. born.⁴ While it appears the proposed rule will cover a wide range of federal, state, and local programs, this analysis focuses on the four major means-tested public benefits—TANF (or cash welfare), SSI, SNAP, and Medicaid/CHIP (or other public health insurance programs)—that are reported in the ACS. Users of these programs represent a large share of the total public-benefit program participants that would be touched by the expected rule. The estimates presented here are intended to help policymakers, service providers, and others understand the potential impacts of the anticipated rule and better prepare to respond during its review and implementation.

Among the key MPI findings:

- **More than 10 million noncitizens reside in benefits-receiving families.** In the 2014–16 period, 6.8 million noncitizens (31 percent of all foreign born who are not naturalized U.S. citizens) used at least one of the four major means-tested benefit programs, but a far greater number—10.3 million or 47 percent—lived in families where someone, including U.S.-born children, received benefits.
- **The share of noncitizens who may face a public-charge determination based on benefit use would increase more than 15-fold.** Under the current public-charge standard, individuals relying on cash benefits are deemed to be a public charge. According to 2014–16 ACS data, 3 percent of noncitizens received either TANF or SSI (cash) benefits.⁵ In sharp contrast, the share of noncitizens receiving benefits that could factor into public-charge decisions under the draft rule would be 47 percent (i.e., the share of noncitizens who lived in families receiving any of the four cash and noncash benefits reported in ACS data) (see Figure 1). If the rule makes the use of public benefits grounds for the deportation of legally present noncitizens, the size of the population at risk of removal could increase significantly beyond the current unauthorized and otherwise removable noncitizen populations.

Figure 1. Share of Persons for Whom Benefits Use Could Be Considered in a Public-Charge Determination, 2014–16



Notes: The four means-tested public benefit programs examined here are (1) Public cash assistance or welfare from state or local welfare offices, including Temporary Assistance for Needy Families (TANF) and General Assistance (GA); (2) Supplemental Security Income (SSI); (3) Supplemental Nutrition Assistance Program (SNAP); and (4) Medicaid and the

⁴ In undertaking this analysis, Migration Policy Institute (MPI) researchers considered data on all noncitizens, whether lawfully present or unauthorized, given that all may fear the immigration consequences of using benefits for which they or a dependent are eligible.

⁵ Note that this estimate of cash program users under current policy represents the share of *all noncitizens* who received either Temporary Assistance for Needy Families (TANF), General Assistance (GA), or Supplemental Security Income (SSI). Thus, it overstates use somewhat as only noncitizens who *depend* on these forms of cash assistance as their primary source of income are specified under the current standard.



Children's Health Insurance Program (CHIP). Estimates shown under the current public-charge policy represent the share of noncitizen, naturalized citizen, and U.S.-born individuals who received cash-based assistance only (i.e., either TANF/GA or SSI). Estimates shown under draft proposed policy refer to the share of individuals in families receiving TANF/GA, SSI, SNAP, or Medicaid/CHIP.

Source: Migration Policy Institute (MPI) tabulation of U.S. Census Bureau pooled 2014–16 American Community Survey (ACS) data.

- ***Millions of children, many of them U.S. citizens, live in immigrant families that may face difficult choices about whether to continue accessing benefits.*** Children of immigrants accounted for 31 percent (or 10.5 million) of all children under age 18 in benefits-receiving families in the 2014–16 period—a figure slightly larger than the immigrant share of the total U.S. child population (25 percent). Nine out of ten of these 10.5 million children (or 9.2 million) were U.S. born.
- ***The extent of the chilling effects could be far-reaching, leading to a broad withdrawal from public-benefits programs.*** A total of 17.7 million immigrants (both noncitizens and naturalized citizens) live in families where at least one member used one or more of the four major means-tested public benefits programs during the 2014–16 period. Adding the 9.2 million U.S.-born children residing in these families would mean that at least 26.9 million people resided in benefits-receiving families with at least one immigrant family member.

Although it is difficult to estimate precisely how many people would alter their behavior in response to the proposed change in public-charge policy, if immigrants' use patterns were to follow those observed during the late 1990s there could be a decline of between 20 percent and 60 percent—and that even some members of groups exempt from the new rule (e.g., refugees) would likely withdraw from public programs. If this were to be the case, an estimated 5.4 million to 16.2 million of the total 27 million immigrants and their U.S.- and foreign-born children in benefits-receiving families could be expected to disenroll from programs. This means that a significant share of U.S.-citizen members of immigrant families, including young children, would no longer receive the health, nutrition, or other benefits for which they are eligible if their families deem the potential immigration consequences of continued access to be too great. At the same time, some otherwise eligible individuals in immigrant families would likely be deterred from deciding to apply for benefits in the first place.

- ***Most adult immigrants using one of the four major means-tested benefit programs are working.*** Fifty-eight percent of noncitizen and naturalized-citizen adults (ages 16 to 64) who received one or more benefits were employed. By comparison, 44 percent of U.S.-born benefit recipients were employed.
- ***Noncash benefits make up the bulk of benefits use by immigrant families.*** The share of immigrants receiving cash assistance (i.e., TANF or GA) is relatively low: about 3 percent of immigrants were in families in which at least one person received TANF and less than 6 percent were in families receiving SSI—figures comparable to those for U.S.-born persons in benefits-receiving families. Public-benefits use levels for all groups (noncitizens, naturalized citizens, and the U.S. born) are largely driven by use of SNAP and Medicaid/CHIP—noncash benefit programs that are often viewed as work supports. Use of these programs is the main reason the proposed expansion of the public-charge rule would have such a far-reaching impact: 7.2 million foreign-born individuals (or approximately 17 percent) were in families receiving SNAP (including 4.5 million noncitizens), and about 16.3 million immigrants (39 percent) were in families receiving Medicaid/CHIP (9.6 million noncitizens among them).
- ***A substantial number of immigrants are potentially eligible for health-insurance subsidies under the Affordable Care Act (ACA), use of which is included in the draft proposed rule.*** While ACS data do not record who receives such subsidies, MPI estimates that 2.4 million immigrants who did not live in families receiving any of the four means-tested programs were *potentially eligible* for ACA subsidies.



- ***The impact of the potential rule would be broadly felt across the two largest racial/ethnic groups among immigrants in the United States.*** About 10.3 million Hispanic immigrants (or 54 percent) and 3.8 million Asian American and Pacific Islander (AAPI) immigrants (or 32 percent) lived in families that received one or more of the four public-benefit programs. Additionally, 870,000 AAPIs and about 690,000 Hispanics were potentially eligible for ACA subsidies. Sixty-five percent of Hispanic immigrants and 42 percent of AAPI immigrants were noncitizens; if the proposed rule makes benefit use grounds for deportation, this could be broadly felt among both groups.
- ***The impacts of the expected rule are likely to be borne most heavily by states with large immigrant populations and those with generous benefit policies.*** California and New York together accounted for 41 percent of the nation's 17.7 million immigrants living in families receiving public benefits in 2014–16. Following the passage of the 1996 welfare law, these two states adopted social welfare policies that extended benefits to some legal immigrants newly excluded from federal programs. Two examples are California's CalFresh Food Assistance Program and New York's Safety Net Assistance. The chilling effects of the potential rule in these states may be particularly wide-reaching because the rule includes an expanded range of state benefits that could be considered in a public-charge determination.

Twenty-five states—among them traditional immigrant-receiving states as well as newer destinations such as North Carolina, Ohio, and Pennsylvania—accounted for 94 percent of all foreign-born individuals in families receiving at least one of the four major means-tested benefits.

Get the Data: Impact by State

Detailed data profiles of benefits use in the United States overall and in each state are available [here](#).

B. Implications of the Potential Rule for Public Benefits and Admission Policies

The public-charge rule under consideration by the Trump administration could broadly change benefits participation rates among immigrant families, with adverse effects not just for noncitizens and their U.S.-born relatives but for the larger society. It also could alter the composition of immigration flows to the United States.

The new rule would be at odds with the public health, nutrition, and other efforts that state and local governments have undertaken in the wake of welfare reform to encourage eligible immigrant families to participate in social programs ranging from SNAP and Medicaid to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The new federal rule could be seen as overriding these governments' policy preferences and may chill immigrant families' access to a broad range of health and social services for which they are eligible.

Disenrollment (or fear of enrollment in the first place) from programs that support the health, wellbeing, and financial stability of lawfully present immigrants and their families could lead to a range of problematic outcomes. For individuals, families, and local communities, reduced program participation could result in higher poverty levels, reduced access to health care, and an increase in severe and chronic health issues. The proposed regulation could also impose substantial new demands on service providers, requiring them to communicate to current and prospective benefits users information about the expanded immigration-related liabilities associated with program use.

By significantly expanding the factors considered in assessing applications from prospective immigrants to the United States as well as those already present who are seeking a green card or visa extension, the expected rule would also give the administration broad discretion to deny a much larger share of



applications. Specifically, it would become more difficult for children, the elderly, persons with lower levels of education and/or limited English proficiency, and those with incomes under 250 percent of the federal poverty level to enter and remain in the United States. To sum, implementation of the anticipated rule would lead to *de facto* changes in the make-up of future immigration flows and restricted access to public benefits for millions of immigrants and their U.S.-citizen family members—all without legislation by Congress.

I. Introduction

The Trump administration is in the process of developing a rule that could have wide-reaching effects on both legal immigration to the United States and the ability of immigrants legally present in the country to qualify for green cards or otherwise extend or change their legal visa status. Drafts of the rule, leaked in January and March 2018,⁶ suggest it could result in sweeping changes in how legal immigrants' use of—or likelihood to use—public benefits is taken into consideration in immigration-related decision-making. The most recent leaked draft also indicates that the administration is considering changing the standard for when receipt of public benefits can be used as grounds for the deportation of legally present noncitizens.

This new, broader standard will have important implications for both immigration to the United States and for the wellbeing of families with foreign-born members.

Under the current policy, noncitizens can be denied admission or adjustment of status if the U.S. Department of Homeland Security (DHS) determines they are likely to become a “public charge,” that is, that they depend (or are likely to become dependent) on public cash assistance or long-term institutional care funded by the government. Under the draft rule, review of applications for immigration, legal permanent residence (LPR status, also known as a “green card”), and other forms of status change would include review of use of a much wider range of cash and noncash public benefits, including Medicaid/Children’s Health Insurance Program (CHIP), the Supplemental Nutrition Assistance Program (SNAP, formerly called the Food Stamp Program), the refundable Earned Income Tax Credit (EITC), and many other federal, state, and local benefits and services. This review would look not only at the use of benefits by the applicant, but also their dependents, including U.S.-citizen children. In assessing the likelihood that an immigrant would receive any of these benefits at some future point, DHS would consider the applicants’ age, health, education, employment status, and other factors along with current and past benefit receipt.

This new, broader standard will have important implications for both immigration to the United States and for the wellbeing of families with foreign-born members.⁷ And while the exact provisions of the

6 A copy of the first leaked draft of the rule was posted online by Vox. See U.S. Citizenship and Immigration Services (USCIS), “Inadmissibility on Public Charge Grounds” (draft rule, U.S. Department of Homeland Security, January 2018), https://docs.google.com/viewerng/viewer?url=https://cdn.vox-cdn.com/uploads/chorus_asset/file/10188201/DRAFT_NPRM_public_charge.0.pdf. The second leaked draft is available on the *Washington Post* website. See USCIS, “Inadmissibility on Public Charge Grounds” (draft rule, U.S. Department of Homeland Security, March 2018), <https://apps.washingtonpost.com/g/documents/world/read-the-trump-administrations-draft-proposal-penalizing-immigrants-who-accept-almost-any-public-benefit/2841/>.

7 Although U.S. citizens are not a direct target population of the draft proposed rule (the rule does not change benefit eligibility criteria for such persons), U.S. citizens, including U.S.-born children, are likely to be affected by the policy nonetheless. To illustrate: 1) U.S. citizens may find it more difficult to sponsor their noncitizen spouse for a green card if they received public benefits (i.e., Medicaid) for which they were eligible; 2) A legally present noncitizen mother may choose to withdraw her U.S.-born child from participation in SNAP if she is afraid that the child’s participation may become grounds for her own deportation.



proposed rule remain to be seen, the administration's approach seems clear—restrict the immigration of lower-income and less-educated individuals and discourage immigrants from accessing public benefits. Under the draft rule, the DHS would have significant discretion to deny admissions and reject green-card applications for a large number of those who enter or wish to remain in the country through family, but also diversity and employment immigration. Based on experience with prior reforms of immigration and welfare legislation, it is reasonable to anticipate that the rule will discourage millions of immigrants from accessing health, nutrition, and social services that benefit not only them, but also their U.S.-citizen children. This would come at a time of heightened rhetoric about and fear of immigration consequences,⁸ in which some service providers have already reported immigrant clients dropping out and others failing to access benefits for which they are eligible.⁹

As of this writing, the draft rule is under consideration at the Office of Management and Budget (OMB), and it could be published at any time. When the proposed rule is published, it could substantially differ from the leaked draft. After its publication, there will be a public comment period—a 60-day period was envisioned in the draft proposed rule. DHS has a legal responsibility to consider public comments submitted during this period before the agency issues a final rule, meaning it may undergo yet further revisions. The rule will not be in effect until it is issued in its final form, and the draft indicates that the agency plans to make it take effect prospectively (i.e., benefits use before the final rule is issued would not count against an individual).

This report begins by providing an overview of the historical context for this proposal and of current standards for applying the public-charge provision of U.S. immigration law. It then examines the key changes envisioned under the most recent leaked draft and their potential effects on immigration to the United States and on benefits use among immigrants. Drawing on pooled 2014–16 American Community Survey (ACS) data, it assesses the level of benefits use by noncitizens, naturalized citizens, and the U.S. born in four major means-tested benefit programs to better understand the potential magnitude of the expected rule's effects on participation in public benefits programs. Finally, the report sketches some of the rule's likely implications for immigrant integration, federalism, and immigration policy.

