Public Charge Outreach Mtg. 8/25

Cybele - Q: Comments. ~~positive~~ positive?

CHIP/ Medicaid - (1) Federal Interagency Task Force

(2) Private/Public Partnership

(3) ~~Ed~~/ Letter to the Editorial

(4) Nat. Hispanic - Radio ~~Asst~~ network

(5) Univision PSAs.

(6) Back to School
HHS radio ads in target cities

Cybele

Q: Application at the state level - running. should not be on application deters people from applying

A: Andy - renewing current applications. Joint applications are a problem in most ~~States~~ Medicaid, FS, CHIP JANF
Past receipt of benefits -
Status of applicants ~~SSI~~ is relevant
Asking Social Security # in household

Cindy Mann Q: 1/2 states not in compliance w/ HCFA guidance ~~in States~~ issued in Sept.

A: OCR is coordinating this.

HHS is doing a review.

Q: Timing - can response to states be done sooner so not to undermine outreach efforts

A: CHIP guidance letter mention $ application

Jeanne Q: TANF $500 m. - expires soon but want to expand deadline lleg. propose + encourage state outreach for those impacted by welfare reform

States are not using $ (CCA = $75 million unspent).

Josh Q: Round 1 went well

Stages - message to country - ok

Local District offices

Consulates

Anecdotal info not good

Discussion w/ INS line + supervisor not encouraging - ineligible

Skeptical Immig Bar.

Early warning system to find out how knowledgeable

Monitoring + compliance

A: District Director

INS line officer

Anchorage training + retrain (hear 4X)

Josh recomm - Survey lawyers) INS line staff. + monitoring + national audit

Cindy

Lucy - Strategy.

Quick communication w/ INS - better word / state - Ed

Q: Quality Assurance?

A: State - no centralized mech. Done by the senior officer. compliant ~~div~~ division.

Families USA - recomm. - Training w/ INS + HCFA for local child health, CBOs, also help in monitoring - Sen. Domenici + S. Bingaman working on this.

Cindy
Q: SSN - USDA + Food Stamps = USDA need to do clarification on applications.

Joanne. Q: Asian languages outreach, sent a press release out P-C + CHIP + Medicaid - lots of interest

Josh Q: Want clarity on mandatory reporting requirement. 5404 - get out acq = relation 5434 - linked to
A. what is on the application

Chafee bill

Families USA
- Looking for a House cosponsor.
- Lots of confusion + fear in country - help states.
- Bilirakis - setting up mtg w/ him, even support, need someone to work
- Lazio + Bilbray - most interested

Laurie - End of the year package
- Lack: more sponsors -
- Get in one approp. bills or something.
- ~~Smith~~ Speaker to other Rs - Abortion,

NGA Concerned about cost allocations - we would have to assume them.

NGL -

8/25/99- DRAFT

Summary – Administration Public Charge Outreach Efforts

- Conference calls: INS Headquarter (HQ) conducted conference calls on the field guidance with each region, with district office participation, to alert them to publication of the guidance and regulation and enable them to address public inquiries.

- CRO training: INS Community Relations Officers (CROs) received public charge training in D.C. CROs, stationed in 10 of the largest INS district offices and in the regions, are primarily responsible for community outreach. ask Barbara- what are they doing
- Fact sheet and Q&As: These materials are available on the INS website, along with a Spanish translation. Four Asian language translations are also available. – on paper + soon on web page.
- Briefings for inter-governmental groups: As part of the rollout, HHS, INS, State and USDA briefed inter-governmental groups, including NGA, NCSL and NACO.

- Community mailing: INS mailed copies of the public charge materials to its standard mailing list of 1,500 community and advocacy groups.

- Adjudications workshops: INS HQ adjudications officers have conducted workshops in LA and San Francisco, and will be conducting workshops in NYC, Miami, and Dallas in September. These sessions cover public charge and other topics. One day of training is targeted to local INS staff, while a second day is targeted to community groups and the immigration bar, with some participation by regional staff of other federal agencies. Conducting workshops in additional cities is under consideration.

- Speaking engagements: INS and HHS representatives have addressed a variety of groups and will continue to do so. Examples include: HCFA conference in Baltimore (6/9), attended by representatives of 13 states and many CBOs; D.C. Immigrant Task Force, under the auspices of the D.C. Department of Health (7/8); United Jewish Communities satellite broadcast (7/13), viewed by hundreds of people nationwide; National Academy for State Health Policy (8/2); INS Chicago District Office, CBO meetings (8/31); National Medicaid Eligibility Conference in Kansas City (9/9); and National Association Community Health Clinics.

