# Public Charge Neg

### T Cards

#### Although public charge applies to some nonimmigrants, plan is written to only apply to legal permanent residents, AND nonimmigrants can normally overcome the public charge issue- no significant solvency deficit.

**National Immigration Law Center(NILC), 2018**[“Changes to ‘Public Charge’ Instructions in the U.S. State Department's Manual.” *National Immigration Law Center*, National Immigration Law Center, 8 Feb. 2018, [www.nilc.org/issues/economic-support/public-charge-changes-to-fam/](http://www.nilc.org/issues/economic-support/public-charge-changes-to-fam/), AM]

Since the first weeks of the Trump administration, when a draft executive order about immigrants and public benefits was leaked to the media, concerns about changes to “public charge” policies have caused considerable anxiety. On January 3, 2018, the U.S. Department of State published revised sections of its Foreign Affairs Manual (FAM) that deal with “public charge.” These State Department instructions underscore the administration’s interest in restricting family immigration and deterring families from securing critical services.

Some non–U.S. citizens who seek to enter the U.S. or who seek lawful permanent resident, or LPR, status must show that they are not likely to become dependent on the government for cash assistance or long-term care.Certain immigrants — including refugees; asylees; survivors of trafficking, domestic violence and other serious crimes; and other “humanitarian” immigrants are not subject to this public charge test.

The FAM provides instructions that officials in U.S. embassies and consulates abroad use to make decisions about whether to grant a person permission to enter the U.S. as an immigrant or on a nonimmigrant visa. It does not govern decisions made by immigration officials inside the U.S. However, the FAM revision foreshadows other changes that we may see this year.

Federal law allows immigration authorities to deny entry to the U.S. to non–U.S. citizens who are likely in the future to depend on the government for subsistence by relying on cash assistance or long-term care at government expense (i.e., people who are likely to become a public charge). In making a public charge determination, the government must look at a person’s age, health, family situation, income, resources, education, and skills, and may also consider an affidavit of support or contract signed by a sponsor promising to support the immigrant. This “totality of the circumstances” test requires the government to look at all the factors together. It is a forward-looking test that may not be based solely on what happened in the past.

For more than one hundred years, the government has recognized that work supports such as health coverage and nutrition assistance help people remain healthy and productive. Thus, the use of these services has not been considered relevant in public charge determinations. Almost two decades ago, the government clarified that the use of services such as health coverage or nutrition assistance (such as Medicaid, the Children’s Health Insurance Program, or CHIP, and the Supplemental Nutrition Assistance Program, or SNAP, also known as “food stamps”) would not be considered in the public charge determination. Only the receipt of cash assistance for monthly income maintenance(such as Supplemental Security Income or Temporary Assistance for Needy Families) or government-funded long-term care could be considered. And any negative factor could be outweighed by positive factors — most importantly the sponsor’s affidavit of support — in determining whether the individual was likely to rely on cash assistance or long-term care in the future.

The revised instructions could affect non–U.S. citizens who go through consular processing in their home country before entering the U.S. This includes people seeking nonimmigrant visas, including tourist or employment-based visas, and people seeking to be admitted to the U.S. as a lawful permanent resident. The instructions clarify that the conditions for obtaining a nonimmigrant visa are normally sufficient to overcome the public charge exclusion absent evidence that gives reason to believe a public charge issue exists.

#### Refugees and Asylees are exempt from public charge, so the plan is topical and only deals with legal permanent residents.

US Citizenship and Immigration Services, official governmental agency for admitting immigrants, 2005

(*The USCIS,* “Chapter 41.6 Waivers of inadmissibility for refugees and asylees.”, October 31st, https://www.theatlantic.com/business/archive/2017/02/the-dark-side-of-the-h-1b-program/516813/, *7*/5/18, NS)

Under section 209(c) of the Act, the inadmissibility grounds set out in sections 212(a)(4) (public charge), 212(a)(5) (labor certification), and 212(a)(7)(A) (immigrant documentation requirements) of the Act do not apply to asylee and refugee adjustment applicants. Section 209(c) of the Act prohibits the Secretary from waiving the following grounds of inadmissibility: • Section 212(a)(2)(C) of the Act relating to drug trafficking; • Section 212(a)(3)(A) of the Act relating to security grounds; • Section 212(a)(3)(B) of the Act relating to terrorist activities; • Section 212(a)(3)(C) of the Act relating to foreign policy considerations;and • Section 212(a)(3)(E) of the Act relating to Nazi persecution and genocide. The Secretary may waive any other ground of inadmissibility under section 212(a) of the Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

