

Public charge webinar for Oregon service providers: The new final rule

October 8, 2019

Brought to you by:



Housekeeping

- The webinar is being recorded.
- All attendees are on mute.
- Please type in your questions.
 - We will not have time for live Q&A.
 - Presenters will:
 - Do their best to address questions through the information they are sharing *and*
 - Direct you to resources that will help answer your questions.

Welcome from OHA and DHS leadership

- Oliver Vera, Community Partner Outreach Program, OHA
- Alberto Moreno, Office of Equity and Multicultural Services, DHS

Presenters

- Denise Piza | Causa Oregon
- Roberto Gamboa | Euvalcree
- Beth Englander | Oregon Law Center
- Leslie Salazar | Oregon Latino Health Coalition
- Jeanice Chieng & Coi Vu | Immigrant and Refugee Community Organization
- Josie Silverman-Méndez | Oregon Health Authority

What we'll cover today

- National context
- Technical overview of the new Public Charge Rule
- Fighting fear with facts
 - Plain language message
 - How community-based organizations and the state of Oregon are responding
 - Local, state and national resources

National context

- The new Public Charge Rule is one of many policies and practices at the federal level that have created *an intentional climate of fear for immigrants*.
- We are talking about Public Charge because of the large “chilling fear effect” it is having.
- As social service providers, we know the communities you serve are coming to you with questions and concerns about Public Charge.
- We want to help you fight the fear with facts!



What we are hearing from community

- **Confusion over which programs count as Public Charge.**
 - Is OHP a program affected?
- **Questions and concerns about people's specific circumstances.**
 - Are undocumented parents of U.S. citizen children who receive OHP benefits going to be affected?
 - Will DACA recipients with Cover All Kids be ineligible to apply for his/her residency in the future?
 - Are current OHP beneficiaries going to be affected when renewing their green card?
 - What about pregnant women with full OHP who are in the process of getting their green card?
 - Will U Visa holders on OHP be affected?

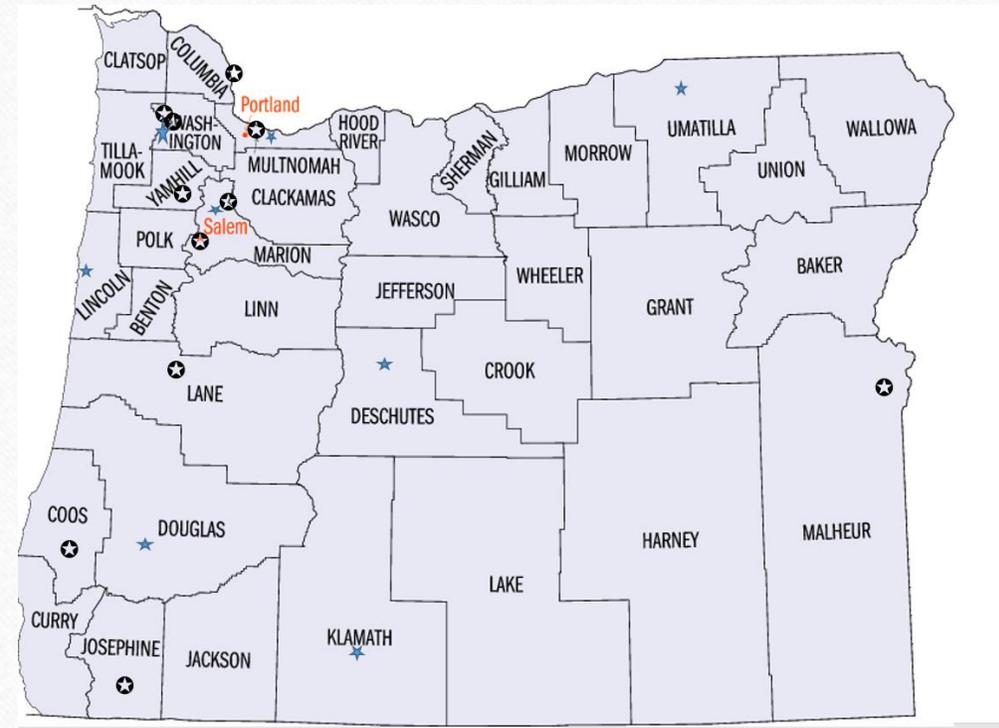
Communicating the facts

- Plain language message:
 - The Public Charge Rule does **not** apply to every immigrant.
 - Many public benefits **don't** count towards Public Charge.
 - Public benefits your children or other family members get **don't** count against you in the Public Charge Test.
 - Just getting public benefits alone does **not** make you a Public Charge.
 - Stay informed. Things could change.
 - You're not alone. There's help.