- Other federal agencies: INS has worked with other affected federal agencies to coordinate materials that they are disseminating through their field networks. HHS, State, SSA and USDA have informed the relevant federal, state and local partners (including Food Stamps and WIC Regional Administrators, state health and welfare directors and other grantees such as community health clinics) of the new policy. HHS Regional Directors in every region has written op ed pieces. In addition, public charge outreach is conducted as part of the interagency CHIP outreach efforts.

- National Council of State Legislators (NCSL): INS has a contract under which NCSL has begun informing state officials about public charge issues and posting public charge information on their website.

- Development of 1-2-pager: INS is developing a very short fact sheet in simple language to supplement its existing written materials. Public feedback indicates that it would be helpful to have such a document on INS letterhead. INS will have a draft soon.

EDWARD M. KENNEDY
MASSACHUSETTS

8-10-99

copied Jennings

Leg affairs for Reply Yes

United States Senate

WASHINGTON, DC 20510-2101

August 5, 1999

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

I have spoken to you several times about a cause that is close to both of our hearts--guaranteeing health insurance coverage for all children. As you know, the vast majority of uninsured children today are eligible for either Medicaid or CHIP, but too many are not participating.

A recent report by the Kaiser Family Foundation found that CHIP enrollment has increased dramatically in the last six months--to 1.3 million--but is still only a fraction of those eligible. This school year will be the first full year in which the program is fully operational in all states. The back-to-school period offers a unique opportunity for a new initiative on enrollment in both CHIP and Medicaid, and can be the launching pad for a major effort for the entire upcoming year.

Under your leadership, the Executive Departments and Agencies have made significant efforts to enroll more children, and your staff have been working effectively on this issue. Here are some suggestions for the next few months:

- Appoint a high level White House coordinator, whose responsibility is to work with the Executive Branch, the states, the Congress, and voluntary agencies and organizations to enroll children in CHIP and Medicaid and to assure that enrolled children receive needed health services. This coordinator should have the same stature as the Director of the White House Office of National AIDS policy or the Y2K coordinator.

- Use the occasion of your address to the National Governor's Association on Sunday to urge greater efforts by states to enroll uninsured children. Many states are making worthwhile efforts, but the gap between what has been done and what could be done is still too wide. The practices that would have the greatest potential impact to encourage enrollment of children include presumptive eligibility for both programs, and assigning eligibility workers to schools, health centers, churches, day care centers, pre-schools, and other organizations.

- Use a Saturday radio address to encourage parents to enroll their children in CHIP and Medicaid as they prepare to go back to school.

- Encourage coordination of enrollment for school lunch programs and CHIP and Medicaid. Participation in school lunch programs is high, and the eligibility largely overlaps.

- Launch a campaign, working with the INS and voluntary organizations with ties to the immigrant community, to assure immigrant populations that enrolling their children in CHIP will not affect their immigration status. The INS agrees that this is the case, but a greater effort must be made to publicize this point and reassure parents, since a substantial proportion of uninsured children come from this community.

- Direct the Departments of HHS and Education and other appropriate agencies to hold joint regional conferences around the country this month, to bring together state officials, school systems and groups, advocates and others to launch an enrollment effort tied to back to school events. Governors and other local leaders should be asked to address these conferences as a way of strengthening their commitment to this goal. For school systems, the objective should be a system in which determining children's insurance status and enrolling them if they are uninsured is as routine as verifying that they have required vaccinations.

- HHS needs to insist that states provide better and more timely data on the progress of enrollments. Only with better data will it be possible to identify the trouble spots that need special attention.

I hope these suggestions are helpful. I was delighted with the focus you put on uninsured children in your recent press conference. The coming weeks offer an unparalleled opportunity to bring the goal of universal health insurance for children closer to reality.

Warmest regards -

Respectfully,

Edward M. Kennedy

Examples of Creative and Successful School-based Outreach Strategies That Governors Could Replicate

District of Columbia: A poster/poetry contest helped to raise awareness about need for and availability of health insurance. Application boxes are provided in principals' offices, and training is provided for selected school staff. Enrollment at events such as report care parent/teacher conferences is an effective strategy -- one such event resulting in 400 approved applications.

Idaho: The Hospital Consortium of North Idaho partners with 12 school districts in five counties as part of a federally funded demonstration project. As part of the project, the shared school nurse provides information about health coverage to families, and works with local Medicaid staff to ensure that families' applications are processed appropriately.

Illinois: Chicago Public Schools identified more than 200,000 children without health insurance, of whom more than 100,000 should be eligible for KidCare. The KidCare Enrollment Campaign has evolved into an innovative and aggressive school-based outreach campaign at over 600 public schools. Enrollment for health insurance at the time of report-card pick up was the focus of the successful campaign. Chicago Public Schools' experience provides important lessons on the need for public-private partnerships, and for cooperation across state agencies.

Nevada: Experience in Nevada shows that 70% of CHIP applicants learn about the program through the school system. Coordination with school lunch programs, athletic programs and parent-teacher conferences helps to spread the word about CHIP. School principals became effective leaders to coordinate school outreach efforts.