II. Public-Charge Rules: Historical Context and Proposed Changes

The concept of “public charge” is not new to immigration law. The term appeared in the *Immigration Act of 1882*,¹⁰ and in the late 19th and early 20th centuries, public charge was the most common ground for refusing noncitizens admission at U.S. ports of entry. Since 1940, however, the public-charge provision of U.S. immigration law has been used much less frequently.¹¹

8 Randy Capps et al., *Revving Up the Deportation Machinery: Enforcement under Trump and the Pushback* (Washington, DC: MPI, 2018), www.migrationpolicy.org/research/revving-deportation-machinery-under-trump-and-pushback.

9 Emily Baumgaertner, “Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services,” *The New York Times*, March 6, 2018, www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html.

10 The 1882 act included a provision that, among others, excluded aliens who were determined to be “unable to take care of himself or herself without becoming a public charge.” See *Immigration Act of 1882*, U.S. Statutes at Large 22 (1882): 214, www.loc.gov/law/help/statutes-at-large/47th-congress/session-1/c47s1ch376.pdf.

11 This analysis is based on admissions data from the U.S. Immigration and Naturalization Service (INS) *Yearbook of the Immigration and Naturalization Service* and on visa issuance data from the U.S. Department of State *Reports of the Visa Office*. INS admissions data show that while the public-charge ground was used in 50 percent to 70 percent of refused admissions between 1890 and 1920; that share dropped to less than 4 percent in the 1940s and further to less than 1 percent after 1950. Similarly, visa issuance data show that the share of visa refusals attributable to public charge dropped from 45 percent in the 1970s to 19 percent in the first half of the 1990s. See INS, *The 2001 Statistical Yearbook of the Immigration and Naturalization Service* (Washington, DC: INS, 2003), data table 66, www.dhs.gov/sites/default/files/publications/Yearbook_Immigration_Statistics_2001.pdf; U.S. Department of State, “Immigrant and Nonimmigrant Visa Ineligibilities” (data tables, Washington, DC, multiple years). Recent data for 2000 to 2017 are available at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports.html>.



The statutory language that currently governs which benefits immigrants are eligible for and which immigrants are considered public charges and can, as a result, be deemed inadmissible dates to two important laws passed in close succession in 1996. The welfare reform law, the *Personal Responsibility and Work Opportunity Reconciliation Act* (PRWORA),¹² became law on August 22, 1996. A month later, the *Illegal Immigration Reform and Immigrant Responsibility Act* (IIRIRA)¹³ became law on September 30, 1996. PRWORA made LPRs ineligible for a range of federal means-tested public benefits during their first five years in the country, subject to limited exceptions.

Meanwhile IIRRA amended the public-charge language to state that any noncitizen who is determined likely at any time to become a public charge is ineligible for admission or adjustment of status. In making this determination, immigration officials are to consider, at a minimum, the following set of factors: age; health; family status; assets, resources, and financial status; and education and skills.¹⁴ IIRRA also imposed new requirements on sponsors of immigrants, requiring that they have sufficient income to support the individual being sponsored at a level of at least 125 percent of the federal poverty level.

The 1996 immigration law changes did not modify the provision of federal law concerning public charge and deportation. This provision specifies that “[a]ny alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.”¹⁵

In 1999, in response to questions about how public-charge assessments were being made in light of the 1996 welfare and immigration legislation, the U.S. Immigration and Naturalization Service (INS) issued field guidance¹⁶ and a proposed rule¹⁷ concerning public-charge-based inadmissibility and deportations. While the proposed rule was never finalized, this guidance has applied since it was issued.

According to the 1999 guidance, a person may be subject to a public-charge determination if they are “primarily dependent on the government for subsistence, as demonstrated by either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense.”¹⁸ It further clarified that:

- the individual must be “primarily dependent” on public cash assistance (i.e., mere receipt is not enough);
- insurance-based benefits and noncash benefits or services are not considered, with the exception of institutionalization for long-term care;
- the determination is based on the individual, not other household members or dependents; and
- receipt of public benefits is not the sole determining factor, but one of a set of factors to be considered, along with age; health; family status; assets, resources, and financial status; and education and skills.

The 1999 guidance also set narrow criteria for using a public-charge judgment as grounds for deportation. Immigrants who receive a cash benefit for income maintenance within five years of entering the country or who are institutionalized for long-term care funded by the government may face

12 *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, Public Law 104–193, *U.S. Statutes at Large* 110 (August 22, 1996): 2015, www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg2105.pdf.

13 *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, Public Law 104–828, *U.S. Statutes at Large* 110 (September 30, 1996): 3009, www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg3009.pdf.

14 See Section 212 of the *Immigration and Nationality Act* (INA), Public Law 89–236, *U.S. Statutes at Large* 79 (1965): 911, codified at 8 *U.S. Code* 1182(a)(4), www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-2006.html.

15 Section 237 of the INA, codified at 8 *U.S. Code* 1227(a)(5).

16 INS, “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” *Federal Register* 64, no. 101 (March 26, 1999): 28689–93, www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13202.pdf.

17 INS, “Inadmissibility and Deportability on Public Charge Grounds,” *Federal Register* 64, no. 101 (March 26, 1999): 28676–88, www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13188.pdf.

18 INS, “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 28689.



deportation if the assistance results in a debt to the government agency providing the benefit, the agency attempts to collect the debt from the individual or their sponsor, and the debt is not repaid.

While the 1999 guidance remains in effect, the Trump administration has taken a set of steps that make clear its intent to change public-charge standards. First, in January 2017, a draft executive order was leaked that included a directive to revise public-charge standards.¹⁹ Then, in December 2017, DHS announced that it was planning rulemaking to revise these standards.²⁰ The best available information about this rulemaking comes from the January 2018 and March 2018 leaked drafts. In addition, in January 2018, the U.S. Department of State published a revised version of its Foreign Affairs Manual that included updated instructions for conducting public-charge determinations for foreign nationals who apply for permanent and temporary visas at consulates abroad. While maintaining the focus on whether an individual is likely to be dependent on cash assistance or long-term institutionalization, these revised instructions allow officials to also consider the use of noncash benefits when assessing whether an applicant would be likely to become a public charge.²¹

A. What Changes Does the Leaked Draft Rule Propose?

The proposed rule, as outlined in the March 2018 leaked draft, would significantly expand both the types of benefits considered and the discretion DHS would have to deny admissions, adjustment or status, and other status changes on public-charge grounds. As of the March draft, officials had apparently not yet decided whether there would be new criteria for how public charge applies to deportation; the draft rule included language indicating that deportation criteria were to be determined, and discussions were to be held with the U.S. Department of Justice. Thus, while it is unclear whether the rule will apply to deportation, it is clear that it will apply to immigration admissions and adjustment of status, as well as to shorter-term admissions, extension of stay, and changes of status for nonimmigrants (e.g., holders of temporary work, student, and tourist visas).

As of the March draft, officials had apparently not yet decided whether there would be new criteria for how public charge applies to deportation.

The draft rule makes two key changes that, taken together, result in a transformation of the public-charge standard. First, the draft rule defines a public charge as an alien who receives one or more public benefits, and that a foreigner inadmissible on the public-charge ground is one who is likely to use or receive one or more public benefits at any time. Then, the draft rule defines public benefits as any government (federal, state, local, tribal, or territorial) cash or noncash assistance or services that are means tested or intended to help the individual meet basic living requirements, such as housing, food, utilities, or medical care.

This definition of public benefits is far broader than the current standard because in addition to cash assistance and long-term institutionalization, it includes a wide range of noncash assistance programs (see Box 1). These include SNAP benefits and housing assistance, Medicaid/CHIP, refundable tax credits such as the EITC, tax credits under the *Affordable Care Act* (ACA), and many other types of assistance

19 Michael Fix and Randy Capps, *Leaked Draft of Possible Trump Executive Order on Public Benefits Would Spell Chilling Effects for Legal Immigrants*, MPI commentary, February 2017, www.migrationpolicy.org/news/leaked-draft-possible-trump-executive-order-public-benefits-would-spell-chilling-effects-legal.

20 U.S. Department of Homeland Security (DHS), “Inadmissibility and Deportability on Public Charge Grounds” (proposed rule 1615-AA22, Fall 2017), www.reginfo.gov/public/do/eAgendaViewRule?pubId=201710&RIN=1615-AA22.

21 The updated instructions in the Foreign Affairs Manual are mostly relevant for noncitizens who apply for visas at U.S. consulates or embassies in their home countries. Applications to adjust status filed within the United States are adjudicated by the USCIS. See U.S. Department of State, “9 FAM 302.8, (U) PUBLIC CHARGE - INA 212(A)(4),” updated March 12, 2018, https://fam.state.gov/fam/09FAM/09FAM030208.html#M302_8.



and services that fall within the above definition, with the exception of those expressly exempted (see Appendix A). Moreover, the draft rule shifts the standard from considering an individual a public charge if they are primarily dependent on public benefits to if they make *any* use of them. The draft rule places heavy weight on any benefits use in the prior 36 months.

Box I. Major Federal Means-Tested Public Benefits

Cash assistance programs:

- **Temporary Assistance for Needy Families (TANF)** provides cash assistance to low-income families with children. TANF participants may be subject to work requirements and may receive certain employment-related services.
- **The Supplemental Security Income (SSI) program** provides cash assistance to low-income seniors and people who are blind or are disabled.

Noncash assistance programs:

- **The Supplemental Nutrition Assistance Program (SNAP, formerly called the Food Stamp Program)** provides low-income individuals and families with assistance to purchase food.
- **Medicaid** offers free or low-cost medical coverage to low-income families that meet economic and other eligibility requirements.
- **The Children's Health Insurance Program (CHIP)** provides free or low-cost medical coverage to children in low-income families that exceed Medicaid income requirements.

In addition, it is not only the applicant's benefits use that counts; under the draft rule, use of benefits by the applicants' dependents would also be taken into account in public-charge determinations.²² This means, for example, that applicants who do not themselves receive benefits, but whose U.S.-citizen children are insured through CHIP, could be barred from receiving a green card.

Table 1 summarizes some of the key elements of the March 2018 draft rule, comparing them to the current approach taken to assessing public benefits use. Note that while DHS currently considers state and local cash assistance and long-term institutionalization in public-charge determinations, the implications of including state and local assistance take on far greater significance under the draft proposed rule because of the broadening of the benefits to be included.

It is not only the applicant's benefits use that counts; under the draft rule, use of benefits by the applicants' dependents would also be taken into account.

²² Under the draft rule, "dependents" are defined as anyone listed as a dependent on the individual's tax return, anyone the individual is legally required to support, or any other person the individual is actually supporting and who is not contributing to the individual's income or resources.

**Table 1. Public Charge: Current Standard and Changes Proposed in the March 2018 Draft Rule**

Elements	Current Standard	Proposed Changes
Which benefits are included in public-charge determinations?	Cash-assistance based programs, such as Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), and General Assistance (GA), as well as long-term institutional care funded by the government	Any benefit or service that is means tested or intended to help meet basic living requirements, including both cash and noncash benefits and services. In addition to TANF, SSI, and GA, these include, among others: <ul style="list-style-type: none"> ▪ Medicaid/Children's Health Insurance Program (CHIP); ▪ Supplemental Nutrition Assistance Program (SNAP); ▪ Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); ▪ housing and energy assistance; and ▪ refundable Earned Income Tax Credit (EITC).
What amount of public assistance matters?	A level of benefits use that makes the applicant primarily dependent on the government	Any receipt or use, or determination that an applicant is likely to use or receive benefits in the future
What period of benefits use is considered?	Use of benefits at the time of application or in the past	Use of benefits in past 36 months
Whose benefits use is considered?	The individual applicant	Individual applicants and any dependents, including anyone the individual is legally required to support

Note: For a complete list of the benefits included (and excluded) in the March 2018 draft rule, see Appendix A.

To determine whether an applicant is likely to receive any public benefits at any time, and therefore become a public charge, the draft rule proposes using a “totality of circumstances” test. This test would take into account multiple factors but gives heavy weight to use (or likely future use) of any benefits by the applicant or their dependents. Federal law requires USCIS adjudicators and consular officers to consider the applicants’ age; health; family status; assets, resources, and financial status; education and skills. They may also consider affidavits of support from an applicant’s sponsors.²³ In applying these factors, the draft rule would require USCIS officials to consider whether the individual is of working age, in good health, and has dependents, and what their overall financial circumstances are. In assessing their education and skills, weight would be given not only to educational attainment but also to English language proficiency (in essence, treating lack of English proficiency as predictor that a noncitizen may become a public charge). Assessment of financial status would include consideration of whether the individual or any dependent has sought, received, or used any public benefit (i.e., it appears that merely having applied for a benefit would be counted against the individual).

Not all of these factors are to carry the same weight. In determining the totality of an applicant’s circumstances, the draft rule specifies a series of negative factors that will weigh heavily in finding the applicant to be a public charge and a set of positive factors that strongly favor a finding that the applicant is not one (see Appendix B for a complete list).

²³ See INA § 212(a)(4).



Among the heavily weighted negative factors are the applicant's:

- Current use or receipt of one or more public benefits
- Use or receipt of one or more public benefits within the last 36 months
- Medical condition and inability to show evidence of unsubsidized health insurance, the prospect of obtaining unsubsidized health insurance, or other nongovernmental means of paying for treatment.

Thus, the receipt of any public benefit, either currently or in the 36 months before filing an application to change or extend one's status, could seemingly override other factors such as employment history and other financial circumstances and lead to a determination that the applicant is likely to become a public charge.

Among the heavily weighted positive factors, the most notable is the preference given to immigrants who can demonstrate having income or assets more than 250 percent of the federal poverty line—a level twice that currently required of persons sponsoring immigrants for admission under the 1996 law.

B. Who Would the Draft Rule Affect?

The potential impact of the public-charge rule under consideration is twofold: it will have a chilling effect on the public benefits use and wellbeing of immigrant-headed families, the principal focus of the remainder of this report, and it will affect who is admitted and allowed to stay in the United States. If a final rule follows the approach in the leaked draft, then its full effects on immigration policy will be felt by:

- individuals seeking admission to the United States *from abroad* on immigrant (permanent) or nonimmigrant (temporary) visas;
- individuals seeking to adjust their status *from within the United States* (i.e., seeking a green card to become an LPR); and
- individuals *within the United States* who hold a temporary visa and are seeking to either extend their stay or change their status (e.g., H-1B workers or foreign students).

