

Only Wealthy Immigrants Need Apply: The Chilling Effects of “Public Charge”

A co-release from the Colorado Fiscal Institute and the Fiscal Policy Institute

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Since the founding of the country, a person or family’s wealth was not a factor in determining their eligibility to immigrate to the United States. That changed in August 2019 when the Department of Homeland Security published a final rule that drastically altered the way immigrants are treated when they apply to live in the United States. The change to the “public charge” ground of inadmissibility for immigrants whose application for a green card is processed in the United States, which also applies a similar test to people seeking to extend or change their temporary status, was scheduled to go into effect on October 15 before it was temporarily blocked by federal court rulings. If the rule does end up taking effect, it will create devastating consequences for immigrant communities and will negatively affect local economies, but it is also a policy that affects the moral underpinnings of our country’s laws.

U.S. District Court Judge George B. Daniels of the Southern District of New York was palpably offended by the new public charge rule. In the preliminary injunction that temporarily halted the public charge rule change from going into effect, Judge Daniels ruled the Trump Administration could not prove that the rule, which he said was a departure from the country’s long history of immigration law, was necessary and. “The rule,” he said, “is simply a new agency policy of exclusion in search of a justification.” He even went so far as to say it “is repugnant to the American Dream of the opportunity for prosperity and success through hard work and upward mobility.”¹

If the court ruling preventing the rule from taking effect are not upheld by higher courts, the changes will make it much more difficult for low- and moderate-income families to make their lives in the United States if they are considered likely to use public benefits such as nutrition, housing, and health care programs—even if they legally qualify for them. The Trump Administration’s version of the rule takes a drastic view of what constitutes a benefit. If the same definition was applied to the U.S.-born population—Americans who are not immigrants—roughly half might not be deemed acceptable to stay in the United States.²

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¹ *State of New York, City of New York, State of Connecticut, and State of Vermont v. United States Department of Homeland Security, Secretary Kevin K. McAleenan*, October 11, 2019. David Dyssegaard Kallick is an expert witness in the case.

² Danilo Trisi, “Administration’s Public Charge Rules Would Close the Door to U.S. to Immigrants Without Substantial Means,” Center on Budget and Policy Priorities, November 11, 2019.

In addition to excluding people from being able to stay in the United States, the Colorado Fiscal Institute and the Fiscal Policy Institute predict the rule will have a widespread chilling effect, with millions of immigrants who are eligible for support for themselves or their children deciding to forgo using them out of fear. By avoiding participating in these programs—which help working families get through hard times, maintain their health, and raise their children—it could result in more food insecurity, less safe living conditions, and worse health and education outcomes for immigrant families.

Based on the rulings from five courts found in favor of the plaintiffs, it is likely they will succeed in arguing that the DHS rule is unlawful. However, the federal government continues to appeal these decisions and is seeking to lift the injunctions. While these cases proceed, the rule is not being implemented and the longstanding public charge policy clarified in the 1999 Field Guidance remains in place.

Updating an analysis the Fiscal Policy Institute first published in 2018, we estimate that 323,000 people in Colorado would experience a “chilling effect,” or anxiety and confusion about whether applying for public benefits will affect their immigration status or that of their family members, if the rule goes into effect. This “chilled” population includes everyone in a family with an immigrant who is not a naturalized citizen and who is currently receiving one of the public benefits named in the rule. Among the people in the chilled population are 143,000 children under 18 years old, the large majority of whom (122,000) are U.S. citizens by birth. (State-level analysis of the chilling effect is available in the table below for all 50 states and the District of Columbia.)

Based on research available at the time, our central estimate in the 2018 report projected a 25 percent drop-off in enrollment, based on past experience.³ A survey conducted afterwards renewed out confidence in that estimate. Even before the rule went into effect, the survey found that, among immigrant families, 21 percent of adults in low-income families—the ones who would likely meet income eligibility requirements for most of these programs—reported someone in their family avoided benefits.⁴ Advocates and service providers will work closely with immigrants and their families to help them understand whether they are likely to face a public charge designation, and which benefits may be considered. The projected drop-off rate takes this into account, since the past experience was also at a time when advocates and service providers worked to clarify the rules.

³Several studies led us to the 25 percent estimate. One worth noting in particular showed a drop in participation in public benefits programs after welfare and immigration law changes in the 1990s that was 26 percentage points greater for households with a non-citizen than it was for citizen households, a differential that can be attributed to the chilling effect for immigrants who were worried that making use of public benefits for which they qualified could create immigration status problems for themselves or other family members. See M.E. Fix and J.S. Passel, “Trends in Noncitizens’ and Citizens Use of Public Benefits Following Welfare Reform: 1994-1997,” Urban Institute, 1999.