Oregon Law Center



- Housing – evictions, discrimination
- Family Law – domestic violence focus
- Employment – wage + hour, farmworkers, discrimination
- Public Benefits – Statewide Hotline 1-800-520-5292



Our goals when talking about Public Charge

To reduce fear about public charge, increase accurate fact based information in the community so that people can make good, informed decisions for themselves.

Fight Fear with Facts.

Don't let immigrants and their families go without food, medical care, and shelter if they don't need to.

Immigrant eligibility for benefits



- **Children** who are **U.S. citizens** can get public benefits **even if** their parents or other household members are **undocumented**.
- Sometimes **qualified immigrants** have to wait five years to get certain benefits, but there are a lot of exceptions.
- Some programs **do not consider** immigration status at all.

Public benefits are important.

In Oregon, safety net programs cut the poverty rate in half and lift 240,000 people (including 160,000 children) out of poverty.

What is Public Charge?

- “Public charge” is a test that US immigration officials apply when deciding if an immigrant will be permitted to enter or stay in the country.
- The idea of the “Public Charge” test has been around for a hundred years, and the test has been the same for the last 20 years.

What is the “Public Charge Test”?

(Until October 15, 2019 for immigrants already inside the U.S.)

- The “Public Charge test” is when a federal immigration officer decides whether an immigrant is going to, in the future, need a lot of support from the U.S. government.
- *How do they decide that?* Immigration officers must consider many factors in a “totality of the circumstances test.” The use of public benefits is **only one factor** in the test.

Public Charge: When does it apply?

- **Only** when someone is:
 - Applying to enter the U.S.
 - Applying to become a Lawful Permanent Resident (get a green card).
 - A Lawful Permanent Resident who reenters after being out of the U.S. for at least 180 consecutive days
 - [Starting October 15, 2019 the public charge test will also apply when someone is applying for extension of stay or to change current visa.]



New Public Charge Rule: What is changing (starting October 15, 2019)?

1. Major changes to the definition of public charge.
2. Additional public benefits will be considered by immigration officials.
3. New “weighted” factors of the “totality of the circumstances” test that make it harder for low and moderate income people to pass.
4. Requiring public charge test for extensions of stay and visa extensions.

Changes to the definition of public charge:

Old Definition (still in place until October 15, 2019):

An immigrant “likely to become primarily dependent on the government for subsistence.”

FINAL DEFINITION

A person who “receives one or more public benefit.... For more than 12 months in the aggregate within any 36-month period (such that, for instance receipt of two benefits in one month counts as two months).”

Expanded list of public benefits count towards Public Charge:

Old Rule Public Charge Benefits

- Temporary Assistance for Needy Families (TANF)
- Social Security Income (SSI)
- Long Term Care in an institution

NEW LIST OF PUBLIC CHARGE BENEFITS

- **TANF**
- **SSI**
- **Long Term Care**
- **Non-emergency Medicaid for non-pregnant adults 21 and older**
- **Supplemental Nutrition Assistance Program (SNAP aka food stamps)**
- **Section 8 (vouchers and project based) and Public Housing**

Benefits that do not count for Public Charge

- Medicaid/Children's Health Insurance Program for children under 21 and pregnant women up to 60 days postpartum
- Oregon's Cover All Kids program
- Head Start
- School/summer meals
- Supplemental Nutrition for Women, Infants and Children (WIC)
- Special Education
- Medicare, including Part D low-income subsidies
- Social Security Retirement
- Unemployment Insurance
- Food boxes/food bank

More benefits that don't count...

- Workers compensation
- Community health clinics (for non-Medicaid services)
- Low Income Home Energy Assistance Program
- Rural development housing (with no Section 8 subsidy)
- Disaster Relief
- Any benefits received while in an immigration status exempt from public charge
- Tax Credits (Earned Income Tax Credit + Child Tax Credit)
- Tax Credits under the Affordable Care Act
- Social Security Disability Insurance (different from SSI)
- Benefits received while in active duty or reserve military (or spouse/children)
- Pell Grants and Student Loans
- **ANY BENEFITS RECEIVED BY FAMILY MEMBERS**
- **Anything not listed in the Rule!**

Public Charge: “Totality of the Circumstances” Test

- Financial status
 - Household income of at least 250% FPL = “heavily weighted” positive factor
 - Household income 125% FPL or less = heavily weighted negative factor
- Family size
- Age
- Education
- Skills and employment
 - Unemployment = heavily weighted negative factor
- English proficiency
- Health/medical conditions
 - Serious health condition = heavily weighted negative factor
- Availability of private (unsubsidized) health insurance
- Credit scores
- Past use of public benefits (only those defined)
 - Use of at least 12 months of public benefits in three-year period = heavily weighted negative factor
- And more...