Some categories of individuals seeking admission or adjustment of status would be exempt from the rule. In the March 2018 leaked draft rule, these include refugees, asylees, Afghans and Iraqis with special immigrant visas, and certain other specified groups.²⁴ However, the vast majority of individuals seeking admission or status adjustment will be subject to these expanded public-charge provisions. If the rule makes public benefits use grounds for the deportation of legally present immigrants, this could have significant consequences for immigration enforcement policy and put a large number of legal immigrants at risk of deportation.

The following breakdown of noncitizens who received permanent immigrant and temporary visas in recent years gives a sense of the potential scope of those who may be affected by the revised public-charge criteria for purposes of admission, adjustment of status, or extension or change of status.

²⁴ The full list of exemptions is listed in the draft proposed rule at Section 212.25. See USCIS, "Inadmissibility on Public Charge Grounds" (March 2018).



1. Individuals with Temporary (Nonimmigrant) Visas

In fiscal year (FY) 2016, approximately 179 million people entered the United States as nonimmigrants, including on employment, student, and tourist visas.²⁵ The leaked draft rule indicates that any individual applying for admission, extension of stay, or change of nonimmigrant status would be required to demonstrate that he or she is not using or receiving, nor likely to use or receive public benefits. The draft rule also states that DHS could require these applicants to submit a declaration of self-sufficiency.

It is unclear what practical effect the rule would have on nonimmigrant admissions. Generally, individuals with temporary visas are not eligible for public benefits, with very few exceptions (e.g., mean-tested student aid). It is also unclear whether the rule would take into consideration the use of public benefits by dependents of nonimmigrants; if use by dependents is considered, the impact could be considerably greater.

2. Individuals with Permanent (Immigrant) Visas

Each year for the last decade, about 1 million people have become LPRs, with family reunification, employment, humanitarian protection, and the diversity visa lottery being the four main immigration pathways.²⁶ New arrivals comprised approximately 51 percent (or 577,500) of the 1.1 million immigrants granted LPR status in FY 2017; the remaining 550,700 (or 48 percent) were status adjusters—persons already in the United States whose green-card applications were approved that year.²⁷

*There is reason to believe it would have by far the greatest effects
on those who come for family reasons.*

While the draft rule would apply to employment-based immigrants as well as those entering based on family or diversity visas, there is reason to believe it would have by far the greatest effects on those who come for family reasons. Immigrants entering the United States on employment visas have job offers and are generally well educated—positive factors under the terms of the draft rule that would potentially outweigh prior benefits use. Immigrants who arrive on family visas, on average, tend to have lower levels of education and English proficiency than those on employment visas.²⁸ Under the draft rule, both would be considered negative factors that could lower these applicants' chances of visa approval.²⁹

Of new arrivals in FY 2017, nearly half (46 percent) were immediate relatives of U.S. citizens, and another 38 percent were other family-sponsored immigrants.³⁰ In other words, more than 80 percent of newly arrived immigrants in FY 2017 came to unify with their families in the United States. Similarly, among those seeking adjustment of status, nearly half (48 percent) were family-based immigrants.

25 DHS, Office of Immigration Statistics (OIS), "Nonimmigrant Admissions by Class of Admission: Fiscal Years 2014 to 2016," data table, accessed May 4, 2018, www.dhs.gov/immigration-statistics/yearbook/2016.

26 Jie Zong, Jeanne Batalova, and Jeffrey Hallock, "Frequently Requested Statistics on Immigrants and Immigration in the United States," *Migration Information Source*, February 8, 2018, www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states.

27 DHS, OIS, "Legal Immigration and Adjustment of Status Report, FY2017, Q4," dataset, accessed April 15, 2018, www.dhs.gov/sites/default/files/publications/FY2017_Q1Q2Q3Q4_tables_D.xlsx.

28 Jeanne Batalova, Michael Fix, and Peter A. Creticos, *Uneven Progress: The Employment Pathways of Skilled Immigrants in the United States* (Washington, DC: MPI, 2008), www.migrationpolicy.org/research/uneven-progress-employment-pathways-skilled-immigrants-united-states.

29 Notably, recent arrivals to the United States have higher levels of education than earlier cohorts. Since the rule would be applied prospectively to future immigrant visa applicants, the increased human capital of newly arriving immigrants is likely to play in their favor. See Jeanne Batalova and Michael Fix, *New Brain Gain: Rising Human Capital among Recent Immigrants to the United States* (Washington, DC: MPI, 2017), www.migrationpolicy.org/research/new-brain-gain-rising-human-capital-among-recent-immigrants-united-states.

30 DHS, OIS, "Legal Immigration and Adjustment of Status Report."



By comparison, 12 percent of all new LPRs (both new arrivals and status adjusters) in FY 2017 were employment-based immigrants.

Changes to admissions and status adjustment criteria that heavily favor more educated and highly skilled immigrants over those entering to join family could significantly shift the balance of the U.S. legal immigration system. Such a shift would be in line with calls by the Trump administration to halve total immigration, primarily by reducing family immigration.³¹ Using its discretion under this rule, the administration could potentially achieve a sharp reduction in both family and overall numbers administratively, without waiting for Congress to pass legislation.

Using its discretion under this rule, the administration could potentially achieve a sharp reduction in both family and overall numbers administratively.

III. The Potential Chilling Effects of the Draft Rule

In addition to its effects on legal immigration to the United States, there is reason to expect the proposed rule will have a large impact on participation in public programs by legally present immigrants and their children. Many may fear triggering the significant immigration consequences of using benefits, and these fears could lead them to drop out or not enroll themselves or their family members in programs for which they qualify. This in turn could have a negative impact on the wellbeing of these families, slow their social and economic integration, make it difficult to become fully self-sufficient, and raise public health risks. This section will examine the draft rule's potential "chilling effects" on public benefits use—both the scale of its likely impact and the populations most likely to be affected.

A. What Are "Chilling Effects?"

Changes in the behavior of immigrant families following the passage of the 1996 welfare law provide the best available evidence with which to gauge the potential effects of the proposed public-charge rule. Research documented a sharp decline in benefit program participation among immigrant families following the 1996 legislation.³² Part of the reason for this decline was that the law newly limited benefit access for recent LPRs while keeping in place bars on benefits use by nonimmigrants and unauthorized immigrants. However, scholars have documented another important factor contributing to reduced benefits use by immigrants. The "chilling effects" of the 1996 legislation deterred many immigrants entitled to public benefits and services from using them due to confusion about eligibility criteria and fears that users would be unable to sponsor family members in the future.

31 The White House, "President Donald J. Trump Backs RAISE Act" (briefing statement, Washington, DC, August 2, 2017), www.whitehouse.gov/briefings-statements/president-donald-j-trump-backs-raise-act/.

32 For a brief review of studies of the impact of welfare reform on immigrants, see Michael E. Fix, Randy Capps, and Neeraj Kaushal, "Immigrants and Welfare: Overview" in *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix (New York: Russell Sage Foundation, 2009).



A comprehensive review of studies done following the introduction of welfare reform found statistical evidence of a withdrawal from benefits among populations whose eligibility was unchanged by the law,³³ including refugees and U.S.-citizen children. Studies by the U.S. Department of Agriculture found that food stamp use fell by 53 percent among U.S.-citizen children in families with a noncitizen parent between 1994 and 1998.³⁴ With regard to refugees, Fix and Passel found that while food stamp use by noncitizen families fell 43 percent between 1994 and 1998, it fell 60 percent among refugees even though the law did not restrict their eligibility for the program, even during their initial years in the country.³⁵ Comparable figures for drops in Medicaid use were 17 percent among noncitizens and 39 percent among refugees; for Temporary Assistance for Needy Families (TANF), 44 percent and 78 percent.³⁶ Other studies found that welfare reform affected public health insurance coverage of immigrants who had resided in the United States for more than five years (and were thus not subject to its restrictions) as adversely as those who had been in the country for fewer than five years.³⁷ The Kaiser Commission on Medicaid and the Uninsured also found that, after welfare reform, many immigrants did not seek public insurance because they feared it would affect their immigration status or jeopardize their ability to become a citizen.³⁸ And while studies also documented a decline in benefits use among low-income, U.S.-born individuals during this period (likely due to changes in eligibility criteria and an improving economy), these were more modest than those seen among immigrants.³⁹

The exact wording of the new rule, its implementation, and other immigration-policy changes will determine the extent of chilling effects.

Taken together, these studies demonstrate a wide range of chilling effects on immigrants' public benefits use after the 1996 laws passed, with these effects varying by immigrant group and type of public benefit. Given this experience, immigrants' benefits use might be expected to similarly and substantially decline following the release of the proposed public-charge rule. The exact wording of the new rule, its implementation, and other immigration-policy changes will determine the extent of chilling effects.

B. Gauging the Potential Reach of the Draft Proposed Rule

To understand the size and characteristics of the population likely to feel the rule's chilling effects, this report estimates benefits use for the following four major means-tested public benefits: TANF and other cash welfare; Supplemental Security Income (SSI); SNAP; and Medicaid/CHIP and other public health

33 Francisco I. Pedraza and Ling Zhu, "The 'Chilling Effect' of America's New Immigration Enforcement Regime," *Pathways*, Spring 2015, https://inequality.stanford.edu/sites/default/files/Pathways_Spring_2015_Pedraza_Zhu.pdf.

34 Jenny Genser, *Who Is Leaving the Food Stamp Program: An Analysis of Caseload Changes from 1994 to 1997* (Washington, DC: U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis, Nutrition, and Evaluation, 1999), <https://fns-prod.azureedge.net/sites/default/files/cdr.pdf>.

35 Michael E. Fix and Jeffrey S. Passel, *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform: 1994–1997* (Washington, DC: Urban Institute, 1999), www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform.

36 Ibid.

37 Robert Kaestner and Neeraj Kaushal, "Immigrant and Native Responses to Welfare Reform," *Journal of Population Economics* 18, no. 1 (2005): 69–92.

38 Peter Feld and Britt Power, *Immigrants' Access to Health Care after Welfare Reform: Findings from Focus Groups in Four Cities* (Washington, DC: Kaiser Family Foundation, 2000), www.kff.org/medicaid/report/immigrants-access-to-health-care-after-welfare/.

39 Randy Capps, Michael Fix, and Everett Henderson, "Trends in Immigrants' Use of Public Assistance after Welfare Reform," in *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix (New York: Russell Sage Foundation, 2009).



insurance programs.⁴⁰ While these are not the only benefits that would be considered in public-charge determinations under the draft rule, they are the only ones for which estimates can be made using ACS data (see Box 2), and their recipients comprise a large share of those who could be affected by the expected rule. Using pooled 2014–16 ACS data,⁴¹ this analysis disaggregates benefits use by citizenship status, distinguishing: 1) immigrants who are not U.S. citizens (noncitizens); 2) immigrants who are naturalized U.S. citizens; and 3) the U.S. born.⁴²

This report examines public benefits use among the U.S.-born population both as an important comparison group and because the chilling effects of the new rule could extend to a segment of this population. That group could include U.S.-born individuals who seek to sponsor relatives for immigration (e.g., a U.S.-born member of the U.S. military stationed in the Philippines who wishes to bring his Filipino wife to the United States, or U.S.-born child who wishes to sponsor his or her noncitizen parents residing in the United States for a green card). The number of such native-born sponsors, though, is small relative to the total U.S.-born population.

40 See Appendix C for a list of American Community Survey (ACS) questions and instructions for data collected on use of these programs. Although ACS does not report the receipt of ACA subsidies, MPI developed proxy models to estimate the number of people *potentially eligible* for ACA subsidies who were not receiving one of the four major means-tested public benefits.

41 ACS data analyzed in this report were accessed from Steven Ruggles, Katie Genadek, Ronald Goeken, Josiah Grover, and Matthew Sobek, “Integrated Public Use Microdata Series: Version 7.0—Dataset,” University of Minnesota, accessed February 15, 2018, <https://usa.ipums.org/usa/index.shtml>.

42 The term “immigrant” (or “foreign born”) refers to people who did not hold U.S. citizenship at birth. The term “noncitizen” refers to immigrants who did not have U.S. citizenship at the time of ACS. This population includes lawful permanent residents (LPRs), refugees and asylees, persons on certain temporary visas, and the unauthorized. The term “naturalized citizen” refers to immigrants who acquired U.S. citizenship through naturalization. The term “U.S. born” (or “native born”) refers to people born in the United States or abroad to a U.S.-citizen parent.



Box 2. Data Source and Considerations

The American Community Survey (ACS) is a large, nationally representative survey of about 3 million households conducted annually by the U.S. Census Bureau. The survey collects detailed demographic, social, and economic data about U.S. families, including data on the use of some means-tested public benefits. The present analysis pools three years of ACS data to boost the sample size and improve the precision of the estimates. Data from this three-year range (2014, 2015, and 2016) capture health insurance coverage trends following the implementation of the *Affordable Care Act* (ACA) in 2014.

The estimates presented here can be viewed as conservative. ACS data provide information about four types of means-tested public benefits: TANF or other cash welfare; SSI or other disability payments; SNAP; and Medicaid/CHIP or other public health insurance programs.

Our estimates of benefits use, and as a result, the extent of chilling effects, are likely to be conservative due to several ACS data limitations:

- 1) The draft public-charge rule includes a wide range of cash and noncash benefits, including state-level and local benefit programs, while the ACS covers only these four federal major programs.
- 2) Research suggests that government surveys typically underestimate benefits use.
- 3) The draft rule would give consideration to people who not only use benefits but also those who apply for them; ACS data do not allow for estimates of program applicants.
- 4) The proposed rule also extends the definition of benefits use to individuals' dependents. ACS data allow us to estimate benefits use by the dependents of immigrants living in the same family, but not those who live in different households.

There are other U.S. Census Bureau surveys that provide information about the use of public benefits, including the annual Current Population Survey (CPS) and the Survey of Income and Program Participation (SIPP), last conducted in 2014. Both surveys collect data on a wider range of benefits than ACS, including the EITC, free and reduced-price school lunch program, housing subsidies, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and the Low-Income Home Energy Assistance Program (LIHEAP). However, the CPS and SIPP are limited by small sample sizes that do not allow for analysis of benefits use among immigrants for smaller states and many countries of origin.