⁴ H. Bernstein, D. Gonzalez, M. Karpman, and S. Zuckerman, “One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018.” Urban Institute, 2019.

Analyzing the rule change’s effect on health and nutrition programs, the two largest benefits named, this 25 percent drop in enrollment for the chilled population translates into \$155 million in lost federal benefits across Colorado. The loss of federal benefits will create negative local economic ripple effects. Businesses such as grocery stores and supermarkets will lose income due to the decrease in Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps) recipients; a reduction in Medicaid and CHIP will result in fewer dollars flowing through the health care system. Many other businesses will lose revenue as immigrant families that struggle to make up for the lost health care and nutrition benefits shift their spending priorities. The reduction in spending and income will result in lower investment and related job loss. The predicted loss to GDP is as much as \$298 million, with a related loss of 2,028 jobs, and \$12 million in lost state tax revenue.

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—U.S. District Court Judge

George B. Daniels

The human and economic impacts are considerable, even if we use more conservative estimates about the chilling effect. It’s possible, for example, that children’s use of Medicaid will decline less than that of adults, since the final rule clarifies that Medicaid use for children is not to be considered in public charge determinations.

In the more conservative estimate, it’s assumed that parents will recognize children are excluded from the public charge rule, and that there will be no drop-in enrollment for children. Further, we assume that the drop-off rate for SNAP and for adults in Medicaid is 15 percent rather than 25 percent.

However, even with these considerably more conservative assumptions, the human and economic effects of the rule remain very large. The projected loss in federal benefits is \$72 million spread through the state. The projected decline in GDP due to economic ripple effects is as much as \$131 million, and the projected job loss is 890.

By David Dyssegaard Kallick, Cyierra Roldan and Esther Turcios

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Who Will Experience a Chilling Effect?

Immigrants and Others with at Least One Non-Citizen in the Family Who Have Received a Benefit Named in the Public Charge Rule

| | Children Under 18 | | Adults | | All Total |
|----------------------|-------------------|--------------|---------------|--------------|--------------|
| | U.S. Citizens | Non-Citizens | U.S. Citizens | Non-Citizens | |
| Alabama | 46,000 | 3,000 | 15,000 | 42,000 | 106,000 |
| * Arizona | 290,000 | 30,000 | 160,000 | 320,000 | 810,000 |
| Arkansas | 41,000 | 5,000 | 10,000 | 44,000 | 99,000 |
| * California | 2,050,000 | 190,000 | 1,420,000 | 2,560,000 | 6,220,000 |
| Colorado | 122,000 | 21,000 | 38,000 | 142,000 | 323,000 |
| Connecticut | 52,000 | 12,000 | 38,000 | 84,000 | 186,000 |
| Delaware | 15,000 | 2,000 | 5,000 | 21,000 | 43,000 |
| District Of Columbia | 12,000 | 3,000 | 5,000 | 24,000 | 44,000 |
| * Florida | 480,000 | 100,000 | 320,000 | 760,000 | 1,660,000 |
| * Georgia | 240,000 | 30,000 | 80,000 | 260,000 | 610,000 |
| * Hawaii | 30,000 | 10,000 | 30,000 | 50,000 | 110,000 |
| Idaho | 34,000 | 2,000 | 11,000 | 33,000 | 80,000 |
| * Illinois | 300,000 | 50,000 | 190,000 | 410,000 | 950,000 |
| Indiana | 69,000 | 10,000 | 23,000 | 65,000 | 166,000 |
| Iowa | 27,000 | 6,000 | 13,000 | 37,000 | 83,000 |
| Kansas | 51,000 | 5,000 | 15,000 | 51,000 | 123,000 |
| Kentucky | 39,000 | 9,000 | 8,000 | 55,000 | 110,000 |
| Louisiana | 41,000 | 10,000 | 13,000 | 39,000 | 103,000 |
| * Maryland | 120,000 | 30,000 | 60,000 | 170,000 | 380,000 |
| * Massachusetts | 130,000 | 30,000 | 100,000 | 250,000 | 500,000 |
| Michigan | 94,000 | 20,000 | 57,000 | 113,000 | 283,000 |
| Minnesota | 74,000 | 15,000 | 35,000 | 89,000 | 212,000 |
| Nebraska | 34,000 | 5,000 | 10,000 | 37,000 | 86,000 |
| Nevada | 90,000 | 9,000 | 46,000 | 99,000 | 244,000 |
| * New Jersey | 210,000 | 40,000 | 130,000 | 310,000 | 690,000 |
| * New Mexico | 60,000 | 10,000 | 40,000 | 70,000 | 170,000 |
| * New York | 580,000 | 100,000 | 440,000 | 940,000 | 2,070,000 |
| * North Carolina | 210,000 | 40,000 | 60,000 | 220,000 | 530,000 |
| Ohio | 84,000 | 6,000 | 27,000 | 101,000 | 218,000 |
| Oklahoma | 60,000 | 6,000 | 19,000 | 63,000 | 148,000 |
| Oregon | 105,000 | 9,000 | 47,000 | 115,000 | 276,000 |
| Pennsylvania | 111,000 | 16,000 | 65,000 | 146,000 | 338,000 |
| Rhode Island | 21,000 | 4,000 | 15,000 | 29,000 | 69,000 |
| South Carolina | 36,000 | 4,000 | 9,000 | 40,000 | 90,000 |
| Tennessee | 76,000 | 10,000 | 13,000 | 82,000 | 181,000 |
| * Texas | 1,190,000 | 130,000 | 480,000 | 1,210,000 | 3,010,000 |
| Utah | 47,000 | 6,000 | 16,000 | 52,000 | 120,000 |
| Virginia | 127,000 | 24,000 | 53,000 | 151,000 | 355,000 |
| * Washington | 200,000 | 40,000 | 120,000 | 230,000 | 580,000 |
| Wisconsin | 67,000 | 6,000 | 33,000 | 58,000 | 165,000 |
| United States | 7.8 million | 1.2 million | 4.6 million | 10.2 million | 23.8 million |