### Neg – Inherency – Fewer deportations

#### Public charge is no longer commonly used as ground for deportation

**Moore,** Associate Professor of Law, University of Detroit Mercy School of Law, **17** (Andrew F., ‘THE IMMIGRANT PARADOX: PROTECTING IMMIGRANTS THROUGH BETTER MENTAL HEALTH CARE,” Albany Law Review, 2017,<http://www.lexisnexis.com/lnacui2api/results/docview/docview.do?docLinkInd=true&risb=21_T27675092705&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T27675092716&cisb=22_T27675092713&treeMax=true&treeWidth=0&csi=143869&docNo=1> accessed 6/28/18 EO)

However, the public charge inadmissibility ground became more stringent in the 1996 reforms in that an immigrant's sponsor is required to file a legally-binding document called an affidavit of support. n250 The sponsor of the immigrant n251 attests in the affidavit [\*106] that he or she had a sufficient income n252 to support the immigrant and that he or she will reimburse any public or private entity that ended up giving support to the immigrant. n253 Looking at the visa ineligibility statistics maintained by the Department of State, public charge grounds serves as one of the most frequent bases for denying a visa. n254

Unlike the mental disorder ground, the INA retains a separate ground of deportability for becoming a public charge. n255 It continues the extended border control concept of the 1952 INA by stating that if an immigrant becomes a public charge within five years of entry, removal may occur. n256

However, the current provision still has the same limitation as the 1952 version, n257 because it provides that an immigrant who can affirmatively show that the conditions causing him or her to become a public charge arose after entry, can avoid deportation. n258 As with the mental disorder ground, it is infrequently invoked today as a reason for deportation. n259 The great decline in its use as a ground of deportation happened in the 1940s. n260

Therefore, it appears the grounds historically used to rid the nation of immigrants with mental illness are rarely used today. This does not lead to the conclusion that we are more permissive toward immigrants with mental health issues. Rather, it is the theory of this article that these grounds have been to a significant [\*107] extent replaced by removal grounds related to drug use and criminal behavior.

#### Public benefit recipients rarely face deportation or inadmissibility as a result of government aid

**Fremstad, Senior Fellow at American Progress, 4**

(Shawn, “The Applicability of ‘Public Charge’ Rules to Legal Immigrants Who Are Eligible for Public Benefits”, Center of Budget and Policy Priorities, 4/15/04, JT)

The applicability of the public charge rule, however, is much more limited than is commonly understood. According to USCIS guidance, the receipt of public benefits is only relevant to a “public charge” finding in very limited circumstances.3 Under the guidance, the receipt of any non-cash benefit — including health care benefits, food stamps, WIC, housing assistance, and other non-cash benefits — with the sole exception of institutionalization for long term care at government expense, is never a factor in a public charge determination. In addition, although receipt of certain types of cash assistance remains relevant to a public charge determination, the vast majority of immigrants have no reason to avoid cash assistance because of concerns about adverse immigration consequences related to public charge. With a few rare, albeit important, exceptions, immigrants who remain eligible for cash assistance under either the Temporary Assistance for Needy Families (TANF) program or the Supplemental Security Income (SSI) program can accept that assistance without endangering their immigration status.

### Neg – Inherency – Status quo solves

#### Squo solves – the office of the Attorney General has the power to waive inadmissibility/deportation grounds should the immigrant in question have a spouse or child in the US

**Glen, Adjunct Professor, Georgetown University Law Center; Attorney, Office of Immigration Litigation, United States Department of Justice, 11**

(Patrick, “The Removability of Non-Citizen Parents and the Best Interests of Citizen Children: How to Balance Competing Imperatives in the Context of Removal Proceedings?”, Georgetown University Law Center, Volume: 30, xx/xx/11, JT)