MPI researchers conducted sensitivity analyses to examine how much the use of other important benefit programs not recorded by ACS would differ from estimates based on ACS data. The addition of housing assistance, energy assistance, and WIC benefits would have increased MPI estimates of affected noncitizens in benefit-receiving families by only 1 percentage point, as users of these benefits typically also use one of the four main benefits covered by ACS data. At present, it is unclear whether free- and reduced-price lunch benefits will be included in the proposed public-charge rule. These benefits were expressly excluded in the January 2018 draft version, but there was no reference to them in the March version. If school lunch benefits are added to the benefits included in ACS data, this would increase the rate of public-benefits use for noncitizens in benefits-receiving families by about 15 percentage points, in large part because of the presence of U.S.-citizen children eligible for this benefit.

Finally, while the expected rule would overwhelmingly affect legally present immigrants—unauthorized immigrants are already ineligible for most means-tested public benefits—because ACS data do not allow analysts to distinguish between different legal statuses, estimates that use these data capture some unauthorized immigrants in families where U.S.-citizen children or other family members are eligible for public benefits.

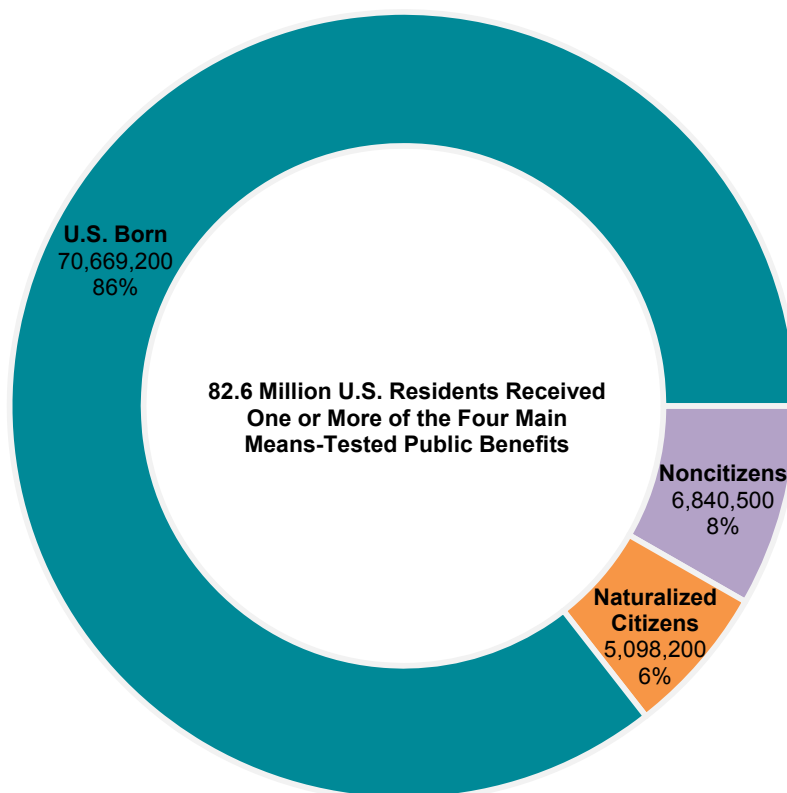
Source: Jeffrey Moore, Linda Stinson, and Edward Welniak, "Income Measurement Error in Surveys: A Review," *Journal of Official Statistics* 14 no. 4 (2000): 331-61; Bruce Meyer and Nikolas Mittag, "Using Linked Survey and Administrative Data to Better Measure Income: Implications for Poverty, Program Effectiveness, and Holes in the Safety Net" (working paper 21676, National Bureau of Economic Research, October 2015), www.nber.org/papers/w21676.

C. *Benefit-Use Levels in the United States: Individuals versus Families*

In order to gauge the potential effects of the proposed rule, it is important to first understand the scale of current benefits use. This analysis can be done at the individual, family, or household level. Some benefits are provided if an individual meets eligibility criteria (e.g., SSI, CHIP), while others are provided based on the composition or income level of families or households (e.g., TANF, SNAP). Because the draft rule would expand the public-charge determination to include consideration of benefits used by a person's dependents, this analysis encompasses both individual receipt of benefits and family receipt, where at least one family member received benefits.

The great majority of the 82.6 million U.S. residents receiving one or more public benefits in the 2014–16 period were not immigrants. Among individuals using one or more of the four main benefit programs included in this analysis, immigrants accounted for about 14 percent of recipients—roughly the same as their share of the U.S. population.⁴³ The lion's share (86 percent or 70.7 million) of individuals using these programs were U.S. born (see Figure 2).

Figure 2. Citizenship Status of Individuals Receiving Public Benefits, 2014–16



Notes: The four means-tested public benefit programs included in these data are: (1) Federal, state, and local public cash assistance, including TANF and GA; (2) SSI; (3) SNAP; (4) Medicaid and CHIP. Data include all individuals, excluding those living in group quarters.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 American Community Survey (ACS) data.

⁴³ Authors' tabulation of the U.S. Census Bureau's pooled 2014–16 ACS data.



Nearly 12 million immigrants (naturalized citizens and noncitizens combined) used at least one of the four public benefit programs examined here during the 2014–16 period (see Table 2, left panel). They represented 28 percent of all immigrants in the United States. By comparison, 26 percent of U.S.-born residents used one or more of these four programs.

A substantially greater number of immigrants—17.7 million, or 42 percent of all immigrants—lived in families where a member received benefits from at least one of these four programs (see Table 2, right panel). Among the U.S. born, almost one-third (or 87 million) lived in families receiving one or more of these benefits.

Table 2. Estimates of Individuals Receiving Public Benefits versus Individuals in Benefits-Receiving Families, by U.S. Citizenship Status, 2014–16

	Individuals			Individuals in Benefits-Receiving Families*		
	Noncitizens	Naturalized Citizens	U.S. Born	Noncitizens	Naturalized Citizens	U.S. Born
All individuals	21,909,800	20,429,300	270,656,900	21,909,800	20,429,300	270,656,900
Individuals receiving any of the four major public benefits	6,840,500	5,098,200	70,669,200	10,336,300	7,379,500	86,988,900
As a percentage of all individuals	31.2	25.0	26.1	47.2	36.1	32.1

* Individuals living in families where one or more member receives at least one of the four means-tested public benefits.

Notes: The four means-tested public benefit programs included are: TANF/GA, SSI, SNAP, and Medicaid/CHIP. Data include all individuals, excluding those living in group quarters. Families are defined as groups of persons related to the household (most are spouses and children, but this also includes unmarried partners, grandparents, siblings, parents, and children-/siblings-/parents-in-law) or subfamily head (e.g., roommates, boarders, and foster children).

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

As shown in Table 2, 6.8 million individual noncitizens, or 31 percent of all noncitizens nationwide, used at least one of the four studied means-tested public benefits. By comparison, more than 10 million noncitizens lived in families in which a member was receiving public benefits (47 percent of all noncitizens).

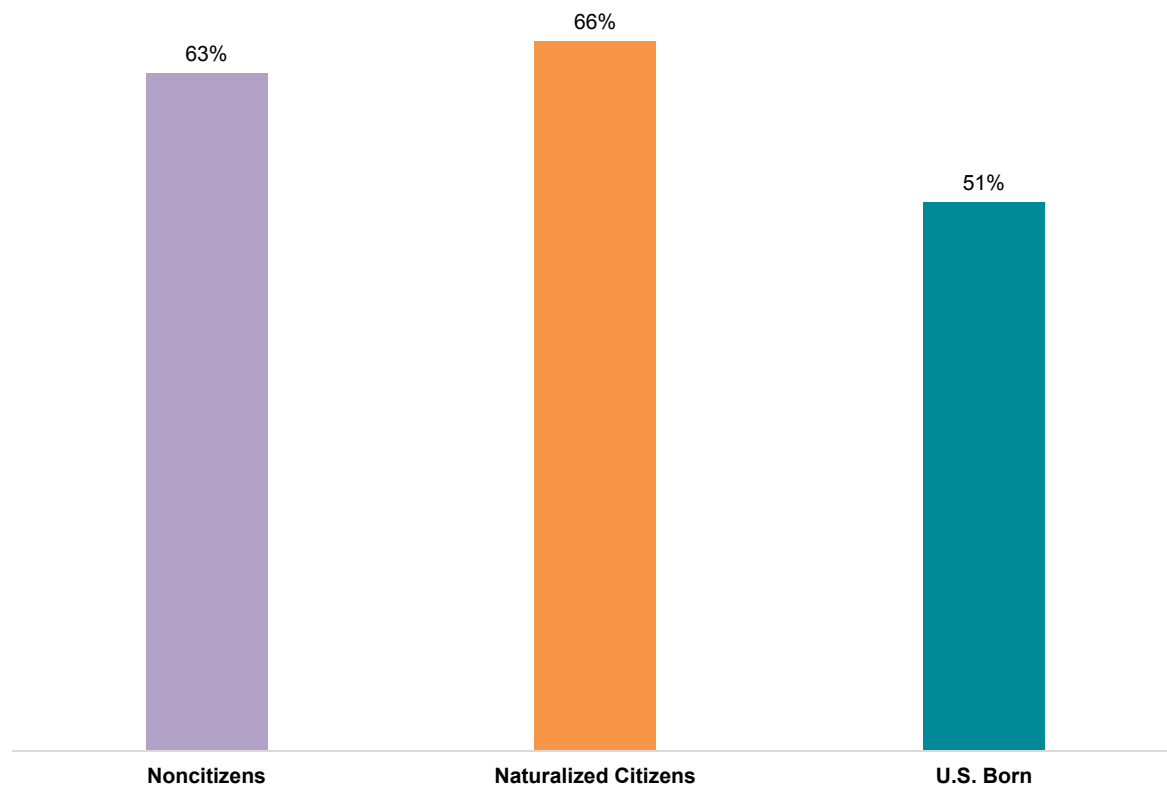
Benefits use by these U.S. citizens could have implications for their ability to sponsor relatives.

Rates of public benefits use were similar among naturalized citizens and the U.S. born; about one-quarter of individuals received benefits, and about one-third lived in families receiving benefits. Under the draft proposed rule, benefits use by these U.S. citizens could have implications for their ability to sponsor relatives.



Notably, the share of working-age immigrants in families using means-tested benefits who are employed is high: indeed, it is higher than the share of the U.S. born who are employed. Sixty-three percent of noncitizens and 66 percent of naturalized citizens (ages 16 to 64) in benefits-receiving families were employed, compared to 51 percent among U.S.-born working-age adults (see Figure 3). These high levels of employment indicate that most immigrants use benefits as work supports.

Figure 3. Employment Rates for Individuals (ages 16-64) in Benefits-Receiving Families, by U.S. Citizenship Status, 2014–16



Note: Benefits-receiving families are those where at least one member receives one or more of the four main means-tested public benefits.

Source: MPI tabulation of U.S. Census Bureau pooled 2014-16 ACS data.

Use rates also varied by benefit program. About 3 percent of immigrants were in families in which at least one person received TANF, and less than 6 percent were in families receiving SSI—figures comparable to those for U.S.-born persons in families receiving cash-based benefits. For all groups, participation was considerably higher in noncash programs such as SNAP (17 percent) and Medicaid/CHIP (39 percent)—program use that could lead to a public-charge finding under the draft proposed rule (see Table 3).



Table 3. Estimates of Individuals Receiving Public Benefits versus Individuals in Benefits-Receiving Families, by U.S. Citizenship Status and Benefit Program Type, 2014–16

	Individuals			Individuals in Benefits-Receiving Families*		
	Noncitizens	Naturalized Citizens	U.S. Born	Noncitizens	Naturalized Citizens	U.S. Born
All individuals	21,909,800	20,429,300	270,656,900	21,909,800	20,429,300	270,656,900
Four main means-tested programs						
<i>Estimate</i>						
TANF/GA (public cash assistance or welfare)	305,400	280,000	3,026,000	718,700	621,600	8,769,400
SSI	306,000	801,200	6,811,200	781,300	1,564,200	15,622,900
SNAP (food stamps)	4,495,400	2,748,100	43,425,500	4,495,400	2,748,100	43,425,500
Medicaid/CHIP	4,016,100	3,769,000	55,116,400	9,589,900	6,753,200	78,056,000
<i>As a percentage of all individuals</i>						
TANF/GA (public cash assistance or welfare)	1.4	1.4	1.1	3.3	3.0	3.2
SSI	1.4	3.9	2.5	3.6	7.7	5.8
SNAP (food stamps)	20.5	13.5	16.0	20.5	13.5	16.0
Medicaid/CHIP	18.3	18.4	20.4	43.8	33.1	28.8
Individuals (in addition to those described above**) potentially eligible for Affordable Care Act (ACA) subsidies						
Individuals potentially eligible for ACA subsidies	1,458,400	1,491,700	18,556,200	1,191,800	1,201,000	16,736,700
As a percentage of all individuals	6.7	7.3	6.9	5.4	5.9	6.2

* Individuals living in families where one or more member receives at least one of the four means-tested public benefits.