Massachusetts: Teenagers and their families, working with Health Care for All, helped to organize the Coaches' Campaign to focus on enrolling children who want to participate in school sports. Coaches learn about opportunities for health coverage for students during Red Cross CPR training for coaches and other school athletic staff.

Minnesota: Assistance with completion of Medicaid applications is available to families of new students at the Welcome Center operated by the Minneapolis Public Schools. During peak registration months of August and September, a Medicaid eligibility worker is outstationed at the Welcome Center.

Nebraska: In Nebraska, community health centers are permitted to enroll children who are presumed to be Medicaid eligible. Staff of Panhandle Community Services health center attended a parent information night at a Scotts Bluff elementary school and was able to directly enroll children by assisting parents to fill out Medicaid applications on site.

South Carolina: About two thirds of all CHIP applications originate in schools. School employees involved in the outreach effort included school nurses, athletic directors and guidance counselors. An incentive program encouraged applications with five dollars paid to each child with a completed application, and pizza parties for the schools with the most applications.

Utah: Families can apply for Medicaid at Edison Elementary School in Salt Lake City. After the Utah Department of Health discovered at an Edison school health fair that many students were suffering from untreated health conditions, a Medicaid eligibility worker was outstationed at the school five days a week. The worker also provides information in six other schools on parent teacher nights and to school counselors.

Washington: Seattle schools are organizing multiple approaches to increase enrollment of eligible children in Medicaid. School nurses and family support workers trained by the Washington Health Foundations's Child Health Access Program assist families with Medicaid applications. Families learn about the program from school-based promotional materials including letters, posters and activity at school events. Linkage with school-lunch program and other strategies for making insurance application a part of school routine are being explored.

West Virginia: Teaming up with community health centers provides additional resources for enrollment. New River Health Association operates four school-based health clinics and provides assistance to other school-based clinics in West Virginia. Health center staff provides families with application forms and offers assistance with the application process.

President Clinton and Vice President Gore:
A Record of Restoring Benefits to Legal Immigrants

Upon signing the 1996 welfare law, President Clinton vowed to reverse some of the unnecessary cuts in benefits to legal immigrants. The President and Vice President fought for three laws continuing or restoring SSI, Medicaid, and Food Stamps to certain groups of legal immigrants. The Balanced Budget Act (BBA) "grandfathered" eligibility for SSI and Medicaid for legal immigrants, while the Agricultural Research Act addressed eligibility for Food Stamps. In addition, legislation making technical corrections to benefits for legal immigrants restored SSI and Medicaid eligibility of certain recipients not covered under the BBA.

Balanced Budget Act of 1997 Restored Disability and Health Benefits

The BBA restored SSI and Medicaid eligibility to some legal immigrants. CBO estimated the cost of these provisions at $11.5 billion over five years ($9.5 billion for SSI, $2 billion for Medicaid). Briefly, the BBA:

- Continued SSI and related Medicaid for legal immigrants receiving benefits on August 22, 1996;
- Allowed SSI and Medicaid benefits for legal immigrants who were here on August 22, 1996 and who later become disabled;
- Extended the exemption from SSI and Medicaid restrictions for refugees and asylees from five to seven years after entry;
- Classified Cuban/Haitians and Amerasians as refugees, as they were prior to 1996;
- Exempted certain native Americans living along the Canadian and Mexican borders from SSI and Medicaid restrictions.

Agricultural Research Act of 1998 Restored Food Stamp Eligibility

The Agricultural Research, Extension, and Education Reform Act of 1998 restored Food Stamp eligibility to approximately 225,000 legal immigrants at a cost of $818 million over five years. Under the Act, the following groups became eligible for Food Stamps:

- Noncitizen children under age 18 who entered by August 22, 1996;
- Legal immigrants here by August 22, 1996, who were age 65 and over or disabled on that date, or who become disabled after that date;
- Refugees and asylees for seven years after entry as refugees or obtaining asylum status in the United States, as opposed to five years under the welfare law;
- Hmong refugees; and
- Certain Native Americans living along the Canadian and Mexican borders.

Technical Amendments Act of 1998 Protected Those Receiving Assistance

The Noncitizen Technical Amendments Act of 1998 ensured that individuals who were receiving disability and health benefits when welfare reform became law were able to continue receiving assistance, even if they were too disabled to prove their date of entry into the United States This change protected an estimated 3,400 elderly and severely disabled recipients at a cost of $41 million over five years.

