**PUBLIC CHARGE AND IMMIGRANT PARTICIPATION
IN WIC FREQUENTLY ASKED QUESTIONS**

**IS WIC A PUBLIC CHARGE?**

**NO.** On August 12, 2019, the Department of Homeland Security (DHS) issued a final public charge rule. Under the DHS rule, WIC is not included in public charge determinations.

**WHAT IS PUBLIC CHARGE?**

Public charge is an element of immigration law that historically allowed federal authorities to deny legal status to individuals who are determined to be primarily dependent on the government for subsistence. On August 12, 2019, the Trump Administration redefined public charge in a way that would allow immigration officials to deny legal status for an individual’s use of one or more public benefits. Public charge determinations are conducting according to a forward-looking “totality of the circumstances” test. This means that immigration officials will consider a variety of factors – including an immigrant’s age, health, family status, assets, resources, financial status, education, skills, and use of certain public benefits – and how all of those factors would affect the immigrant’s likelihood to support themselves and their family without government assistance.

**WHEN DO IMMIGRATION OFFICIALS CONDUCT A PUBLIC CHARGE DETERMINATION?**

Public charge determinations occur when an immigrant is petitioning the government for a change to their legal status. This includes applications for a visa to enter the country and petitions for a green card and legal permanent residency. Public charge determinations do NOT occur during naturalization proceedings, which is when an immigrant petitions for citizenship status.

**WHAT FEDERAL PROGRAMS ARE CONSIDERED IN PUBLIC CHARGE?**

Use of any specified program would be considered a “heavily weighted negative factor” which could be used to deny an immigrant legal status. It does not automatically disqualify an immigrant from attaining legal status. On August 12, 2019, the Department of Homeland Security announced that an immigrant’s use of SNAP, Medicaid, or housing assistance would count as a negative factor in immigration proceedings. This is a significant expansion of public charge, which has historically been limited to cash assistance for income maintenance (specifically SSI or TANF) or institutionalization for long-term care at government expense (such as certain long-term programs through Medicaid).

**DOES WIC SHARE MY INFORMATION WITH IMMIGRATION AUTHORITIES?**

**NO.** Federal regulations restrict the sharing of information collected by WIC to ensure participant privacy, and this information is generally only shared with other parties when necessary for the administration of the WIC program. WIC clinics and agencies do not share personal participant information with immigration authorities, including Immigration and Customs Enforcement (ICE) or United States Citizenship and Immigration Services (USCIS).

**DOES PUBLIC CHARGE APPLY TO ALL IMMIGRANTS?**

**NO.** The final rule does not affect naturalization proceedings, which is when an immigrant petitions for citizenship status. It also does not apply to certain humanitarian immigrant groups, including refugees, asylees, and Violence Against Women Act self-petitioners.

**DOES THE FINAL RULE CONSIDER BENEFIT USE BY U.S. CITIZEN FAMILY MEMBERS, INCLUDING U.S. CITIZEN CHILDREN?**

**NO.** Under the final rule, public charge determinations will not take into account any benefit use by other US citizen members of the household, including US citizen children.

**CAN PUBLIC CHARGE DETERMINATIONS RESULT IN DEPORTATION?**

**YES, but it is unlikely.** Legal authority to deport an immigrant for becoming a public charge is narrow. Immigrants may only be deported under public charge within five years after their first entry into the United States, and the government must further prove that the immigrant became a public charge for reasons that predate entry into the United States.

**DOES THE NEW PUBLIC CHARGE RULE MEAN THAT PARTICIPATING IN WIC COULD HURT MY IMMIGRATION STATUS?**

**NO.** If you were on WIC before, you should continue to be on WIC. The final rule clarifies that WIC participation will not be considered in a public charge determination conducted in the United States, even though other vital programs like SNAP and Medicaid are affected.

**DOES WIC COLLECT INFORMATION ABOUT MY IMMIGRATION OR CITIZENSHIP STATUS?**

**NO.** WIC clinics and agencies do not inquire or collect information about a participant’s immigration or citizenship status. The only exception is the state of Indiana.

**MY LAWYER IS TELLING ME THAT I SHOULD NO LONGER PARTICIPATE IN WIC. WHAT SHOULD I DO?**

Lawyers often will exercise caution, especially in a time of uncertainty. Since the final rule is now issued, lawyers should have additional clarity about the consequences of public charge. WIC is not included in public charge and provides nutrition education and supplemental food for income-eligible families.

**WHAT HAPPENS IF MY LAWYER ASKS FOR DOCUMENTATION OF MY WIC PARTICIPATION?**

When applying for a green card, the current Form I-485 inquires into whether an applicant has received public assistance from any source. The forms do not ask whether family members (including children) have received public assistance. You should be truthful in disclosing WIC participation, although current rules prevent immigration officials from weighing that participation in a public charge determination. If you are uncertain, you should ask your immigration attorney why documentation of your WIC participation is needed and how it will be used in the application process.

*Source: National WIC Association*