FIG. 1 Analysis prepared by the Center on Budget and Policy Priorities for the Fiscal Policy Institute. States marked with an asterisk use data from 2013 to 2015. All other states use data from 2011 to 2015 to get a larger sample size. The United States as a whole is calculated using single-year data from 2015. The following states do not have a large enough sample to include in this table: Alaska, Maine, Mississippi, Missouri, Montana, New Hampshire, North Dakota, South Dakota, Vermont, West Virginia, and Wyoming. Totals may not sum due to independent rounding. For more details on the analysis, see the accompanying document “Methodology for Public Charge Estimates,” also available at www.fiscalpolicy.org/publicchargemethodology. Not all who experience the chilling effect will avoid enrollment in programs for which they qualify. For projected reductions in benefits, see figure 2.

Impact of Public Charge Rule Chilling Effect on State Economies Central Estimate and a More Conservative Scenario

| | Reduction in Federal Funds for SNAP and Medicaid/CHIP in millions | | Lost State Economic Output (GDP) in millions | | Lost Jobs in State | | Lost State Tax Revenue in millions | |
|----------------------|---|--|--|--|----------------------------|--|------------------------------------|--|
| | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP | 25 Percent Chilling Effect | 15 Percent Chilling Effect, No Impact on Kids Getting Medicaid or CHIP |
| Alabama | \$41 | \$14 | \$77 | \$23 | 525 | 156 | \$4 | \$1.1 |
| Alaska | \$18 | \$8 | \$36 | \$15 | 243 | 105 | \$0.8 | \$0.3 |
| Arizona | \$405 | \$168 | \$785 | \$312 | 5,346 | 2,121 | \$37 | \$15 |
| Arkansas | \$46 | \$11 | \$90 | \$19 | 613 | 131 | \$7 | \$2 |
| California | \$3,613 | \$1,715 | \$7,009 | \$3,212 | 47,717 | 21,872 | \$583 | \$175 |
| Colorado | \$155 | \$72 | \$298 | \$131 | 2,028 | 890 | \$12 | \$5 |
| Connecticut | \$131 | \$64 | \$256 | \$122 | 1,744 | 829 | \$18 | \$9 |
| Delaware | \$28 | \$12 | \$54 | \$22 | 368 | 150 | \$3 | \$1.1 |
| District of Columbia | \$23 | \$18 | \$84 | \$35 | 571 | 240 | \$4 | \$2 |
| Florida | \$665 | \$355 | \$1,237 | \$618 | 8,421 | 4,209 | \$50 | \$25 |
| Georgia | \$231 | \$80 | \$437 | \$136 | 2,978 | 926 | \$17 | \$5 |
| Hawaii | \$66 | \$36 | \$127 | \$65 | 865 | 445 | \$10 | \$5 |
| Idaho | \$28 | \$9 | \$54 | \$17 | 469 | 115 | \$4 | \$1.0 |
| Illinois | \$416 | \$197 | \$797 | \$359 | 5,425 | 2,443 | \$38 | \$17 |
| Indiana | \$82 | \$33 | \$157 | \$60 | 1,068 | 412 | \$8 | \$3 |
| Iowa | \$44 | \$21 | \$83 | \$38 | 568 | 259 | \$4 | \$2 |
| Kansas | \$40 | \$12 | \$78 | \$21 | 530 | 142 | \$4 | \$1.1 |
| Kentucky | \$58 | \$24 | \$112 | \$44 | 765 | 301 | \$7 | \$3 |
| Louisiana | \$31 | \$13 | \$65 | \$23 | 442 | 157 | \$3 | \$0.9 |