President Clinton and Vice President Gore: Fighting for Fairness for Legal Immigrants

New Proposals in the Administration's FY 2000 Budget

President Clinton and Vice President Gore believe that legal immigrants should have the same opportunity, and bear the same responsibility, as other members of society. Upon signing the 1996 welfare law, the President vowed to reverse unnecessary cuts in benefits to legal immigrants that had nothing to do with the goal of moving people from welfare to work. Because of the Administration's leadership, the Balanced Budget Act and the Agricultural Research Act restored eligibility for Medicaid, SSI, and Food Stamps to hundred of thousands of legal immigrants. The Administration's new FY 2000 budget would build on this progress by restoring important disability, health, and nutrition benefits to additional categories of legal immigrants, at a cost of $1.3 billion over five years. The Administration's proposal is included in the Fairness for Legal Immigrants Act of 1999 (S.792/H.R.1399) recently introduced by Senator Moynihan and Representative Levin.

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The Balanced Budget Act of 1997 restored disability and health benefits to 380,000 legal immigrants who were in this country before welfare reform became law (August 22, 1996), at an estimated cost of $11.5 billion. The Administration's new budget would restore eligibility for SSI and Medicaid to legal immigrants who enter the country after that date if they have been in the United States for five years and become disabled after entering the United States. This proposal would cost approximately $930 million and assist an estimated 54,000 legal immigrants by 2004, about half of whom would be elderly.

Nutritional Assistance

The Agricultural Research Act of 1998 provided food stamps for 225,000 legal immigrant children, senior citizens, and people with disabilities who came to the United States by August 22, 1996. The Administration's budget would extend this provision by allowing legal immigrants in the United States on August 22, 1996 who subsequently reach age 65 to be eligible for food stamps at cost of $60 million.

Childrens' Health Care and Maternal Care for Pregnant Women

States currently can provide health coverage to immigrant children who entered the country before August 22, 1996. The President's FY 2000 budget would give states the option to provide health coverage to legal immigrant children who entered the country after August 22, 1996. Under this proposal, states could provide health coverage to those children through Medicaid or their CHIP allotment. The proposal would cost $220 million and serve approximately 55,000 children by FY 2004. Furthermore, the budget proposes to give states the option to provide Medicaid coverage to pregnant legal immigrant women who entered the country after August 22, 1996. Such coverage would help reduce the number of high-risk pregnancies, ensure healthier children, and lower the cost of emergency Medicaid deliveries. This proposal would cost $105 million and serve approximately 23,000 women by FY 2004. Recently, Senators Chafee, McCain, Mack, Jeffords, Graham, and Moynihan.introduced S. 1227, a bipartisan bill that includes a similar proposal for legal immigrant children and pregnant women.

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States currently can provide health coverage to immigrant children who entered the country before August 22, 1996. The President's FY 2000 budget would give states the option to provide health coverage to legal immigrant children who entered the country after August 22, 1996. Under this proposal, states could provide health coverage to those children through Medicaid or their CHIP allotment. The proposal would cost $220 million and serve approximately 55,000 children by FY 2004. Furthermore, the budget proposes to give states the option to provide Medicaid coverage to pregnant legal immigrant women who entered the country after August 22, 1996. Such coverage would help reduce the number of high-risk pregnancies, ensure healthier children, and lower the cost of emergency Medicaid deliveries. This proposal would cost $105 million and serve approximately 23,000 women by FY 2004. Recently, Senators Chafee, McCain, Mack, Jeffords, Graham, and Moynihan.introduced S. 1227, a bipartisan bill that includes a similar proposal for legal immigrant children and pregnant women.

- INS
- HHS
- State - could [illegible]
. Questions taped
- open to suggestions.

8/24/99- DRAFT

Summary – Administration Public Charge Outreach Efforts

- Conference calls: INS Headquarter (HQ) conducted conference calls on the field guidance with each region, with district office participation, to alert them to publication of the guidance and regulation and enable them to address public inquiries.

- CRO training: INS Community Relations Officers (CROs) received public charge training in D.C. CROs, stationed in 10 of the largest INS district offices and in the regions, are primarily responsible for community outreach.

- Fact sheet and Q&As: These materials are available on the INS website, along with a Spanish translation. Four Asian language translations are also available.

- Community mailing: INS mailed copies of the public charge materials to its standard mailing list of 1,500 community and advocacy groups.

- Adjudications workshops: INS HQ adjudications officers have conducted workshops in LA and San Francisco, and will be conducting workshops in NYC, Miami, and Dallas in September. These sessions cover public charge and other topics. One day of training is targeted to local INS staff, while a second day is targeted to community groups and the immigration bar, with some participation by regional staff of other federal agencies. Conducting workshops in additional cities is under consideration.

- Speaking engagements: INS and HHS representatives have addressed a variety of groups and will continue to do so. Examples include: HCFA conference in Baltimore (6/9), attended by representatives of 13 states and many CBOs; D.C. Immigrant Task Force, under the auspices of the D.C. Department of Health (7/8); United Jewish Communities satellite broadcast (7/13), viewed by hundreds of people nationwide;); National Academy for State Health Policy (8/2); INS Chicago District Office, CBO meetings (8/31); National Medicaid Eligibility Conference in Kansas City (9/9); and National Association Community Health Clinics.