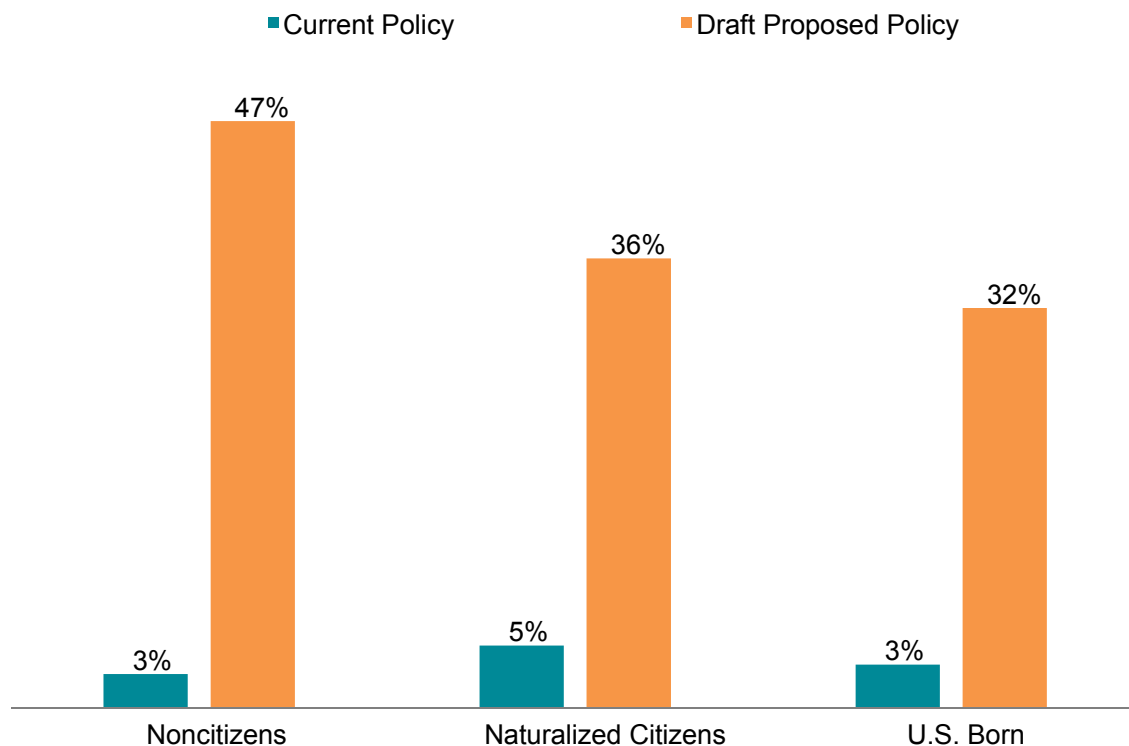
** “Potentially eligible for ACA subsidies” refers to individuals who were covered by a private health insurance plan purchased directly by them or by a family member, who resided in families with incomes below 400 percent of the federal poverty level, and who were not covered by Medicaid/CHIP and received no TANF, SSI, or SNAP. Some individuals in families where members receive one or more of the four means-tested public benefits are also eligible for ACA subsidies; these individuals are captured in the top panel of this table. While ACS records actual receipt of the four benefits programs, it does not do so for ACA subsidies. To avoid double-counting, this table provides estimates of the number of additional individuals potentially eligible for ACA subsidies (and who may be deemed a public charge under the draft proposed rule if they receive the ACA subsidies for which they are eligible).

Notes: Data include all individuals, excluding those living in group quarters. Families are defined as groups of persons related to the household (most are spouses and children, but these data also include unmarried partners, grandparents, siblings, parents, and children-/siblings-/parents-in-law) or subfamily head (e.g., roommates, boarders, and foster children).

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

Figure 4 captures the potential impact of changing the standard for determining who might be deemed a public charge. It shows that the use of cash benefits among individuals—the principal focus of the 1996 welfare reform law and the subsequent 1999 public-charge guidelines—was relatively low. Only 3 percent of noncitizens individually received public cash assistance (TANF, GA, or SSI).⁴⁴ In contrast, the share of persons who may see benefits use factor into a public-charge decision under the potential rule—and who might feel its chilling effects—is much higher. For noncitizens, the share would be 47 percent, that is, the proportion of noncitizens living in families where at least one person used any of these benefits. Notably, 32 percent of U.S.-born persons also received benefits that would be counted in a public-charge determination under the new definition, compared to 3 percent under the current standard.

Figure 4. Share of Persons for Whom Benefits Use Could Be Considered in a Public-Charge Determination, 2014–16



Notes: Estimates shown under the “current” public charge policy represent the share of noncitizen, naturalized-citizen, and U.S.-born individuals who received cash-based assistance only (i.e., either TANF/GA or SSI). Estimates shown under “draft proposed” policy refer to the share of individuals in families receiving at TANF/GA, SSI, SNAP, or Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

Under the draft proposed rule, individuals in families with a member who uses ACA subsidies could also see use of these subsidies considered in public-charge determinations. ACA subsidies reduce premiums and out-of-pocket health insurance costs for moderate- and low-income populations, particularly those without access to affordable insurance coverage through employment or Medicaid/Medicare. Because the ACS does not collect data on whether respondents receive ACA subsidies, Migration Policy Institute (MPI) researchers developed a proxy estimate of the number and share of individuals potentially eligible to receive them.⁴⁵ To do so, they estimated the number of individuals who were covered by a private health

⁴⁴ Because this estimate of the share of cash program users under current policy represents all noncitizens who received either TANF/GA or SSI, it overstates somewhat the population who could be deemed a public charge. Only noncitizens who depend on cash assistance as their primary source of income are specified under the current standard.

⁴⁵ Note that this population includes people who receive these subsidies, those who do not receive them even though they are eligible, and unauthorized immigrants who would be eligible but for their legal status.



insurance plan that they or a family member purchased directly, who resided in families with incomes below 400 percent of the federal poverty level, and whose families were not covered by Medicaid and did not receive TANF, SSI, or SNAP.

The data show that an additional 1.2 million noncitizens (or 5 percent of all noncitizens in families) and 1.2 million naturalized citizens (6 percent of naturalized citizens in families) could have received ACA subsidies (see Table 3, bottom panel). By including ACA subsidies in a potential public-charge determination, the draft rule expands the scope of the standard and does so in a way that could affect not only low-income but also middle-income families.

D. Who Would Feel the Chilling Effects of the Expected Rule?

The exact magnitude of the chilling effects of the proposed public-charge rule is difficult to gauge. Close to 18 million immigrant adults and children live in families in which at least one member received TANF/GA, SSI, SNAP, or Medicaid/CHIP. Additionally, 9.2 million U.S.-born children reside in such families. However, not all 27 million adults and children in benefits-receiving immigrant families are expected to withdraw from public benefit programs. Other factors, such as need, legal advice, understanding or ignorance of the proposed policy changes, and the strength of local economies and labor-market opportunities could influence family decision-making as well.

Some of the best indications of how many people may alter their behavior in response to the proposed change in public-charge policy come from studies conducted following the mid-1990s welfare reform. These found steep declines in participation levels across differing immigrant populations and benefit programs, with declines ranging from 20 to 60 percent. Using the lower bound estimate of 20 percent, approximately 5.4 million immigrants and their children may leave the programs. But if immigrants drop out at a higher rate of 60 percent, as many as 16.2 million may choose to forgo these benefits.

I. Benefit-Use Levels among Children

The potential effects of the draft rule vary across subpopulations and geographies. Children are among the most vulnerable groups in any society and a wide range of U.S. programs are intended to promote their health, nutrition, wellbeing, and development. While the children of immigrants⁴⁶ represented 26 percent of all children under age 18 in 2014–16, they accounted for 31 percent (or 10.5 million) of the 33.7 million children living in families receiving one of the four main public benefits.

The great majority of children potentially affected by the draft proposed rule's chilling effects would be U.S.-citizen children with immigrant parents.

Nine out of ten (or 9.2 million) of these 10.5 million children of immigrants were U.S. citizens by birth. Another 987,000 were noncitizen children and 280,000 were naturalized citizens. Thus, the great majority of children potentially affected by the draft proposed rule's chilling effects would be U.S.-citizen children with immigrant parents.

⁴⁶ Children of immigrants (or children in immigrant families) refers to children under age 18 with at least one immigrant parent, or if no parent is present, an immigrant householder.



As was the case for the immigrant population overall, Medicaid/CHIP and SNAP accounted for most benefits use among children (see Table 4).

Table 4. Estimates of the Number and Share of Children in Benefits-Receiving Families, by U.S. Citizenship Status of the Child, 2014–16

	Children by U.S. Citizenship Status and Parental Nativity			
	Noncitizens	Naturalized Citizens	U.S. Born with Immigrant Parents*	U.S. Born with U.S.-Born Parents
All children	1,819,800	653,200	16,341,300	54,501,900
Children in families receiving any of the four main public benefits	987,000	279,700	9,254,000	23,165,700
As a percentage of all children	54.2	42.8	56.6	42.5
Children in families receiving the following public benefits:				
<i>Estimate</i>				
TANF/GA (public cash assistance or welfare)	82,400	25,600	697,400	2,704,100
SSI	46,100	27,900	499,000	2,787,500
SNAP (food stamps)	507,200	116,000	4,396,400	13,245,700
Medicaid/CHIP	929,700	262,300	8,867,100	21,785,500
<i>As a percentage of all children</i>				
TANF/GA (public cash assistance or welfare)	4.5	3.9	4.3	5.0
SSI	2.5	4.3	3.1	5.1
SNAP (food stamps)	27.9	17.8	26.9	24.3
Medicaid/CHIP	51.1	40.2	54.3	40.0

* Children born in the United States with at least one immigrant parent, or if no parent is present, with an immigrant householder.

Note: These data include children under age 18 living in families in which one or more member receives at least one of the four major means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

2. Benefit-Use Levels by Race and Ethnicity

Benefits use and, thus, the likely chilling effects of the draft proposed rule also vary across racial/ethnic groups. This section explores benefits use by the two largest racial/ethnic groups among immigrants: Asian Americans and Pacific Islanders (AAPIs)⁴⁷ and Hispanics. AAPIs account for 28 percent of all immigrants; Hispanics, for 45 percent.

The impact of the expected rule would be broadly felt across both populations. Currently, 3.8 million AAPI and 10.3 million Hispanic immigrants were in families in which a member received at least one of the four main means-tested benefits (see Table 5). If persons potentially eligible for ACA subsidies are added, the

⁴⁷ Asian Americans and Pacific Islanders (AAPIs) are persons who reported their race as Asian or Pacific Islander alone or in combination with other racial categories on their ACS questionnaire. In this report, the AAPI population includes both non-Hispanic and Hispanic persons. The former accounts for 99 percent of all AAPI immigrants.



number of AAPI and Hispanic immigrants in benefits-receiving families increases by about 870,000 and 690,000, respectively.

Table 5. Number and Share of Asian American and Pacific Islanders and Hispanics in Benefits-Receiving Families,* by U.S. Citizenship Status, 2014–16

	AAPI Population			Hispanic Population		
	Noncitizens	Naturalized Citizens	U.S. Born	Noncitizens	Naturalized Citizens	U.S. Born
All individuals	4,907,600	6,915,200	8,936,800	12,486,300	6,683,400	36,141,500
Individuals in families receiving any of the four major public benefits	1,500,200	2,261,800	2,627,100	7,288,500	3,016,900	19,198,300
As a percentage of all individuals	30.6	32.7	29.4	58.4	45.1	53.1
Workers						
Individuals ages 16-64 in benefit-receiving families	1,135,700	1,589,900	1,195,500	6,409,100	2,280,700	8,416,100
Workers ages 16-64 in families receiving benefits	645,600	1,058,900	650,500	4,178,300	1,522,400	4,412,800
As a percentage of individuals ages 16-64 in families receiving benefits	56.8	66.6	54.4	65.2	66.7	52.4
Individuals in families receiving the following public benefits:						
<i>Estimate</i>						
TANF/GA (public cash assistance or welfare)	137,200	217,900	292,200	415,500	206,000	1,876,900
SSI	185,500	599,400	407,200	432,500	504,600	2,325,900
SNAP (food stamps)	523,200	686,600	994,000	3,267,700	1,225,500	9,883,400
Medicaid/CHIP	1,390,900	2,092,900	2,415,600	6,793,300	2,766,200	17,968,800
<i>As a percentage of all individuals</i>						
TANF/GA (public cash assistance or welfare)	2.8	3.2	3.3	3.3	3.1	5.2
SSI	3.8	8.7	4.6	3.5	7.6	6.4
SNAP (food stamps)	10.7	9.9	11.1	26.2	18.3	27.3
Medicaid/CHIP	28.3	30.3	27.0	54.4	41.4	49.7
Individuals (in addition to those described above*) potentially eligible for Affordable Care Act (ACA) subsidies						
Individuals potentially eligible for ACA subsidies	473,200	391,900	451,600	363,400	325,300	1,179,300
As a percentage of all individuals	9.6	5.7	5.1	2.9	4.9	3.3

* “Potentially eligible for ACA subsidies” refers to individuals who were covered by a private health insurance plan purchased directly by them or by a family member, who resided in families with incomes less than 400 percent federal poverty line, and whose families were not covered by Medicaid/CHIP and did not receive TANF, SSI, or SNAP.

Note: Data include individuals living in families in which one or more member receives at least one of the four means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

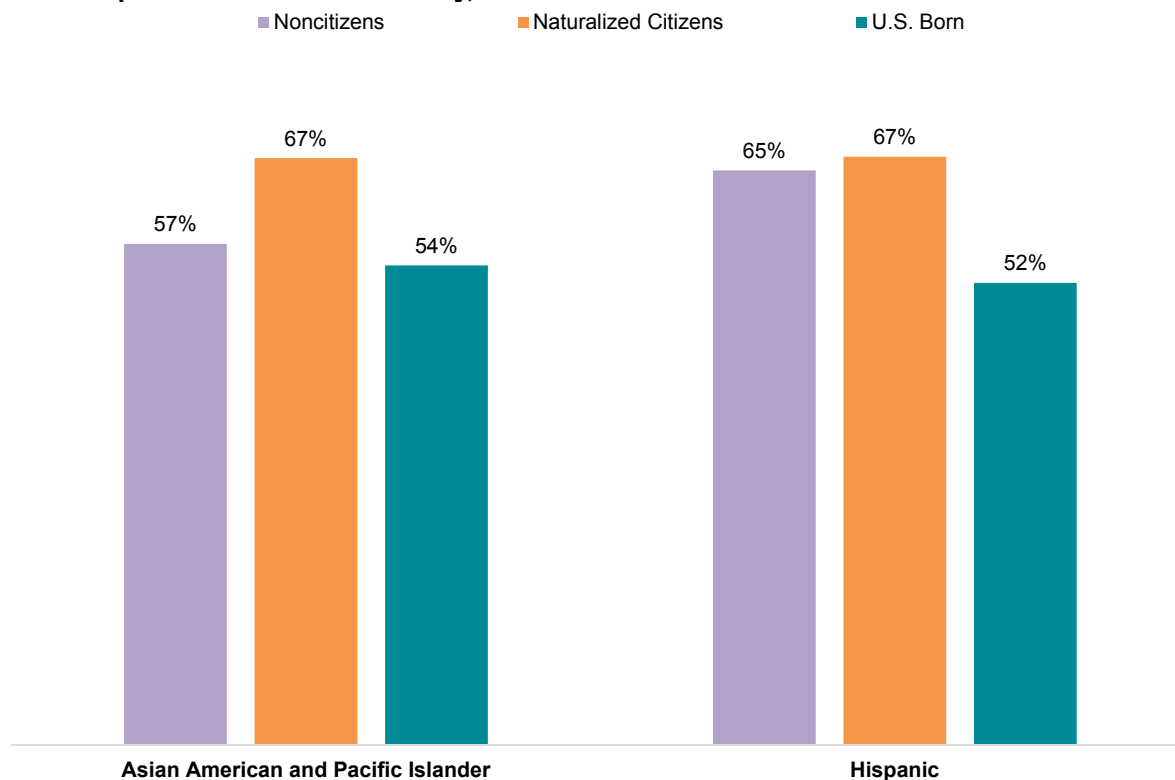
Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

AAPI immigrants lived in families that were either less or equally likely to use benefits as the overall U.S. immigrant population. Naturalized AAPIs were only slightly more likely to use public benefits (33 percent) than either noncitizen or U.S.-born AAPIs (31 percent and 29 percent, respectively). This trend holds for all but SNAP benefits (as shown in Table 5).

