

Understanding the Public Charge: Implications for Adult Education and Workforce Advocates

Webinar

October 24, 2018





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What's at stake?

A new proposed regulation could deter immigrants from participating in vital adult education and workforce programs.



Adult education and workforce programs could see their enrollment, retention, and success rates drop.



**You can take action to help
policymakers understand how this
regulation would undercut skills
policy goals.**



Today: a quick recap

**Part 1: New proposed Public Charge regulation:
what it is**

**Part 2: What it means for adult ed and workforce
advocates**

Part 3: How you can take action

Part 4: Your questions!



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Part 1: What is the Public Charge?



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Disclaimers

- **Things are changing fast!**
 - **There are a lot of unknowns**
 - **We are sharing the information we have at this time**
- **We are providing general information, not legal advice**

Public Charge: Background

- A **Public Charge** is a person dependent on the government for financial and material support
- **Currently**, the likelihood that a person will become a public charge is assessed:
 - when they apply to enter the US *and*
 - when they apply to become a lawful permanent resident (LPR or “green card” holder)

There is no public charge test when a person applies for citizenship



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Not everyone is subject to Public Charge

Individuals **exempt** from Public Charge include:

- **Refugees and asylees**
- **Survivors of trafficking and other serious crimes**
- **Self-petitioners under the Violence Against Women Act**
- **Special immigrant juveniles**



Public Charge is a subjective assessment of the “totality of circumstances,” made by an immigration officer

How does the Public Charge assessment work?

- A ***totality of circumstances*** test that considers positive and negative factors
- Immigration officers are required by statute to consider:
 - age
 - health
 - financial resources
 - dependents
 - skills and work experience

Other relevant factors may also be considered

The current standard

Under rules in effect since 1999, only two public benefits can be considered under the Public Charge test:

- **Cash assistance for income maintenance (e.g., TANF, SSI)**
- **Institutionalization for long-term care at government expense**



What are the proposed changes to Public Charge?

Broadens the list of people subject to Public Charge

The proposed regulations would apply the public charge test to **two new categories**:

- People applying to **extend** non-immigrant visas (e.g. student visa)
- People applying to **change** the category of their non-immigrant visa (ditto)



Other proposed changes

- **Changes the *definition* of Public Charge to a person who uses or receives one or more public benefits**
- **Major *expansion of the factors* considered, including:**
 - **Use of public healthcare, food and housing benefits**
 - **English proficiency, health insurance status, credit scores and other factors**

Adds more public benefits that would count negatively

- In addition to current benefits (cash and long-term care), **would add:**
 - Medicaid
 - SNAP
 - Section 8 and public housing benefits
 - Medicare Part D subsidies

Which benefits are **not** counted in the Public Charge test?

Everything not specifically listed in the regulation!

- **Social Security retirement benefits**
- **General Medicare benefits (as opposed to the Part D subsidies described above)**
- **Worker's compensation**
- **Non-cash benefits that provide education, child development, and employment and job training**
- **Education-related benefits, including Pell Grants**
- **Any exclusively local, state, or tribal public benefit that is not cash assistance for income maintenance, institutionalization for long-term care at government expense, or another public benefit program not specifically listed in the regulation**
- **Benefits used by persons other than the applicant, including benefits used by their children**



Children's benefit usage would NOT count against their parents

Other changes: income thresholds

- Consider whether the immigrant earns **at least 125%** of the federal poverty level (FPL)
- Makes the *only* “heavily weighted positive factor” a household income of **250%** of FPL

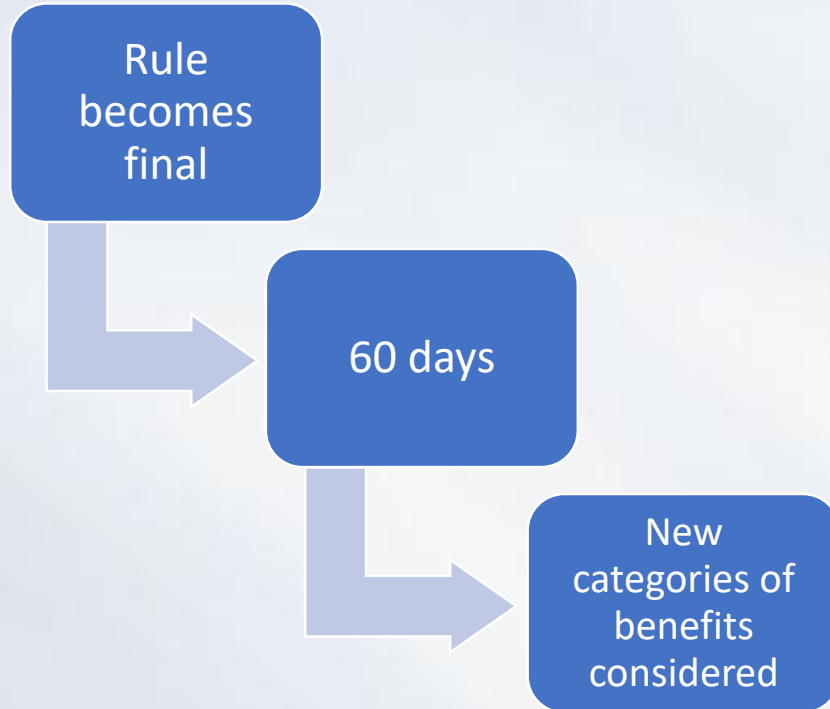


Adds heavily weighted factors

Negative factors:

- **Authorized to work but not working and not a full-time student**
- **Currently receiving a public benefit/Has used a public benefit within last 36 months**
- **Medical condition that could interfere with work or require expensive treatment**
- **Uninsured without the prospect of receiving private insurance/paying for care**
- **Previously determined to be a public charge**

A key point: Not retroactive!



