The Trump Administration proposes a new policy that threatens the health and well-being of immigrant families and their immigrant and U.S. citizen children.

On October 10, 2018, the Department of Homeland Security (DHS) published a proposed rule to make changes to the definition of who is a “public charge” forcing immigrant families to make difficult decisions about how they access public benefits, including critical services like immunizations for babies and young children.

Who is a “public charge”?

Public charge is a designation given to immigrants determined to be or “likely at any time to become” a user of specific U.S. public benefits (including housing assistance and temporary assistance for needy families (TANF)). If designated as a public charge, a person may be denied entry into the country, or, if they live in the U.S., barred from changing their temporary status to permanent residency (also referred to as a green card). Currently, the government uses a “totality of the circumstances” test to determine who is a public charge. The considerations include age, health, family status, education and skills and assets, resources and financial status. Utilization of cash assistance programs and Medicaid-funded long-term institutionalization are also part of the current test.

Prior to this proposed rule, the federal government issued guidance specifying that certain programs would be excluded from consideration including Medicaid and CHIP (except for Medicaid use for long-term institutional care). Under the proposed rule, accessing critical healthcare benefits could jeopardize a families’ ability to obtain a green card. The proposed rule also broadens who would be affected. To date, the public charge determination has been applied to people looking to enter the country legally or obtain a green card. Under the newly proposed rule, public charge determination would be extended to legal immigrants who want to extend their stay or immigrants changing their visa status (i.e., someone on a student visa transitioning to an employee visa). In addition, the proposed rule broadens how one uses public benefits. Currently, the public charge determination considers whether an immigrant is primarily dependent on a public benefit, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense, but under the new rule, someone who receives or is likely to receive Medicaid or nutrition assistance, even for a short time, could be determined a public charge and therefore denied entry or a pathway to permanent residence.

The potential impact on HealthySteps sites and families:

This proposed rule greatly undermines the preventive nature and mission of HealthySteps and the overarching commitment that all children should have access to healthcare. In addition to harming the healthy development and well-being of our future, the proposed rule will result in increased hardship for families beyond seeking access to healthcare. Even DHS notes that the proposed rule could increase poverty, including families with citizen children, and that forgoing benefits could result in loss of productivity, reduced educational attainment, adverse health effects and increased medical expenses due to delayed treatment.

At first glance, this proposed rule may seem like it will not impact HealthySteps children and families, but approximately one in four children live with an immigrant parent, and of those children, nearly nine in ten
are citizens. We also know that many of our HealthySteps Specialists work closely with immigrant families on a daily basis to identify resources within the community, facilitate access to needed services, and address ongoing concerns regarding deportation and potential separation of children from their parents. With the proposed rule, the current Administration is not only putting families at risk of being denied green cards, but also creating an atmosphere of fear where immigrant parents may be afraid to take their U.S. born citizen children to the pediatrician for well child visits, crucial immunizations, seasonal flu shots, sick visits and more. For HealthySteps sites serving immigrant communities, this misplaced fear of U.S. born citizen children utilizing services under Medicaid and CHIP could lead to a decrease in service utilization and lack of access to critical preventive primary care services. For those families with immigrant children who are not U.S. born citizens, this very real fear may have the same impact.

For many families, HealthySteps provides a source of ongoing care and supports to parents and caregivers by more closely linking families to the primary care practice and to the community through referrals to critical services including, housing and food assistance, counseling for maternal depression, lactation support, access to family planning services, and more.

As a proposed rule, the Administration is required to provide a period of time for the public to submit comments and statutorily required to read every unique comment submitted. This is an opportunity for anyone concerned about the wide-reaching impacts of this proposed rule to offer additional insight, testimonies, and considerations to dissuade the Administration from taking actions that undermine the healthy growth and development of all children in the U.S. Once the period for public comments closes—in this case, December 10, 2018—DHS may decide to terminate the rulemaking or significantly alter the proposed rule, restarting the rulemaking process. Once a rule is finalized, Congress must approve it before it becomes law.

Please click here for more guidance if you would like to submit your own comments regarding the proposed rule on public charge. Please note that you should customize your comments to include stories, experiences, and testimonies to ensure that each public comment submission is unique (as required by law). For more information please contact Johanna Lister, Director of Policy for HealthySteps at JLister@zerotothree.org or visit ZERO TO THREE’s Policy Center page here.