Relative to both AAPIs and immigrants overall, noncitizen Hispanics were the most likely to be in families that received public benefits. In large part, this trend has to do with the presence of U.S.-citizen children in many Hispanic families.

Like immigrants overall, the majority of working-age AAPIs and Hispanics in benefits-receiving families were employed (see Figure 5). Employment rates were highest among naturalized Hispanics and AAPIs (both 67 percent) and noncitizen Hispanics (65 percent). For such families, as is noted more broadly above, these benefits function as work support and not an income substitute.

Figure 5. Employment Rate for Individuals (ages 16-64) in Benefits-Receiving Families, by U.S. Citizenship Status and Race/Ethnicity, 2014–16



Note: Benefits-receiving families are those in which at least one member receives one or more of the four means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

3. Benefit-Use Levels by Country of Birth

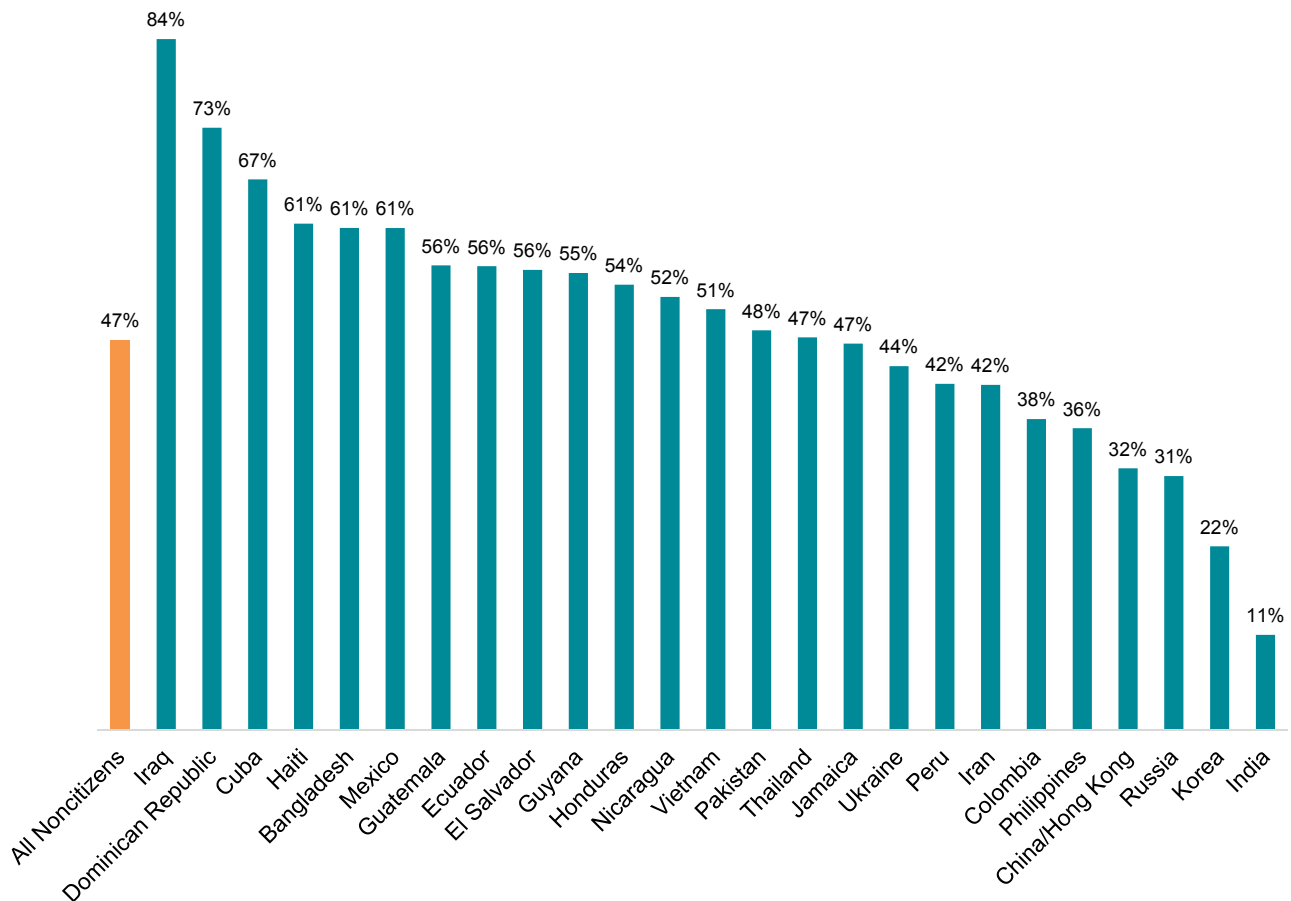
Noncitizens' benefits use rates vary significantly by country of origin (see Figure 6). Whereas the national average was 47 percent among all noncitizens, those born in Iraq, the Dominican Republic, and Cuba were much more likely to live in benefits-receiving families (84 percent, 73 percent, and 67 percent, respectively). Noncitizens from India and Korea⁴⁸ were much less likely, at 11 percent and 22 percent, respectively.

⁴⁸ The ACS data source used in this analysis reports persons born in South Korea and North Korea as one origin group.



There are numerous reasons for these widely varied levels of benefits use. Refugee status, household composition, and socioeconomic status (as reflected by education and income levels) are key factors contributing to these trends. Iraqis and Cubans are refugee-origin populations and have been generally exempt from benefit restrictions placed on other legal immigrants. Meanwhile, Dominican and Haitian families are roughly twice as likely to be headed by a single female, and such families are more likely to be in poverty than an average immigrant family.⁴⁹ In the case of Mexican immigrants, and despite higher levels of employment, their families have lower incomes and are more likely to be in poverty than those of other immigrants.⁵⁰ The presence in many of U.S.-born children eligible for benefits, coupled with low income levels, may explain why Mexican noncitizens have higher than average rates of benefit participation. By contrast, the higher average education and income levels of immigrants from India and Korea⁵¹ make them significantly less likely to use public assistance.

Figure 6. Share of Noncitizens in Benefits-Receiving Families: Top 25 Countries of Origin with the Highest Number of Noncitizens in Benefits-Receiving Families, 2014–16



Note: Benefits-receiving families are those in which at least one member receives one or more of the four main means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

⁴⁹ Authors' analysis of 2016 ACS data. For instance, the share of Dominican families with a female head (no husband present) was 32 percent versus 14 percent among all immigrants. Thirty-six percent of families headed by a single Dominican female were in poverty compared to 31 percent of all single female-headed immigrant families, despite higher than average labor-force participation among Dominican immigrant women.

⁵⁰ Authors' analysis of 2016 ACS data. Almost 29 percent of Mexican families with children under 18 were in poverty compared to 21 percent of all immigrant families with young children.

⁵¹ Jie Zong and Jeanne Batalova, "Indian Immigrants in the United States," *Migration Information Source*, August 31, 2017, www.migrationpolicy.org/article/indian-immigrants-united-states; Jie Zong and Jeanne Batalova, "Korean Immigrants in the United States," *Migration Information Source*, February 8, 2018, www.migrationpolicy.org/article/korean-immigrants-united-states.



4. Benefit-Use Levels by U.S. State

The chilling effects of the anticipated rule may be greatest in major immigrant-receiving states and states that have extended public benefits to noncitizens and their families beyond what is provided by the federal government. California and New York fall into both categories. California is home to the largest number of immigrants of any U.S. state (10.7 million out of the nation's 43.7 million immigrants in 2016), and New York has the third-largest immigrant population (4.5 million), after Texas (4.7 million).⁵² California and New York are also among the 26 states and the District of Columbia that use state funding or take federal options⁵³ to extend benefits to some noncitizens who became ineligible for major federal means-tested benefits programs after the 1996 welfare reform. For instance, California's CalFresh Food Assistance Program provides nutrition assistance to low-income households similar to the federal SNAP program (Connecticut, Maine, Minnesota, and Washington State have similar programs).⁵⁴ And California's Cash Assistance Program for Immigrants (CAPI)⁵⁵ provides state-funded assistance to low-income noncitizens who are seniors or disabled, and who are ineligible for SSI because of their immigration status. Meanwhile New York's Safety Net Assistance provides cash assistance to qualifying immigrants ineligible for TANF.⁵⁶

California and New York combined were home to 35 percent of the U.S. immigrant population and 41 percent of those in benefits-receiving families. In California, 2.9 million noncitizens and 2.2 million naturalized citizens lived in families that used at least one of the major four means-tested benefits (see Figure 7). In New York, these numbers were 1.1 million for noncitizens and 1.1 million for naturalized citizens. These figures indicate the significant local impacts the draft proposed rule may have on the populations of these states as well as on the nongovernmental organizations and government agencies that serve them.

Texas and Florida, the two states with the next largest numbers of immigrants in benefits-receiving families, were home to 20 percent of immigrants in such families and about 20 percent of the overall U.S. immigrant population.⁵⁷ However, in contrast to California and New York, neither state offers state-funded supplementary programs to noncitizens who became ineligible for public benefits following the 1996 welfare reform.⁵⁸

Overall, the top 25 states shown in Figure 7—which include all traditional immigrant destinations as well as newer destinations such as Georgia, Indiana, Nevada, Ohio, and Pennsylvania—accounted for 94 percent of immigrants living in families that receive at least one of the major four benefits.

Get the Data: Impact by State

Detailed data profiles of benefits use in the United States overall and in each state are available [here](#).

52 MPI Migration Data Hub, "State Immigration Trends: Number and Share of Total State Population, 1990–2016," accessed April 30, 2018, www.migrationpolicy.org/programs/data-hub/us-immigration-trends#history.

53 These federal options include the Unborn Child Option, which permitted states to use federal CHIP funding to extend prenatal care to pregnant women regardless of their status, and the provisions of the *Children's Health Insurance Program Reauthorization Act of 2009* (CHIPRA), which provides states with new funding to expand health insurance coverage to children who are eligible but not enrolled in Medicaid and CHIP. See Pew Charitable Trusts, "Mapping Public Benefits for Immigrants in the States" (policy brief, Pew Charitable Trusts, Washington, DC, September 2014), www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/mapping-public-benefits-for-immigrants-in-the-states.

54 Tanya Broder, Avideh Moussavian, and Jonathan Blazer, *Overview of Immigrant Eligibility for Federal Programs* (Washington, DC: National Immigration Law Center, 2015), www.nilc.org/issues/economic-support/overview-immeligfedprograms/.

55 California Department of Social Services, "Cash Assistance Program for Immigrants (CAPI)," accessed May 1, 2018, www.cdss.ca.gov/CAPI.

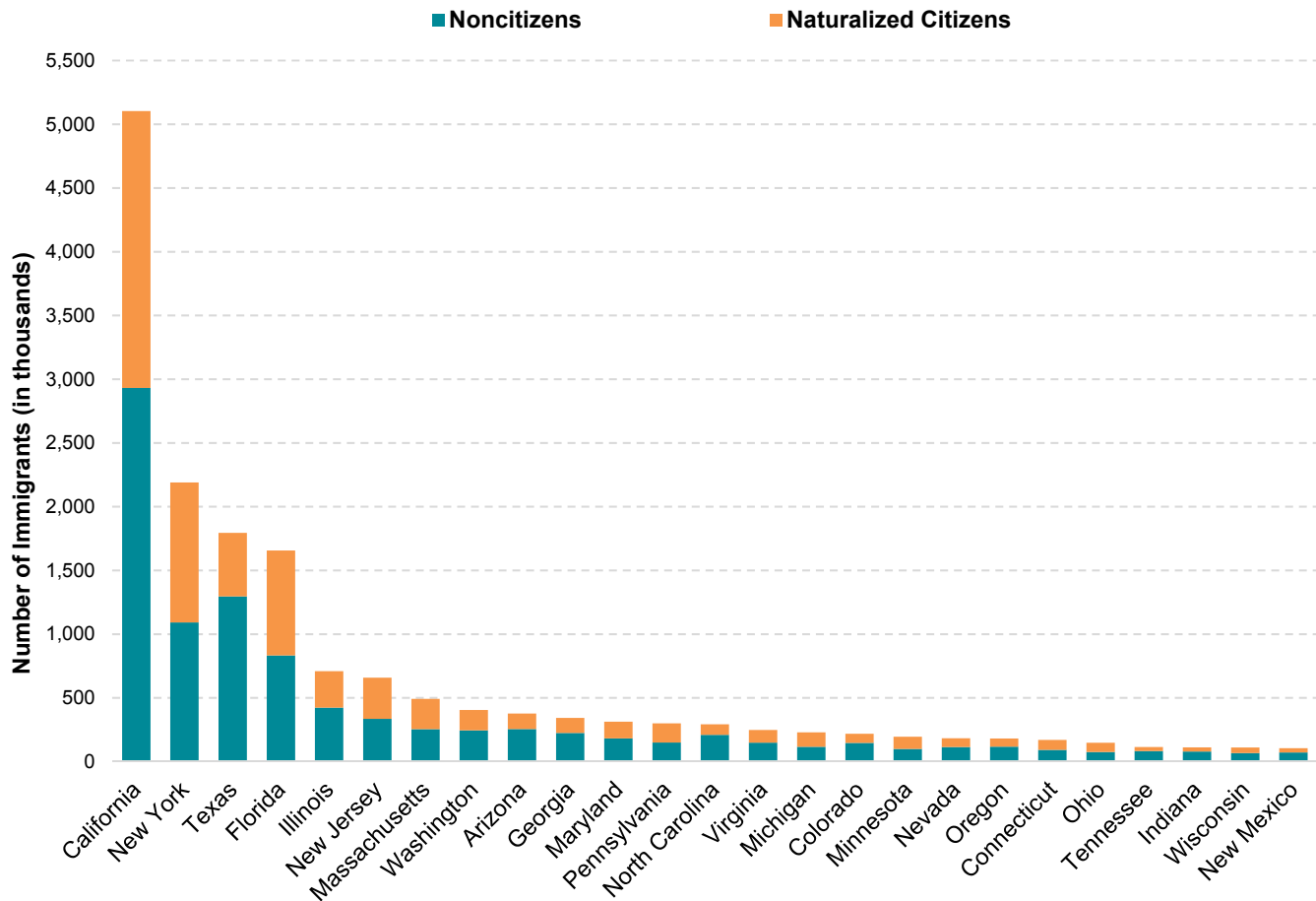
56 National Immigration Law Center, "Guide to Immigrant Eligibility for Federal Programs, Table 12: State-Funded Food Assistance Programs," updated March 2014, www.nilc.org/issues/economic-support/updatepage/.