- **Only the already-existing categories (cash assistance and long-term care) can be considered until after:**
 - **The rule becomes final**
 - **Plus 60 days**



Part 2: What does this mean for skills advocates?



By far the biggest risk: **Chilling effect**

- **Already occurring**
- **May be tough to reassure participants given complexity of new rules**
- **Rumor, misinterpretation, and misinformation add to the challenges**



End of “bright line” standard

- **Change** from clear, bright-line standard for public charge
- New regulation would be a **highly complex**, multi-faceted and subjective test
- **No simple message** for service providers to give



Difficult choices for adult learners and jobseekers

Skills count as positive considerations in public charge test...

- **English language skills**
- **Educational attainment**
- **Employment**



...yet steps immigrants take to pursue skills could count against them:

For example:

- Using **SNAP** to provide nutrition while in an occupational training program
- Using **Medicaid** to maintain good health while finishing adult education program



New costs for service providers

- **Staff training on new regulation**
- **Redesign of enrollment forms and IT systems to provide appropriate flags for immigrant participants**



Increased confusion on braided funding

- **Public charge measures benefits given to individuals, not institutions**
- **Nevertheless, community colleges and other organizations may face increased confusion about how public charge affects their institutions**



Part 3:

How you can take action

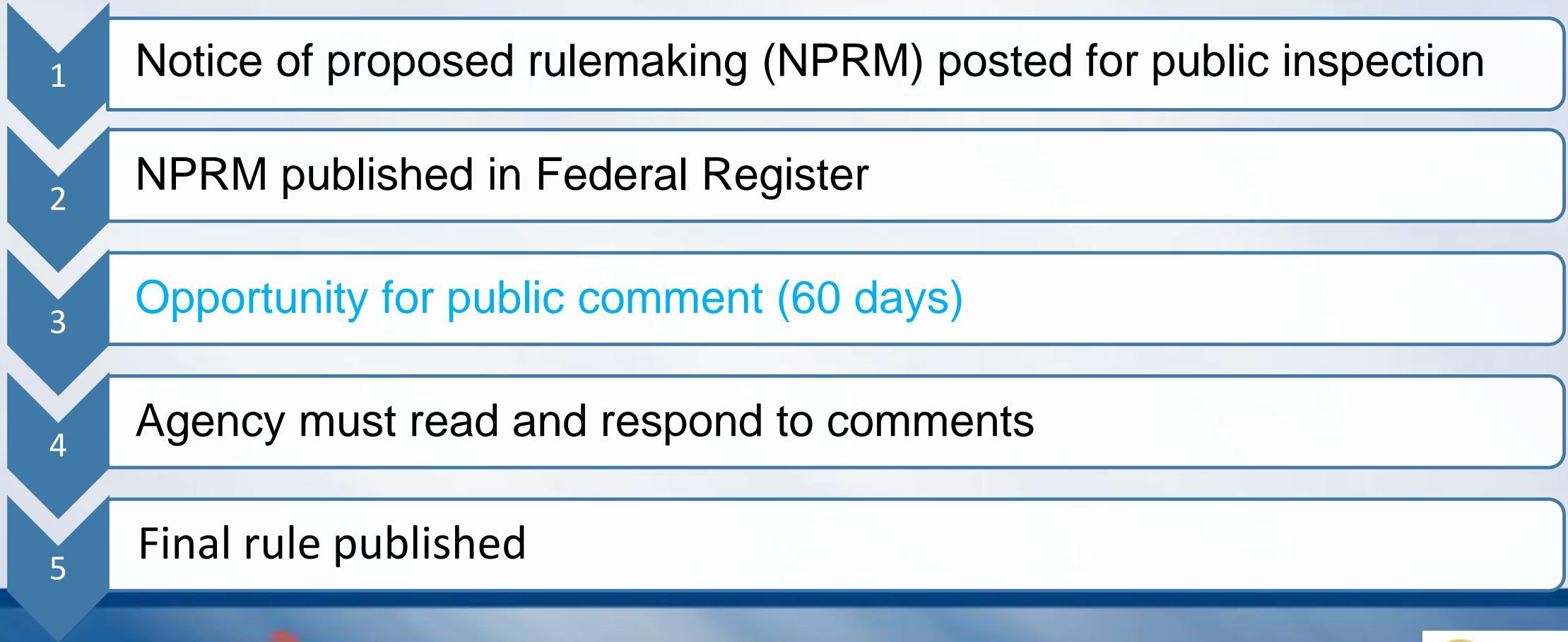


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Timeline for the proposed regulation



Submit a public comment today

1. Draft your public comment (use [NSC's template](#) as a starting point)
2. Include calculations showing economic impact on your organization
3. Submit to [Regulations.gov](#) by **December 10** deadline

Send a copy of your comments to NSC so we can track submissions

**ACT
NOW**



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Part 4:

Your questions!



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Additional Resources from NILC

- [How to Talk About Public Charge With Immigrants and Their Families](#)
- [Changes to Public Charge in the U.S. State Department Manual](#)
- [Public Charge: A New Threat to Immigrant Families](#)
- [PIF Campaign: ProtectingImmigrantFamilies.org](#)
- Free and Low-Cost Immigration Services:
<https://www.immigrationlawhelp.org/>
- USCIS FAQ on Public Charge: <https://www.uscis.gov/legal-resources/proposed-change-public-charge-ground-inadmissibility>

About NILC

National Immigration Law Center (NILC)

- Our mission is to defend & advance the rights & opportunities of **low-income** immigrants and their family members.
- We combine policy analysis and advocacy, impact litigation and strategic communications to protect immigrants' rights and to advance their access to health care, education and economic opportunity.

Contact National Skills Coalition

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