For other waivers, the fact that a non-citizen parent may have a US citizen child will be a factor in determining his eligibility for such a waiver. In such circumstances, the importance of this qualifying relationship may trump otherwise compelling interests in the removal of the non-citizen parent. For instance, under the INA, "[a]ny immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party ... domestic or foreign" is inadmissible.80 Nonetheless, the Attorney General may waive this provision if the immigrant "is the parent, spouse, son, daughter, brother, or sister of a citizen of the United States ... for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest if the immigrant is not a threat to the security of the United States."81 The Attorney General may deem an alien inadmissible if they have "a communicable disease of public health significance. "82 The Attorney General may waive this ground "in the case of an alien who ... has a son or daughter who is a United States citizen[.]"83 Criminal convictions, involvement in criminal schemes, and intent to engage in illegal activities if admitted to the United States are encompassed by numerous grounds of inadmissibility and removability.84 The INA nonetheless provides certain waivers even in cases of criminality. The Attorney General, however, may waive certain criminal grounds of inadmissibility "in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States ... if it is established to the satisfaction of the Attorney General that the alien's denial of admission would result in extreme hardship to the United States citizen ... spouse, parent, son, or daughter."85 If the US Government deems that an alien within the United States is removable on account of being inadmissible at the time of his admission, the alien may obtain a waiver from the Attorney General if he or she is "the spouse, parent, son, or daughter of a citizen of the United States," assuming he or she meets other eligibility criteria. 86

### Neg – Inherency – Gender exclusions no

#### The premise of this advantage is false, Survivors of Trafficking are not inadmissible for being a public charge, this ends the advantage.

**CLASP**, a national nonpartisan nonprofit organization advancing policy solutions of low-income people, **18** (“Protecting Immigrant Families Campaign: Public Charge Threats 101,” March 29 2018,<https://www.clasp.org/sites/default/files/publications/2018/03/PIF%203.29.18%20Field%20Webinar_0.pdf>, 7/2/18, JDC)

Certain immigrants, including refugees, asylees, survivors of trafficking, domestic violence and other serious crimes, and others are not subject to the “public charge” test.

### Neg – Inherency – Medical exclusions no

#### Pregnant immigrant women can get Medicaid benefits under federal law, no chilling effect, it was the first result on the google search for “Public Charge”

**USCIS**, the federal department in charge of approving immigration, **17** (*US Citizenship and Immigration Services, “*What publicly funded benefits may not be considered for public charge purposes?”, 6/26/17,<https://www.uscis.gov/greencard/public-charge>, 7/2/18, JDC)

Non-cash benefits (other than institutionalization for long-term care) are generally not taken into account for purposes of a public charge determination.

Special-purpose cash assistance is also generally not taken into account for purposes of public charge determination.

Non-cash or special-purpose cash benefits are generally supplemental in nature and do not make a person primarily dependent on the government for subsistence. Therefore, past, current, or future receipt of these benefits do not impact a public charge determination. Non-cash or special purpose cash benefits that are not considered for public charge purposes include:

Medicaid and other health insurance and health services (including public assistance for immunizations and for testing and treatment of symptoms of communicable diseases; use of health clinics, short-term rehabilitation services, and emergency medical services) other than support for long-term institutional care

### Neg – Inherency – HIV exclusions no

#### Official rules disallow HIV-based discrimination – Obama made this change

Susanna E. **Winston**, M.D. **and** Curt G. **Beckwith**, M.D., December **2011**.

“The Impact of Removing the Immigration Ban on HIV-Infected Persons,” AIDS Patient Care STDS; 25(12): 709–711. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3263303/

