



EMPLOYMENT &
HUMAN SERVICES

MEMORANDUM

Kathy Gallagher, Director

40 Douglas Drive, Martinez, CA 94553 • (925) 608-5000 • Fax (925) 313-9748 • www.ehsd.org

To: All Staff, Code 2A

Date: March 17, 2021

From: Kathy Gallagher, Director

Subject: Public Charge Rule Permanently Blocked

Over the past few years, EHSD has been monitoring and communicating about developments that led to the Department of Homeland Security's (DHS) new public charge rule under the previous administration. The rule change overturned a century of existing policy and practice by expanding the types of benefits considered for public charge, including non-cash programs, for the first time. On Tuesday, March 9, 2021, the U.S. Supreme Court agreed to dismiss pending cases related to the expansion of the "public charge" rule, at the request of the Biden Administration ([see DHS Secretary Statement on 2019 Public Charge Rule](#)). This permanently blocks the changed rule nationwide.

The definition and enforcement of "public charge" now returns to the most recent federal interpretation, field guidance from more than 20 years ago. For our community members who receive critical supports such as non-emergency Medi-Cal, CalFresh, Section 8 vouchers or other housing assistance, this means the U.S. Citizenship & Immigration Service (USCIS) will *not* consider their receipt of those benefits as part of the public charge inadmissibility determination. In addition, medical treatment or preventive services for COVID-19, including vaccines, will not be considered for public charge purposes ([see DHS Statement on Litigation Related to the Public Charge Ground of Inadmissibility](#)).

EHSD and County leaders had been particularly concerned about the rule change since the publicly-funded programs affected help families meet their children's basic needs, and provide a buffer against the negative effects of adversity. The belief was the rule was discouraging many immigrant families from accessing benefits for which they are eligible, in some cases possibly leading families to choose between getting food, health care and services they need, and obtaining citizenship they are legally on track to achieve.

Public charge is a term to describe someone who is likely to become dependent on the government for subsistence. This USCIS test is one factor in determining who will be granted entry into the U.S., who can renew certain temporary visas and who can obtain Lawful Permanent Residency (LPR) – also known as a green card.

I want to thank EHS's Policy & Planning team for diligently following the complexities, changes and impacts related to public charge policy over the past four years. Also, to our many staff members who helped share accurate information with our customers about the various developments, while helping them understand the importance of continuing to apply for and receive benefits for which they are eligible. I am pleased that the public charge policy is no longer contrary to EHS's core value of respecting diversity by valuing inclusion and equity for all.