57 Texas and Florida together accounted for about 20 percent of the U.S. total immigrant population.

58 Pew Charitable Trusts, "Mapping Public Benefits."



Figure 7. Top 25 States with the Largest Number of Immigrants in Benefits-Receiving Families, 2014–16



Note: Benefits-receiving families are those in which at least one member receives one or more of the four means-tested public benefits: TANF/GA, SSI, SNAP, and Medicaid/CHIP.

Source: MPI tabulation of U.S. Census Bureau pooled 2014–16 ACS data.

The composition of the immigrant population in these top 25 states varies significantly in terms of citizenship status. Noncitizens make up a higher percentage of the immigrant populations in Texas, North Carolina, and Tennessee (72 percent each), and relatively lower shares in Florida, Pennsylvania, New York, Ohio, and Minnesota (between 50 percent and 51 percent each).

In sum, many states will feel the impacts of the proposed rule—and especially those with large noncitizen populations, those whose immigrant populations represent a large share of the state’s benefits users, and those that have adopted comparatively generous social welfare programs in general and for immigrants in particular.

IV. Policy Implications and Conclusions

The changes to the public-charge standard foreshadowed in the leaked March 2018 draft proposed rule have the potential to alter immigration flows, limit immigrants and their families’ access to public benefits, and potentially slow the pace of their integration and hinder their ability to become self-sufficient.



In terms of immigration policy, the approach outlined in the draft would grant officials broad discretion to deny applications for admissions and green cards for a potentially large number of immigrants whose applications would be approved under existing standards. While this report does not estimate the scale of these impacts on admissions, they will be the focus of future MPI research. Nonetheless, it seems clear that by providing the Trump administration the discretion to make significant alterations to admissions, this rule could reshape the make-up of future legal immigration flows. Impacts would likely be particularly severe for immigrants seeking to enter or stay in the country based on family relationships because the expected rule would consider a wider range of public benefits used either now or in the prior 36 months, and by either applicants or their dependents, while rewarding those with higher incomes, levels of education, and English proficiency. As a result, the proposed rule could enable the administration to significantly shift the U.S. legal immigration system away from family-based immigration—bypassing Congress and the need to build support around immigration legislation.

The anticipated rule also has the potential to considerably change access to public benefits, departing in key ways from the approach that has been in place for more than 20 years. In the 1996 welfare reform law, Congress specifically delineated which categories of immigrants were eligible for which federally funded benefits. At the same time, Congress also made the judgment, as a matter of federalism, that states and localities should be free to use their own funds to provide benefits to immigrants who were not eligible for federally funded assistance.

The potential chilling effects of the draft proposed rule on immigrant families could be far-reaching and felt immediately. While the draft rule envisions the new standards, including the counting of benefit receipt, coming into force only after the effective date of the final rule, the impacts on behavior could begin long before then. According to MPI analysis, 27 million immigrants and their children, including many who are U.S. born, reside in families where at least one member receives one or more of the four main means-tested public benefits.

Historical experience suggests the chilling effects would likely extend beyond the noncitizen population. They are likely to also affect the U.S.-citizen children of immigrants and others citizen members of immigrant families, as well as exempted population like refugees. If program disenrollment follows the patterns observed in the 1990s, as many as 20 percent to 60 percent of immigrants could withdraw from benefit programs. If significant numbers of immigrants and their family members withdraw from public benefit programs because of real or perceived fears that they will not be able to sponsor a family member, be refused a permanent or temporary visa, or be deported, the impacts of the rule on their health and wellbeing could be deep and long-lasting.

Viewed from the perspective of public institutions, the new rule could reverse efforts taken in the wake of the 1996 welfare reform law by all levels of government to encourage eligible immigrants and their families to participate in social programs, ranging from WIC to SNAP and Medicaid. By making the receipt of a wider range of federal, state, and local benefits potentially disqualifying factors in immigration decision-making, the new policy would be fundamentally at odds with the right of state and local governments to determine the investments they make in their own residents. While states and localities would remain free to extend benefits to those ineligible under federal law, the share of immigrants participating in these programs would be expected to fall sharply as families fear the potential consequence of accessing those benefits.

The proposed rule could also impose substantial new demands on service providers, requiring them to communicate additional information to potential benefit recipients about the new, expanded liabilities associated with using the public benefits programs they administer. It is likely that providers will be hesitant to offer counseling on complex aspects of immigration law. Changed public-charge regulations could place the interests of some providers such as hospitals (that are reimbursed for services) at odds with those of their clients, who would be at greater risk of immigration consequences if they receive



publicly funded care.⁵⁹ Immigrants' withdrawal from subsidized health insurance programs could lead to higher levels of unsubsidized care and higher unreimbursed costs. And by making immigrants and their children reluctant to visit doctors and clinics they, as well as the broader U.S. public, could face increased public health risks.

Viewed from the perspective of individual and family wellbeing, reluctance on the part of immigrant households to participate in programs such as SNAP could lead to higher levels of poverty. Any significant decline in participation by eligible families can be expected to result in increased child poverty.⁶⁰ At the same time, the expected rule is likely to reduce the well-documented positive impacts of prenatal care, nutrition assistance, early childhood education, and timely medical care on the health, development, and psychological outcomes of immigrant and U.S.-born children.⁶¹

The expected rule is likely to reduce the well-documented positive impacts of prenatal care, nutrition assistance, early childhood education, and timely medical care.

A central goal of the proposed policy changes is to encourage self-sufficiency and discourage immigrant families from receiving any public benefits. However, the approach is likely to hinder the integration of these families into U.S. society. Research has found that immigrants tend to use TANF and other benefit programs as a form of temporary assistance that promotes, rather than retards, progress towards self-sufficiency.⁶² Given the long-term negative impacts of poverty and blocked access to basic services on individual and family wellbeing,⁶³ policies that chill legal immigrant families' use of work supports and basic health and nutritional benefits may make it harder to achieve self-sufficiency for the millions who would be affected by the rule in its current form.

59 Wendy E. Parmet and Elisabeth Ryan, "New Dangers for Immigrants and The Health Care System," Health Affairs, April 20, 2018, www.healthaffairs.org/doi/10.1377/hblog20180419.892713/full/.

60 Samantha Artiga, Anthony Damico, and Rachel Garfield, *Potential Effects of Public Charge Changes on Health Coverage for Citizen Children* (Washington, DC: Kaiser Family Foundation, 2018), www.kff.org/disparities-policy/issue-brief/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children/; Jennifer Laird, Neeraj Kaushal, Jane Waldfogel, and Christopher Wimer, "Forgoing Food Assistance out of Fear: Changes to 'Public Charge' Rule May Put 500,000 More U.S. Citizen Children at Risk of Moving into Poverty," *Poverty and Social Policy Brief* 2, no. 2 (2018): 1–4, https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5ac63aaf88251b8bef4532a4/1522940592522/Poverty+and+Soc+ial+Policy+Brief+2_2.pdf.

61 Linda M. Espinosa, *Early Education for Dual Language Learners: Promoting School Readiness and Early School Success* (Washington, DC: MPI, 2013), www.migrationpolicy.org/research/early-education-dual-language-learners-promoting-school-readiness-and-early-school-success; Jonas Swartz, Jens Hainmueller, Duncan Lawrence, and Maria Isabel Rodriguez, "Expanding Prenatal Care to Unauthorized Immigrant Women and the Effects on Infant Health," *Obstetrics & Gynecology* 130, no. 5 (2017): 938–45; Alisha Coleman-Jensen, William McFall, and Mark Nord, *Food Insecurity in Households with Children* (Washington, DC: U.S. Department of Agriculture, Economic Research Service, 2013), www.ers.usda.gov/webdocs/publications/43763/37672_eib-113.pdf?v=41424.

62 Jennifer Van Hook and Frank D. Bean, "Immigrant Welfare Receipt: Implications for Immigrant Settlement and Integration" in *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix (New York: Russell Sage Foundation, 2009).

63 Sarah Cohodes, Daniel Grossman, Samuel Kleiner, and Michael F. Lovenheim, "The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions" (working paper no. 20178, National Bureau of Economic Research, October 2014), www.nber.org/papers/w20178; Hilary Hoynes, Diane Whitmore Schanzenbach, and Douglas Almond, "Long-Run Impacts of Childhood Access to the Safety Net," *American Economic Review* 106, no. 4 (2016): 903–34; Raj Chetty, Nathaniel Hendren, and Lawrence Katz, "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment" (working paper, Harvard University and National Bureau of Economic Research, August 2015), http://scholar.harvard.edu/files/hendren/files/mto_paper.pdf.



Appendices

Appendix A. March 2018 Draft Rule: Benefits to be Included in and Excluded from Public-Charge Assessments

The March 2018 leaked draft rule would significantly expand the list of public benefits the U.S. Department of Homeland Security (DHS) is to consider when determining whether a noncitizen is or may become a public charge. This list includes any cash or noncash government assistance or service that is (a) means tested or (b) intended to help the individual meet basic living requirements, such as housing, food, utilities, or medical care.

The draft rule lists a set of benefits that would be included and a set that would be excluded from this definition. However, even if a particular benefit is not explicitly listed as included, it will still be considered in a public-charge determination if it falls within the above definition and is not expressly excluded.

The draft rule states that the following benefits would be *included*:

- Supplemental Security Income (SSI)
- Temporary Assistance to Needy Families (TANF)
- state or local cash benefit programs for income maintenance
- any other federal public benefits for the purpose of maintaining the applicant's income, such as public cash assistance for income maintenance
- nonemergency benefits under Medicaid
- subsidized health insurance, defined as any health insurance for which the premiums are partially or fully paid, on a nonearned basis, by a government agency (including but not limited to advanced premium tax credits, tax credits, or other forms of reimbursement)
- Supplemental Nutrition Assistance Program (SNAP)
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- State Children's Health Insurance Program (CHIP)
- housing assistance under the *McKinney-Vento Homeless Assistance Act* or the Housing Choice Voucher Program (Section 8)
- means-tested energy benefits such as the Low-Income Home Energy Assistance Program (LIHEAP)
- institutionalization for both long-term and short-term care at government expense
- the Earned Income Tax Credit (EITC) and similar refundable tax credits, when the credit exceeds the individual's tax liability.



The draft rule states that the following benefits would be *excluded*:

- Benefits paid for or earned by the person which may include, but are not limited to, the following:
 - Federal Old-Age, Survivors, and Disability Insurance benefits
 - veteran's benefits
 - government pension benefits
 - government employee health insurance
 - government employee transportation benefits
 - unemployment benefits
 - worker's compensation
 - Medicare benefits, unless the premiums are partially or fully paid by a government agency
 - state disability insurance
 - loans provided by the government that require repayment
 - in-state college tuition, and any subsidized or unsubsidized government student loans (including but not limited to loans under the William D. Ford Federal Direct Loan Program and the Federal Perkins Loan Program).
- public benefits received where the total annual value in any one year does not exceed 3 percent of the total Federal Poverty Guidelines threshold based on the household size for that year
- elementary and secondary public education (preK through 12th grade) as permitted under the law including benefits under the *Head Start Act*
- benefits under the *Individuals with Disabilities Education Act* and related services
- nonrefundable tax credits, and refundable tax credits that are neither means tested nor intended to help the individual beneficiary meet basic living requirements
- benefits for which nonqualified noncitizens can be eligible under federal law, such as emergency Medicaid; short-term, noncash, in-kind emergency disaster relief; and public health assistance, immunizations with respect to diseases, and testing and treatment of symptoms of communicable diseases.



Appendix B. March 2018 Draft Rule: Heavily Weighted Positive and Negative Factors to be Considered When Assessing the Totality of the Circumstances

Under the terms of the March 2018 leaked draft rule, DHS would assess whether a noncitizen is using or receiving, or is likely at any time to use or receive, any of a number of public benefits (see Appendix A). In making that determination, immigration officers would be required to consider the individual's age; health; family status; education and skills; and assets, resources, and financial status. The draft also specifies a set of heavily weighted negative and positive factors that are to be considered.