International opposition to the ban was voiced in the 2004 ‘‘Joint United Nations Programme on HIV/AIDS and the International Organization for Migration Statement on HIV/AIDS-related Travel Restrictions.’’ These guidelines specifically stated that HIV-related travel restrictions had no public health justification.5 Only small changes in the United States ensued, such as streamlining of the waiver process for short term travelers in 2006.4 Further domestic political pressure came from the Center for Strategic and International Studies (CSIS), an advisory committee to Congress. CSIS published their report on HIV/AIDS and immigration in March 2007,4 which outlined the flaws and highlighted the contradiction of the ban with the global efforts of the United States in the HIV/AIDS epidemic. CSIS called for a change in the law, either to change the language of the INA to allow for removal of the HIV ban or to broaden the availability of waivers.4 In July 2008, with the renewal of PEPFAR funding, Congress removed the phrase ‘‘which shall include infection with the etiologic agent for acquired immune deficiency syndrome,’’ from the INA.2 This allowed the DHHS to reclaim authority to independently determine the definition of a “communicable disease of public health significance.” The following year, under the new Obama administration, DHHS proposed a rule removing HIV from the list of inadmissible infections and with it, removing HIV testing from the scope of required immigrations examinations. In response to this proposal, there were over 20,100 comments; 19,500 supported the removal of HIV from this list, and only 600 were against. The rule was accepted by the DHHS and was enacted on January 4, 2010.2 The removal of the immigration and travel ban on HIV-infected persons was a monumental step in eliminating the exceptionalism of HIV and reducing stigma and social barriers for those living with HIV. On an individual level, it allows for safer travel for people living with HIV/AIDS; no longer do they need to consider leaving behind essential medications for fear of disclosure. It simplifies family reunification for immigrants by reducing the procedures and cost associated with obtaining a travel waiver. On a broader level, this change combats stigma of those living with HIV/AIDS, and brings the domestic policies of the United States closer in line with its global efforts to fight HIV/AIDS. For the medical and scientific community, it opens opportunities for better collaboration and leadership, as highlighted by the return of the International AIDS Conference to the United States after 22 years. It will be held in Washington, D.C. in 2012.

### Neg – Inherency – Poverty going down

#### Poverty is going down, with or without the plan

**Wijnberg**, editor for Dutch News site de correspondent, **16** (Rob, the Correspondent, “ Poverty 101: How can we end global poverty once and for all? “, December 19 2016,<https://thecorrespondent.com/10181/poverty-101-how-can-we-end-global-poverty-once-and-for-all/443596351-243043df>, 7/2/18, JDC)

In 1820, 84% of the world population lived in extreme poverty.

By 1981 this had fallen to 44%, and last year it finally dropped below 10%.

That’s quite a feat, given that over the same period the world population increased sevenfold. ​So ever since the Industrial Revolution, more and more people have been benefitting from growing prosperity.

Even more striking: over recent decades the absolute number of people living in poverty has also fallen. Where in 1990 there were still 1.95 billion people in extreme poverty, in 2012 the figure stood at 896 million.

### Neg – Solvency – HIV no

#### Fully accounting for the health and social aspects of immigration and HIV require comprehensive changes among health care providers and community advocates – the plan doesn’t go far enough.

Susanna E. **Winston**, M.D. **and** Curt G. **Beckwith**, M.D., December **2011**.

“The Impact of Removing the Immigration Ban on HIV-Infected Persons,” AIDS Patient Care STDS; 25(12): 709–711. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3263303/

While the removal of the HIV travel and immigration ban is a major success, it is also a call to action. As health care providers and advocates, we need to build a stronger alliance with immigrant communities and design culturally relevant interventions promoting prevention, testing, and linkage to care. We need to support the development and dissemination of culturally appropriate education from within the community using peer educators and integrating outreach and education programs into cultural events and celebrations. Prevention education programs must focus on heterosexual transmission and on transmission among women. Additional opportunities for testing must be presented to these communities, as many are not accessing routine preventive health care. Community-based testing should be available, with counselors that have appropriate communication skills and intimate knowledge of the cultural understanding of HIV transmission, the meaning of infection and the availability of treatment options. Providers must be educated about the particular risk factors and cultural understanding of HIV/AIDS among the local immigrant communities. Only with the implementation of such interventions can we truly embrace the change in U.S. HIV immigration policy, knowing that this at-risk population will not be ignored.

### Neg – Solvency – Defense

#### Plan doesn’t solve without access to lawyers and extra incompetency monitoring

Mark C **Weber** Publisher(s): University of Windsor, Faculty of Law, **2015**. Immigration and Disability in the United States and Canada, 2015 32-2, 2015 CanLIIDocs 205, https://commentary.canlii.org/w/canlii/2015CanLIIDocs205#!fragment/zoupio-\_Toc3Page1/KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OnpvdXBpby1fVG9jM1BhZ2UxKSxub3Rlc1F1ZXJ5OicnLHNjcm9sbEPEiMSKOiFuxLdlYXLEh8SvxLHEs8S1xYTFhsSHU8SQdELEs1JFTEVWQU5DRSx0YWI6dMSgKSk=

The public charge and excessive demand restrictions remain a significant discriminatory barrier to entry, and in the United States great problems continue with the evidentiary and procedural aspects of the administration of the immigration laws in general, as well as the difficulty in navigating the immigration system for individuals with mental illness or intellectual disabilities. Relaxation of public charge-related exclusions and adoption of reforms such as more widely available examinations for incompetency and broader access to lawyers for indigent persons subject to removal would go far to accommodate people with disabilities striving to obtain the benefit of the recent changes in the immigration laws.