How will immigration officials know about the Totality of Circumstances factors?



Declaration of Self-Sufficiency
 Department of Homeland Security
 U.S. Citizenship and Immigration Services

USCIS
 Form I-944
 OMB No. 1615-0142
 Expires xx/xx/xxxx

To be completed by an attorney or accredited representative (if any).			
<input type="checkbox"/> Select this box if Form G-28 is attached.	Volag Number (if any) []	Attorney State Bar Number (if applicable) []	Attorney or Accredited Representative USCIS Online Account Number (if any) []

▶ **START HERE** - Type or print in black ink.

Part 1. Information About You

1. Your Current Legal Name (do not provide a nickname)

Family Name (Last Name) []	Given Name (First Name) []	Middle Name []
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2. U.S. Mailing Address

In Care Of Name (if any)
[]

Street Number and Name
[]

Apt. Ste. Flr. Number
 []

City or Town
[]

State
[]

ZIP Code
[] (USE ZIP Code Lookup)

3. Alien Registration Number (A-Number) (if any)

▶ A- []

4. USCIS Online Account Number (if any)

▶ []

5. Date of Birth (mm/dd/yyyy)

[]

6. Place of Birth

City or Town of Birth []	Country of Birth []
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7. Country of Citizenship or Nationality

[]

Part 3. Your and Your Household Member(s)'s Assets, Resources, and Financial Status (continued)

D. Have you enrolled or will soon enroll in health insurance but your health coverage has not started yet?

Yes, I am enrolled I will soon enroll No

If you answered "Yes," attach a letter or other evidence from the insurance company showing that you have enrolled in or have a future enrollment date for health insurance and when your coverage begins.

If you receive federally-funded Medicaid, please list those benefits in Items Numbers 15. and 16.

If you answered "No" to Item Number 15., you may provide information on how you plan to pay for reasonably anticipated medical costs. If you need extra space to complete this section, use the space provided in Part 9. Additional Information.

Public Benefits

Provide the requested information and submit documentation, as outlined in the Instructions. If you need additional space to complete any Item Number in this Part, use the space provided in Part 9. Additional Information.

16. Have you EVER received, or are currently certified to receive in the future any of the following public benefits? (select all that apply).

Yes, I have received, or I am currently certified to receive in the future the following benefits:

- Any Federal, State, local or tribal cash assistance for income maintenance
- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- General Assistance (GA)
- Supplemental Nutrition Assistance Program (SNAP, formerly called "Food Stamps")
- Section 8 Housing Assistance under the Housing Choice Voucher Program
- Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation)
- Public Housing under the Housing Act of 1937, 42 U.S.C. 1437 et seq.
- Federal-funded Medicaid

No, I have not received any public benefits.

No, I am not certified to receive in the future any of the above public benefits.

17. Have you disenrolled, withdrawn from, or requested to be disenrolled from the public benefit(s)? Yes No

Expected date of disenrollment (mm/dd/yyyy)

How to talk about the “Totality of the Circumstances” Test

- There is no single right answer for everyone.
- Positive factors can counterbalance negatives.
- Receipt of benefits in the past that leads to stability in the future might help.
- Use of public benefits *ALONE* won't make you a Public Charge.
- There are risks to not getting health care/adequate nutrition/housing assistance.

Many categories of immigrants are **EXEMPT** from the Public Charge Rule

Many types of immigrants are **exempt** from public charge:

- Refugees and asylees
- Survivors of trafficking, violence, other serious crimes (T- & U-visa)
- VAWA self-petitioners
- Certain people paroled into the U.S.
- Special immigrant juveniles
- And more...

The Public Charge rule also does not apply to Lawful Permanent Residents (LPRs) who need to renew their LPR card, or LPRs who are applying to naturalize and become U.S. citizens (as long as they don't leave the U.S. for more than 180 days before becoming a citizen).