- Other federal agencies: INS has worked with other affected federal agencies to coordinate materials that they are disseminating through their field networks. HHS has informed state agencies and its grantees of the new policy.

- National Council of State Legislators (NCSL): INS has a contract under which NCSL has begun informing state officials about public charge issues and posting public charge information on their website.

- Development of 1-2-pager: INS is developing a very short fact sheet in simple language to supplement its existing written materials. Public feedback indicates that it would be helpful to have such a document on INS letterhead. INS will have a draft soon.

HHS

Regional Directors - editorials

- CHIP outreach part of their remarks

State

- Sent out cable to offices
- Foreign Affairs Manual - final rule (FAM)

Chip + Medicaid Outreach - Jeanne

- Univision - PSAs
- private sector partner > Pre-public charge

Post Public Charge - nothing yet but could be part

- CHIP letters to Directors

$500 million - states - encourage states to use $
outreach - only $39 million only spent expires at end of FY - trying to extend use + spend states spend $.

- Federal Kingsley Task Force -
Dept. of Transportation - $ putting up poster on a bus

Immig Judge - discretion - INS is working on w/ Counsel - comes up w/ NACARA
whether immig judges have used in the past.
Judges disenroll the program

Andy Hyman@os.dhhs.gov

Irene Bueno

08/25/99 09:00:54 AM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Meeting with Kennedy's staff on Outreach to Immigrant Kids for CHIP and Medicaid

Irene Bueno

Irene Bueno

08/24/99 07:08:58 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Eugenia Chough/OPD/EOP@EOP
bcc: Irene Bueno/OPD/EOP
Subject: Re: Meeting with Kennedy's staff on Outreach to Immigrant Kids for CHIP and Medicaid

1. Cybele of Kennedy's office left me a voice mail with the agenda for the meeting at 11 am:

- Introductions

- Administration - update on the status of the reg and outreach

comment period - July 26.
several months way — 250 people 6 months
training to INS - enforce — • Long-term care
• Ballard mom's

- Brainstorm with the groups on further outreach stragteies

2. Please see revised outreach document.

pcoutreach824.re

Irene Bueno

Irene Bueno

08/24/99 03:22:51 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Meeting with Kennedy's staff on Outreach to Immigrant Kids for CHIP and Medicaid

Please see attached memo for a listing of public charge outreach activities that we will discuss during the conference call. Thanks

RJL EOJ NAME = "MSJOB 3"

pcoutreach.824.do

Irene Bueno

Irene Bueno

08/24/99 03:19:12 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Meeting with Kennedy's staff on Outreach to Immigrant Kids for CHIP and Medicaid

Let's plan to meet at 9:15 am, Wed. in my office 217 OEOB. HHS and INS will call in for the meeting.

Thanks.
Irene Bueno

Irene Bueno

08/23/99 07:08:30 PM

Record Type: Record

To: Jeanne Lambrew/OPD/EOP@EOP, Brian A. Barreto/OPD/EOP@EOP, Deborah B. Mohile/WHO/EOP@EOP, Janet Murguia/WHO/EOP@EOP

cc: Erica R. Morris/WHO/EOP@EOP
Subject: Re: Meeting with Kennedy's staff on Outreach to Immigrant Kids for CHIP and Medicaid

In preparation for this outreach meeting, would like to meet Wednesday, 8/25 morning to discuss what we are doing on outreach? How about 9:30 am? Let me know. Thanks.

Irene

---------- Forwarded by Irene Bueno/OPD/EOP on 08/23/99 07:04 PM ----------

Irene Bueno

08/19/99 07:56:25 PM

Irene Bueno

08/24/99 12:59:12 PM

Record Type: Record

To: Eugenia Chough/OPD/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: pre-Kennedy call in #

Thanks
Eugenia Chough 08/24/99 11:57:56 AM

Eugenia Chough 08/24/99 11:57:56 AM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:
Subject: pre-Kennedy call in #

The conference call number is 456-6777, code 6284. Just left a message with Ed. Will let you know when I hear. Thanks.

THE WHITE HOUSE

Office of the Vice President

For Immediate Release
Tuesday, May 25, 1999

Contact:
(202) 456-7035

VICE PRESIDENT GORE TAKES NEW ACTION TO ASSURE FAMILIES ACCESS TO HEALTH CARE AND OTHER BENEFITS

New Regulation Clarifies That Receiving Medicaid, CHIP, or Other Benefits Will Not Affect Immigration Status

McAllen, TX -- Vice President Gore announced today a new Department of Justice regulation to assure families that enrolling in Medicaid or the new Children's Health Insurance Program (CHIP) and receiving other critical benefits, such as school lunch and child care services, will not affect their immigration status.