#### Officials are not required to explain their inadmissibility choices for any inadmissibility standard – circumvents public charge

**Morrison, associate professor at Texas A&M University School of Law, 17**

(Angela, American Constitution Society, “The Travel Ban is Just for Show – The Real Threat is From Individuals Who Can Act on its Discriminatory Message”, 3/9/17,<http://harvardlpr.com/2017/03/09/the-travel-ban-is-just-for-show-the-real-threat-is-from-individual-officials-who-can-act-on-its-discriminatory-message/>, 7/2/18, JT)

The Supreme Court’s unwillingness to review individual immigration officials’ decisions means that there are few remedies for noncitizens denied visas or entry at the border. As a result, officials who are emboldened by the travel ban’s message and are better able to hide their discriminatory motives will succeed where the administration’s travel ban has failed.

When the Court has been willing to review State Department and CBP officials’ discretionary decisions, the Court has done little beyond determining whether the noncitizen received the process required by Congress. In Kerry v. Din and Kleindienst v. Mandel, the Court refused to look beyond whether the immigration official cited a facially legitimate reason for denial or exclusion. In Din, the Court determined the State Department official only needed to provide a citation to the statute that stated the ground of inadmissibility and did not have to provide any other explanation or support for the decision.

If all officials must do is cite to the statutory provision, officials can easily hide their discriminatory motive. Unfortunately, it will prove difficult, if not impossible, for noncitizens denied visas or entry to show that it was for an impermissible reason. That means officials who take the administration’s message to heart are the threat lurking below the surface.

### Neg – Solvency – Offense

#### Pro benefit-access advocates unintentionally reinforce an “Us-Them” dichotomy that paints US citizens as morally superior while reifying a predominantly negative perception of immigrants

**Clark,** Professor of Law, Loyola Law School**, 08,** (Brietta R., “The Immigrant Health Care Narrative and What it Tells Us About the U.S. Health Care System,” Loyola University Chicago School of Law, Beazley Institute for Health Law and Policy, Summer 2008,<http://www.lexisnexis.com/lnacui2api/results/docview/docview.do?docLinkInd=true&risb=21_T27675092705&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T27675092716&cisb=22_T27675092713&treeMax=true&treeWidth=0&csi=146181&docNo=8> accessesd 6/29/18 EO)

Proponents of benefit restrictions tell a story that clearly reinforces an "Us-Them" dichotomy and the dominant immigrant narrative in immigration discourse. Immigrants who are here illegally are viewed as having a parasitic and unhealthy relationship with the United States**. They are viewed as criminals, who steal public money from vulnerable and morally deserving citizens and who consequently threaten citizens' health and safety.** Immigrants here legally are not as visible in this picture. They are usually lumped in with undocumented immigrants, probably because they are also viewed as welfare abusers who are violating the social contract that demands self-sufficiency and are threatening the availability of resources for citizens, who are viewed as having a stronger moral and legal claim to public benefits.

The dominant narrative also tells a story about "us" as American citizens. Essentially, the following picture is painted: the United States is acting out of necessity to preserve resources and protect the health and welfare of its citizens. To the extent immigrants suffer from our laws and policies, our policies are morally justified because we are endangered by the choice of unauthorized immigrants to stay in the United States. Finally, we actually treat immigrants, even unauthorized immigrants, with empathy and beneficence by creating certain exceptions granting them health care access in extremely vulnerable situations where they have no control, such as for emergency care, care for immigrants seeking asylum, or victims of domestic violence.

At one level, pro-access rhetoric seeks to challenge the dominant narrative by painting a very different picture of immigrants excluded from the U.S. healthcare system. However, a closer look shows that some of **this rhetoric unintentionally reinforces the dominant picture of immigrants and refines the narrative of our motivations in ways that could potentially undermine the pro-access advocates' rhetorical, political, and legal goals.**