The following would be **negative factors**, weighing heavily in favor of a finding that an alien is likely to become a public charge:

- The individual is not a full-time student and is authorized to work, but is unable to demonstrate current employment and has no employment history or reasonable prospect of future employment
- Current use or receipt of one or more public benefits
- Use or receipt of one or more public benefits within the last 36 months
- Presence of a medical condition and inability to show evidence of unsubsidized health insurance, the prospect of obtaining unsubsidized health insurance, or other nongovernmental means of paying for treatment
- A previous determination of inadmissibility or deportability based on public charge
- Other factors as warranted, according to DHS discretion, in individual circumstances.

The following would be **positive factors**, weighing heavily in favor of a finding that an alien is not likely to become a public charge:

- Financial assets, resources, and support of at least 250 percent of the federal poverty guidelines
- Work authorization and current employment with an annual income of at least 250 percent of the federal poverty guidelines
- Other factors as warranted, according to DHS discretion, in individual circumstances.



Appendix C. American Community Survey Questionnaire Text and Instructions for Public Assistance Program Participation Questions, 2014–16

The data presented in this report reflect responses to the following questions on the American Community Survey (ACS) questionnaire:

Program Name	ACS Questionnaire Text
Temporary Assistance for Needy Families (TANF) and other welfare programs	<p>Respondents are asked whether they received any public assistance or welfare payments from the state or local welfare office. If yes, they are asked to give their best estimate of the total amount received in the past 12 months.</p> <p><i>Note:</i> In addition to TANF, these welfare programs include Aid to Families with Dependent Children (AFDC), Aid to Dependent Children (ADC), welfare or welfare to work, General Assistance (GA), General Relief, Emergency Assistance, and Diversion Payments.</p>
Supplemental Security Income (SSI)	<p>Respondents are asked whether they received SSI. If yes, they are asked to give their best estimate of the total amount received in the past 12 months.</p>
Supplemental Nutrition Assistance Program (SNAP)	<p>Respondents are asked whether they or any member of their household received benefits from SNAP (formerly called the Food Stamp Program) in the past 12 months.</p> <p><i>Note:</i> Respondents are instructed to not include benefits from the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); the School Lunch Program; or assistance from food banks.</p>
Medicaid/the Children's Health Insurance Program (CHIP)	<p>Respondents are asked whether, at the time of the survey, they were covered by Medicaid, Medical Assistance, or any other kind of government-assistance plan for those with low incomes or a disability.</p> <p><i>Note:</i> For the purposes of this analysis, and due to data limitation, the data tables in this report show estimates of Medicaid and CHIP use as a combined estimate.</p>

Source: U.S. Census Bureau, "The American Community Survey Questionnaire Archive," accessed on May 1, 2018, www.census.gov/programs-surveys/acs/methodology/questionnaire-archive.html.



Works Cited

- Artiga, Samantha, Anthony Damico, and Rachel Garfield. 2018. *Potential Effects of Public Charge Changes on Health Coverage for Citizen Children*. Washington, DC: Kaiser Family Foundation. www.kff.org/disparities-policy/issue-brief/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children/.
- Batalova, Jeanne and Michael Fix. 2017. *New Brain Gain: Rising Human Capital among Recent Immigrants to the United States*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/new-brain-gain-rising-human-capital-among-recent-immigrants-united-states.
- Batalova, Jeanne, Michael Fix, and Peter A. Creticos. 2008. *Uneven Progress: The Employment Pathways of Skilled Immigrants in the United States*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/uneven-progress-employment-pathways-skilled-immigrants-united-states.
- Baumgaertner, Emily. 2018. Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services. *The New York Times*, March 6, 2018. www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html.
- Broder, Tanya, Avideh Moussavian, and Jonathan Blazer. 2015. *Overview of Immigrant Eligibility for Federal Programs*. Washington, DC: National Immigration Law Center. www.nilc.org/issues/economic-support/overview-immeligfedprograms/.
- California Department of Social Services. N.d. Cash Assistance Program for Immigrants (CAPI). Accessed May 1, 2018. www.cdss.ca.gov/CAPI.
- Capps, Randy, Muzaffar Chishti, Julia Gelatt, Jessica Bolter, and Ariel G. Ruiz Soto. 2018. *Revving Up the Deportation Machinery: Enforcement under Trump and the Pushback*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/revving-deportation-machinery-under-trump-and-pushback.
- Capps, Randy, Michael Fix, and Everett Henderson. 2009. Trends in Immigrants' Use of Public Assistance after Welfare Reform. In *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix. New York: Russell Sage Foundation.
- Chetty, Raj, Nathaniel Hendren, and Lawrence Katz. 2015. The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment. Working paper, Harvard University and National Bureau of Economic Research, August 2015. http://scholar.harvard.edu/files/hendren/files/mto_paper.pdf.
- Cohodes, Sarah, Daniel Grossman, Samuel Kleiner, and Michael F. Lovenheim. 2014. The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions. Working paper no. 20178, National Bureau of Economic Research, October 2014. www.nber.org/papers/w20178.
- Coleman-Jensen, Alisha, William McFall, and Mark Nord. 2013. *Food Insecurity in Households with Children*. Washington, DC: U.S. Department of Agriculture, Economic Research Service. www.ers.usda.gov/webdocs/publications/43763/37672_eib-113.pdf?v=41424.
- Espinosa, Linda M. 2013. *Early Education for Dual Language Learners: Promoting School Readiness and Early School Success*. Washington, DC: Migration Policy Institute. www.migrationpolicy.org/research/early-education-dual-language-learners-promoting-school-readiness-and-early-school-success.
- Feld, Peter and Britt Power. 2000. *Immigrants' Access to Health Care after Welfare Reform: Findings from Focus Groups in Four Cities*. Washington, DC: Kaiser Family Foundation. www.kff.org/medicaid/report/immigrants-access-to-health-care-after-welfare/.



- Fix, Michael and Randy Capps. 2017. *Leaked Draft of Possible Trump Executive Order on Public Benefits Would Spell Chilling Effects for Legal Immigrants*. Migration Policy Institute commentary, February 2017. www.migrationpolicy.org/news/leaked-draft-possible-trump-executive-order-public-benefits-would-spell-chilling-effects-legal.
- Fix, Michael E., Randy Capps, and Neeraj Kaushal. 2009. Immigrants and Welfare: Overview. In *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix. New York: Russell Sage Foundation.
- Fix, Michael E. and Jeffrey S. Passel. 1999. *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform: 1994–1997*. Washington, DC: Urban Institute. www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform.
- Genser, Jenny. 1999. *Who Is Leaving the Food Stamp Program: An Analysis of Caseload Changes from 1994 to 1997*. Washington, DC: U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis, Nutrition, and Evaluation. <https://fns-prod.azureedge.net/sites/default/files/cdr.pdf>.
- Hoynes, Hilary, Diane Whitmore Schanzenbach, and Douglas Almond. 2016. Long-Run Impacts of Childhood Access to the Safety Net. *American Economic Review* 106 (4): 903–934.
- Illegal Immigration Reform and Immigrant Responsibility Act of 1996*. Public Law 104-828. *U.S. Statutes at Large* 100, 1996. www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg3009.pdf.
- Immigration Act of 1882*. *U.S. Statutes at Large* 22, 1882. www.loc.gov/law/help/statutes-at-large/47th-congress/session-1/c47s1ch376.pdf.
- Immigration and Nationality Act*. Public Law 89-236. *U.S. Statutes at Large* 79, 1965. www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-2006.html.
- Kaestner, Robert and Neeraj Kaushal. 2005. Immigrant and Native Responses to Welfare Reform. *Journal of Population Economics* 18 (1): 69–92.
- Laird, Jennifer, Neeraj Kaushal, Jane Waldfogel, and Christopher Wimer. 2018. Forgoing Food Assistance out of Fear: Changes in “Public Charge” Rule May Put 500,000 More U.S. Citizen Children at Risk of Moving into Poverty. *Poverty and Social Policy Brief* 2(2): 1–4. https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5ac63aaf88251b8bef4532a4/1522940592522/Poverty+and+Social+Policy+Brief_2_2.pdf.
- Meyer, Bruce D. and Nikolas Mittag. 2015. Using Linked Survey and Administrative Data to Better Measure Income: Implications for Poverty, Program Effectiveness, and Holes in the Safety Net. Working paper 21676, National Bureau of Economic Research, October 2015. www.nber.org/papers/w21676.
- Migration Policy Institute (MPI) Migration Data Hub. N.d. State Immigration Trends: Number and Share of Total State Population, 1990–2016. Accessed April 30, 2018. www.migrationpolicy.org/programs/data-hub/us-immigration-trends#history.
- Moore, Jeffrey, Linda Stinson, and Edward Welniak. 2000. Income Measurement Error in Surveys: A Review. *Journal of Official Statistics* 14 (4): 331–61.
- National Immigration Law Center. 2014. Guide to Immigrant Eligibility for Federal Programs, Table 12: State-Funded Food Assistance Programs. Updated March 2014. www.nilc.org/issues/economic-support/update-page/.
- Parmet, Wendy E. and Elisabeth Ryan. 2018. New Dangers for Immigrants and the Health Care System. *Health Affairs*, April 20, 2018. www.healthaffairs.org/doi/10.1377/hblog20180419.892713/full/.



- Pedraza, Francisco I. and Ling Zhu. 2015. The “Chilling Effect” of America’s New Immigration Enforcement Regime. *Pathways*, Spring 2015. https://inequality.stanford.edu/sites/default/files/Pathways_Spring_2015_Pedraza_Zhu.pdf.
- Personal Responsibility and Work Opportunity Reconciliation Act of 1996*. Public Law 104-193. *U.S. Statutes* 10, 1996. www.gpo.gov/fdsys/pkg/STATUTE-110/pdf/STATUTE-110-Pg2105.pdf.
- Pew Charitable Trusts. 2014. Mapping Public Benefits for Immigrants in the States. Policy brief, Pew Charitable Trusts, Washington, DC, September 2014. www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/mapping-public-benefits-for-immigrants-in-the-states.
- Ruggles, Steven, Katie Genadek, Ronald Goeken, Josiah Grover, and Matthew Sobek. N.d. Integrated Public Use Microdata Series: Version 7.0—Dataset. University of Minnesota, accessed February 15, 2018. <https://usa.ipums.org/usa/index.shtml>.
- Swartz, Jonas, Jens Hainmueller, Duncan Lawrence, and Maria Isabel Rodriguez. 2017. Expanding Prenatal Care to Unauthorized Immigrant Women and the Effects on Infant Health. *Obstetrics & Gynecology* 130 (5): 938-45.
- U.S. Census Bureau. N.d. The American Community Survey Questionnaire Archive. Accessed May 1, 2018. www.census.gov/programs-surveys/acs/methodology/questionnaire-archive.html.
- U.S. Citizenship and Immigration Services (USCIS). 2018. Inadmissibility on Public Charge Grounds. Draft rule, U.S. Department of Homeland Security, January 2018. https://docs.google.com/viewerng/viewer?url=https://cdn.vox-cdn.com/uploads/chorus_asset/file/10188201/DRAFT_NPRM_public_charge.0.pdf.
- . 2018. Inadmissibility on Public Charge Grounds. Draft rule, U.S. Department of Homeland Security, March 2018. <https://apps.washingtonpost.com/g/documents/world/read-the-trump-administrations-draft-proposal-penalizing-immigrants-who-accept-almost-any-public-benefit/2841/>.
- U.S. Department of Homeland Security (DHS). 2017 Inadmissibility and Deportability on Public Charge Grounds. Proposed rule 1615-AA22, Fall 2017. www.reginfo.gov/public/do/eAgendaViewRule?pubId=201710&RIN=1615-AA22.
- DHS, Office of Immigration Statistics (OIS). N.d. Nonimmigrant Admissions by Class of Admission: Fiscal Years 2014 to 2016. Data table. Accessed May 4, 2018. www.dhs.gov/immigration-statistics/yearbook/2016.
- . N.d. Legal Immigration and Adjustment of Status Report, FY2017, Q4. Dataset, DHS. Accessed April 25, 2018. www.dhs.gov/sites/default/files/publications/FY2017_Q1Q2Q3Q4_tables_D.xlsx.
- U.S. Department of State. 2018. 9 FAM 302.8, (U) PUBLIC CHARGE - INA 212(A)(4). Updated March 12, 2018. https://fam.state.gov/fam/09FAM/09FAM030208.html#M302_8.
- U.S. Department of State. Multiple Years. Immigrant and Nonimmigrant Visa Ineligibilities. Data tables, Washington, DC. <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports.html>.
- U.S. Immigration and Naturalization Service (INS). 2003. *The 2001 Statistical Yearbook of the Immigration and Naturalization Service*. Washington, DC: INS. www.dhs.gov/sites/default/files/publications/Yearbook_Immigration_Statistics_2001.pdf.
- . 1999. Field Guidance on Deportability and Inadmissibility on Public Charge Grounds. *Federal Register* 64 (101): 28689–93. www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13202.pdf.



- . 1999. Inadmissibility and Deportability on Public Charge Grounds. *Federal Register* 64 (101): 28676–88. www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13188.pdf.
- Van Hook, Jennifer and Frank D. Bean. 2009. Immigrant Welfare Receipt: Implications for Immigrant Settlement and Integration. In *Immigrants and Welfare: The Impact of Welfare Reform on America's Newcomers*, ed. Michael Fix. New York: Russell Sage Foundation.
- White House, The. 2017. President Donald J. Trump Backs RAISE Act. Briefing statement, Washington, DC, August 2, 2017. www.whitehouse.gov/briefings-statements/president-donald-j-trump-backs-raise-act/.
- Zong, Jie and Jeanne Batalova. 2018. Korean Immigrants in the United States. *Migration Information Source*, February 8, 2018. www.migrationpolicy.org/article/korean-immigrants-united-states.
- . 2017. Indian Immigrants in the United States. *Migration Information Source*, August 31, 2017. www.migrationpolicy.org/article/indian-immigrants-united-states.
- Zong, Jie, Jeanne Batalova, and Jeffrey Hallock. 2018. Frequently Requested Statistics on Immigrants and Immigration in the United States. *Migration Information Source*, February 8, 2018. www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states.



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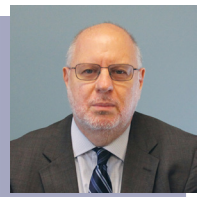
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