The new policy, effective immediately, clarifies a widespread misconception that has deterred eligible populations from enrolling in these programs and undermined the nation's public health. In addition, the Vice President directed Federal agencies to send guidance to their field offices, program grantees and to work with community organizations to educate Americans about this new policy.

"This new regulation will improve the health of our families by addressing widespread confusion that prevents legal immigrants from signing up for health insurance, school lunch, child care and other essential programs," said Vice President Gore.

WIDESPREAD CONFUSION ABOUT CURRENT POLICY DETERS LEGAL IMMIGRANTS FROM ACCESSING CRITICAL BENEFITS

Recent immigration and welfare reform laws have generated widespread public confusion about whether legal immigrants receiving certain publicly funded benefits can be deemed to be a "public charge," meaning they may be denied the ability to enter the United States to become a legal permanent resident, and may be subject to deportation. This confusion and fear has deterred legal immigrant families from enrolling their children in Medicaid and CHIP, and prevented legal immigrants from receiving immunization and treatment for communicable diseases, which places the entire national public health at risk. It also reduces payment sources for hospitals and other health care providers serving this population, thus increasing their uncompensated care burden. A 1998 Urban Institute study found that in Los Angeles County the rate of legal immigrants applying for health insurance dropped by 21 percent from January 1996 to January 1998, suggesting that legal immigrants do not take full advantage of their eligibility for currently available programs.

NEW STEPS ENSURE THAT LEGAL IMMIGRANTS WILL HAVE ACCESS TO CRITICAL HEALTH CARE AND SOCIAL SERVICES WITHOUT FEAR.

These new regulations provide clear and consistent guidance that receiving health care and other critical services cannot be used to deny individuals admission to the United States or to bar legal permanent resident status, or as a basis for deportation. Eligible legal immigrants can now receive the following benefits without fear of jeopardizing their immigration status:

- *Health insurance under Medicaid and CHIP.* There have been reports of individuals being told that receiving Medicaid or CHIP will negatively effect their immigration status leading to widespread concern in the immigrant community about enrolling in Medicaid or CHIP, even where the beneficiary is a child who is a United States citizen. These new regulations take a significant step towards eliminating that concern by clarifying that legal immigrants who are eligible for these programs (with the exception of institutionalization for long term care) will not face adverse immigration consequences.

- *Access to immunization, testing, and treatment for communicable disease.* After an outbreak of rubella in New York in 1997, public health officials learned that the major reason that people had not been vaccinated was the fear that using health department services would affect their immigration status. These new regulations take new steps to protect the health of all Americans by ensuring legal immigrants can access – without fear – free immunizations, testing, and treatment for communicable diseases, such as rubella or tuberculosis.

- *Access to essential nutrition programs.* These new regulations remove the perceived barriers to receiving critical nutrition benefits, including Food Stamps, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the National School Lunch and Breakfast programs, and other supplementary and emergency food assistance programs. Access to these benefits is extremely important for legal immigrant children. Recent studies by the United States Department of Agriculture (USDA) and the Census Bureau indicate that Hispanic families with children have among the lowest food security rates (70 percent), placing them at risk for malnutrition.

- *Other supports for families.* These regulations also make it possible for eligible legal immigrants to also access important social supports for working families, such as child care services, housing assistance, energy assistance, emergency disaster relief, foster care and adoption assistance, transportation vouchers, educational assistance, and job training programs without fear of adverse immigration consequences.

The Vice President also directed all Federal agencies that oversee these programs, including the Department of Health and Human Services, USDA, the Department of Justice, the Social Security Administration, and the State Department, to send guidance to their field

offices, program grantees and to work with community organizations to educate Americans about this new policy.

CLINTON-GORE ADMINISTRATION'S STRONG COMMITMENT TO INSURING LOW INCOME FAMILIES AND PROMOTING THE PUBLIC HEALTH.

The new regulations the Vice President unveiled today are part of a comprehensive effort by the Clinton/Gore Administration to help families obtain health care, which includes:

- *Providing health insurance to legal immigrant children, pregnant women, and individuals with disabilities.* The Administration's budget proposes to provide health coverage to low-income legal immigrant children and pregnant women who entered the country after August 22, 1996 and to legal immigrants who entered the country after August 22, 1996 and became disabled after entering the country, providing health insurance for over 100,000 legal immigrants. This builds on the Administration's success in restoring eligibility for Medicaid, SSI, and Food Stamps to hundreds of thousands of legal immigrants including restoring disability and health benefits to 380,000 legal immigrants in the Balanced Budget Act and providing Food Stamps for 225,000 legal immigrant children, senior citizens, and people with disabilities in the Agricultural Research Act of 1998

- *Launching the Children's Health Insurance Program (CHIP).* The President, with bipartisan support from the Congress, created CHIP, which allocates $24 billion over five years to extend health care coverage to uninsured children through State-designed programs. He also launched the Insure Kids Now Campaign, which engages a broad-based, bipartisan, public-private coalition to use a variety of means to educate and assist families in insuring their children. This campaign is specifically designed for minority populations and encourages outreach to children in non-traditional settings, such as churches and community centers, where legal immigrant children are frequently found.