| Maine | \$13 | \$6 | \$25 | \$11 | 173 | 73 | \$2 | \$0.7 |
| Maryland | \$203 | \$86 | \$397 | \$162 | 2,702 | 1,102 | \$22 | \$9 |
| Massachusetts | \$395 | \$192 | \$776 | \$369 | 5,281 | 2,514 | \$41 | \$18 |
| Michigan | \$153 | \$76 | \$292 | \$137 | 1,988 | 935 | \$16 | \$8 |
| Minnesota | \$165 | \$79 | \$321 | \$151 | 2,189 | 1,025 | \$24 | \$11 |
| Mississippi | \$14 | \$4 | \$28 | \$7 | 191 | 49 | \$2 | \$0.5 |
| Missouri | \$44 | \$18 | \$84 | \$31 | 573 | 212 | \$3 | \$1.3 |
| Montana | \$3 | \$1 | \$6 | \$2 | 39 | 10 | \$0.3 | \$0.1 |
| Nebraska | \$31 | \$13 | \$60 | \$23 | 406 | 155 | \$3 | \$1.0 |
| Nevada | \$101 | \$56 | \$189 | \$97 | 1,285 | 661 | \$10 | \$5 |
| New Hampshire | \$12 | \$6 | \$22 | \$11 | 153 | 74 | \$0.8 | \$0.4 |
| New Jersey | \$367 | \$171 | \$709 | \$322 | 4,826 | 2,193 | \$38 | \$17 |
| New Mexico | \$146 | \$52 | \$285 | \$96 | 1,937 | 654 | \$17 | \$6 |
| New York | \$1,845 | \$916 | \$3,599 | \$1,862 | 24,507 | 12,677 | \$158 | \$82 |
| North Carolina | \$214 | \$69 | \$409 | \$120 | 2,785 | 817 | \$21 | \$6 |
| North Dakota | \$9 | \$5 | \$17 | \$9 | 115 | 62 | \$1.2 | \$0.7 |
| Ohio | \$107 | \$51 | \$208 | \$96 | 1,416 | 651 | \$10 | \$4 |
| Oklahoma | \$74 | \$22 | \$141 | \$39 | 962 | 263 | \$7 | \$2 |
| Oregon | \$200 | \$90 | \$393 | \$172 | 2,675 | 1,174 | \$23 | \$10 |
| Pennsylvania | \$162 | \$72 | \$314 | \$135 | 2,110 | 916 | \$12 | \$5 |
| Rhode Island | \$64 | \$31 | \$125 | \$59 | 850 | 398 | \$7 | \$3 |
| South Carolina | \$55 | \$22 | \$104 | \$37 | 709 | 252 | \$5 | \$2 |
| South Dakota | \$6 | \$3 | \$11 | \$5 | 73 | 32 | \$0.4 | \$0.2 |
| Tennessee | \$103 | \$31 | \$199 | \$55 | 1,352 | 372 | \$8 | \$2 |
| Texas | \$1,325 | \$503 | \$2,520 | \$876 | 17,155 | 5,966 | \$84 | \$29 |
| Utah | \$54 | \$16 | \$104 | \$29 | 707 | 195 | \$5 | \$1.3 |
| Vermont | \$8 | \$4 | \$16 | \$8 | 111 | 56 | \$2 | \$0.8 |
| Virginia | \$96 | \$35 | \$183 | \$61 | 1,213 | 414 | \$8 | \$3 |
| Washington | \$376 | \$177 | \$631 | \$323 | 4,794 | 2,199 | \$77 | \$14 |
| West Virginia | \$5 | \$3 | \$10 | \$5 | 70 | 34 | \$0.7 | \$0.4 |
| Wisconsin | \$70 | \$35 | \$133 | \$62 | 908 | 421 | \$8 | \$3 |
| Wyoming | \$2 | \$1 | \$4 | \$2 | 30 | 11 | \$0.2 | \$0.1 |
| United States | \$12,518 | \$5,765 | \$24,151 | \$10,644 | 164,430 | 72,470 | \$1,177 | \$522 |

FIG. 2 Estimates for direct impact were provided to the Fiscal Policy Institute by the Center on Budget and Policy Priorities and for economic impacts by the Economic Policy Institute. Modeling of impacts conducted by FPI. For details on the analysis, see the accompanying document “Methodology for Public Charge Estimates,” also available at www.fiscalpolicy.org/publicchargemethodology.