**Most immigrants don't
qualify to get the Public
Charge Benefits unless they
are in an Exempt category.**

The new rule is not retroactive



- The new rule goes into effect October 15, 2019.
 - Newly added benefits only “count” if received on/after October 15th.
 - Applications for LPR status will be processed using the old public charge rule if filed or postmarked before October 15th.
- **Reminder:** Applications for admission (consular processing) already use a different “public charge” definition

Challenges to the new Public Charge Rule

9 lawsuits have been filed against the federal Department of Homeland Security for passing this rule.

The legal challenges to the rule are pending and may delay or block its implementation – *stay informed!*



Public Charge resources

- **Oregon Law Center-LASO Public Benefits Hotline: 1-800-520-5292**
- **Oregon Immigration Resource:**
oregonimmigrationresource.org
 - **Oregon Public Charge Fact Sheet:**
<https://apps.state.or.us/Forms/Served/he2520.pdf>
 - **State of Oregon's FAQ on Public Charge:**
<https://www.oregon.gov/OHA/ERD/Pages/public-charge.aspx>
 - **Oregon Immigration Attorneys:**
<https://oregonimmigrationresource.org/resources/?tab=legal-help>
 - **National Protecting Immigrant Families Campaign:** <https://www.protectingimmigrantfamilies.org/resources/>

Communicating the facts – plain language message

- The Public Charge Rule does **not** apply to every immigrant.
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- You're not alone. There's help.

How community- based organizations and the State of Oregon are responding

- Oregon Latino Health Coalition
- Immigrant and Refugee Community Organization
- Oregon Health Authority's Community Partner Outreach Program

Family #1

- ▶ Rosario is an undocumented Latina mom with 3 children who are on the Oregon Health Plan (OHP).
- ▶ Rosario learned of Public Charge in the news, and called me asking for help cancelling her kids' OHP coverage.
- ▶ She was very scared and nervous. It was very difficult for her to listen.





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Family #2

- ▶ Armando is a Latino man, he is married, and has 5 children who were born in the United States. Two of them have disabilities.
- ▶ It has been difficult for him to live in the United States because he and his wife are undocumented.
- ▶ Armando suffers from heart problems and has been unable to work.
- ▶ The family receives public assistance and Armando is very concerned about Public Charge.



OREGON
Latino Health Coalition

Ways OLHC is responding

- ▶ **We validate what people are feeling.**
 - ▶ We share positive examples to help alleviate some of the fear.
- ▶ **We provide the basic facts.**
 - ▶ We use the materials available to community partners:
 - ▶ Oregon Law Center-Causa Oregon-OLHC fact sheet
 - ▶ State of Oregon FAQ
- ▶ **We do not provide legal advice.**
 - ▶ We refer to immigration legal experts when people have specific questions about their case.



IMPACTS TO IRCO AND HOW WE ARE RESPONDING

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- ▶ The impact to our community and our work
 - ▶ Program staff have expressed that clients have concerns
 - ▶ Refugees and asylees also unclear on rule
 - ▶ Could be impacted if they leave the country for 6 months or more
- ▶ Educating and preparing ourselves and our staff
 - ▶ Community Know Your Rights education
 - ▶ Two staff trainings
- ▶ What IRCO Legal has been telling staff and community
 - ▶ Don't go without benefits until you get counseling
 - ▶ Know your immigration status and call the Benefits Hotline



OUR MESSAGE TO SOCIAL SERVICE PROVIDERS...

- ▶ Acknowledge that we are not experts in immigration law and it is not our responsibility nor should we give legal advice
- ▶ Educate ourselves, stay informed and lean on each other
- ▶ Validate the confusion and fear
- ▶ Balance the narrative
- ▶ Assist clients in navigating their services
- ▶ Recommend for clients to not disenroll until they talk to an attorney
- ▶ Gather information, data and stories
- ▶ Our clients and community are not alone - you are not alone



Oregon Health Authority's response: *Trying to minimize “chilling fear effect”*

- **Providing accurate information for agency staff to share with clients**
 - Public charge landing page: <https://www.oregon.gov/OHA/ERD/Pages/public-charge.aspx>
 - State of Oregon FAQ in 9 languages
 - Press release
- **Assessing various types of data to quantify impact**
- **Working with community partners to support public education**
 - This webinar!
 - Plain language messaging
 - And more...

Recapping what you and your organizations can do

- Share the facts and don't try to give legal advice.
 - Remember the plain language message!
- Share Oregon-specific tools and resources with clients.
- Refer people to legal help if they need it.
- Stay informed about changes to Public Charge.

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Thank you!

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