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U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE

FACT SHEET

05/25/99

Public Charge

In an effort to protect the public health and help people become self-sufficient, the Clinton Administration is publishing a proposed rule in the *Federal Register* on May 26 that clarifies the circumstances under which a non-citizen can receive public benefits without becoming a "public charge" for purposes of admission into the United States, adjustment of status to legal permanent resident, and deportation.

The new regulations, for the first time, define "public charge" and state which benefits a non-citizen may receive without concern for negative immigration consequences. The regulation describes the various issues that must be considered in making a public charge determination. This information will help non-citizens and their families make informed choices about whether to apply for certain benefits. The regulation also enhances the administration of the nation's immigration laws by promoting fair and consistent decision-making.

Background

"Public charge" has been part of U.S. immigration law for more than 100 years as a ground of inadmissibility and deportation. An alien who is likely at any time to become a public charge is inadmissible and ineligible to become a legal permanent resident of the United States. Also, an alien can be deported if he or she becomes a public charge within five years of entering the United States from causes that existed before entry. Instances of deportation on public charge grounds have been very rare.

Recent immigration and welfare reform laws have generated considerable public confusion and concern about whether a non-citizen who is eligible to receive certain Federal, State, or local public benefits may face adverse immigration consequences as a public charge for having received public benefits.

This concern has prompted some non-citizens and their families to deny themselves public benefits for which they are eligible -- including disaster relief, treatment of communicable diseases, immunizations, and children's nutrition and health care programs -- potentially causing considerable harm to themselves and the general public. This impact undermines the government's policies of increasing access to health insurance and health care and helping people to become self-sufficient by drawing temporarily on public support during a transition period.

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Definition of Public Charge

The proposed rule, which was drafted after an extensive interagency process with benefit-granting agencies, defines "public charge" to mean **an alien who has become (for deportation purposes) or is likely to become (for admission or adjustment of status purposes) "primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance, or institutionalization for long-term care at government expense."** This definition alone, however, cannot be used to determine if an alien is a public charge -- other issues must be considered, as specified below.

The Immigration and Naturalization Service (INS) is implementing this definition of public charge immediately through field guidance discussing the definition and standards for public charge determinations. The field guidance will be published along with the proposed rule in the *Federal Register*. In addition, the United States Department of State (DOS) will send a cable to U.S. consulates abroad providing guidance on public charge determinations for admission purposes. By making this guidance effective immediately, INS and DOS are helping to relieve public concerns about receiving health care and other important services, as well as providing field personnel with the tools needed to enforce immigration law in a clear and consistent manner.

At the same time, INS is seeking public comment on this approach. The proposed rule includes a 60-day public comment period.

Benefits Subject to Public Charge Consideration

The proposed rule specifies that cash assistance for income maintenance includes Supplemental Security Income (SSI), cash assistance from the Temporary Assistance for Needy Families (TANF) program and State or local cash assistance programs for income maintenance, often called "General Assistance" programs. Acceptance of these forms of public cash assistance could make a non-citizen a public charge, if all other criteria are met (as described below in the section "Criteria for Public Charge Determinations.")

In addition, public assistance, including Medicaid, that is used for supporting aliens who reside in an institution for long-term care – such as a nursing home or mental health institution – will also be considered by INS and DOS officials as part of the public charge analysis. Short-term institutionalization for rehabilitation is not subject to public charge consideration.

Benefits Not Subject to Public Charge Consideration

Non-cash benefits and special-purpose cash benefits that are not intended for income maintenance are not subject to public charge consideration. Such benefits include:

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Medicaid, Children's Health Insurance Program (CHIP), Food Stamps, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), immunizations, prenatal care, testing and treatment of communicable diseases, emergency medical assistance, emergency disaster relief, nutrition programs, housing assistance, energy assistance, child care services, foster care and adoption assistance, transportation vouchers, educational assistance, job training programs, and non-cash benefits funded under the TANF program.

Some of the above programs may provide cash benefits, such as energy assistance, transportation or child care benefits provided in cash under TANF or the Child Care Development Block Grant (CCDBG), and one-time emergency payments under TANF. Since the purpose of such benefits is not for income maintenance, but rather to avoid the need for on-going cash assistance for income maintenance, they are not subject to public charge consideration.

Criteria for Public Charge Determinations

The proposed rule states that an alien's mere receipt of cash assistance for income maintenance, or being institutionalized for long-term care, does not automatically make him or her inadmissible, ineligible to adjust status to legal permanent resident, or deportable on public charge grounds. The law requires that INS and DOS officials consider several additional issues as well. Each determination is made on a case-by-case basis.

Admission and Adjustment of Status

Before an alien can be denied admission to the United States or denied adjustment of status to legal permanent resident based on public charge grounds, a number of factors must be considered by INS and DOS, including: the alien's age, health, family status, assets, resources, financial status, education and skills. No single factor – other than the lack of an Affidavit of Support, if required -- will determine whether an alien is a public charge, including past or current receipt of public cash benefits for income maintenance.

Deportation

The INS can deport an alien on public charge grounds only if the alien has failed to meet the benefit-granting agency's demand for repayment of a cash benefit for income maintenance or for the costs of institutionalization for long-term care. INS may initiate removal proceedings only if the benefit-granting agency has the legal authority to demand repayment and has:

- chosen to seek repayment within five years of the alien's entry into the United States;
- obtained a final judgment;
- taken all steps to collect on that judgment; and
- been unsuccessful in those attempts.

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Even if these conditions are met, the alien is not deportable on public charge grounds if the alien can show that he or she received public cash benefits for income maintenance or was institutionalized for long-term care for causes that arose after entry into the United States.

Other Public Charge Clarifications

- There is no public charge test for naturalization.
- Public charge is not a factor in whether a non-citizen can sponsor a relative to come to the United States.
- Benefits received by one member of a family are not attributed to other family members for public charge purposes, unless the cash benefits amount to the sole support of the family.

– INS –

Questions and Answers

05/25/99

Public Charge

GENERAL

Q1: Why are the Department of Justice (DOJ) and the Immigration and Naturalization Service (INS) issuing field guidance and a proposed regulation concerning public charge, and what is the effect of these documents?

A1: DOJ and INS are issuing this guidance and proposed regulation to alleviate growing public confusion over the meaning of the currently undefined term "public charge" in immigration law and its relationship to the receipt of Federal, State, or local public benefits. By defining "public charge," DOJ seeks to reduce the negative public health consequences generated by the existing confusion and to provide aliens with better guidance as to the types of public benefits that will and will not be considered in public charge determinations. The guidance defines "public charge" and gives examples of benefits that will and will not be considered by INS officials for public charge purposes. It also summarizes the existing law regarding public charge and explains how the INS will administer these provisions.

Q2: What does it mean to be a "public charge" under the immigration laws?

A2: An alien who is likely at any time to become a "public charge" is ineligible for admission to the U.S. and is ineligible to adjust status to become a lawful permanent resident. An alien who has become a public charge can also be deported from the U.S., although this very rarely happens. These provisions have been part of U.S. immigration law for over 100 years, and the recent immigration reform and welfare reform laws did not substantively change them. Both INS (in the U.S.) and the Department of State (State) (overseas) make public charge determinations.

Q3: How is "public charge" defined, and when will this definition be implemented?

A3: The INS is issuing guidance and a proposed regulation that define "public charge" for the first time. "Public charge" means an alien who has become (for deportation purposes) or who is likely to become (for admission/adjustment purposes) primarily dependent on the government for subsistence. This definition is effective immediately. As discussed below, INS and State will consider the receipt of cash benefits for income maintenance purposes and institutionalization for long-term care at government expense in determining dependence on the government for subsistence.

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IMPLEMENTATION

Q4: How do INS and State decide whether someone is admissible or eligible for adjustment of status under the public charge rules?

A4: In deciding whether an alien is likely to become a public charge, the law requires that the INS (in the U.S.) or State (overseas) take certain factors into account, including the alien's age, health, family status, assets, resources, financial status, education and skills. The government official examines all of these factors, looking at the "totality of the circumstances" concerning the alien, to make a forward-looking decision. No single factor — other than the lack of an Affidavit of Support, if required — will be used as the sole basis for finding that someone is likely to become a public charge, that is, likely to become primarily dependent on the government for subsistence. As described below, non-cash benefits and certain special-purpose cash benefits will not be taken into account under the totality of circumstances test.

Q5: How does INS decide whether someone is deportable as a public charge?

A5: Deportations on public charge grounds are very rare because the standards are very strict. Under the Immigration and Nationality Act, an alien is deportable if he or she becomes a public charge within 5 years after the date of entry into the U.S. for reasons not affirmatively shown to have arisen since entry. The mere receipt of a public benefit within 5 years of entry does not make an alien deportable as a public charge. An alien is deportable only if (1) the state or other government entity that provides the benefit has the legal right to seek repayment from the alien or another obligated party (for example, a sponsor under an affidavit of support), (2) the responsible program officials make a demand for repayment; and (3) the alien or other obligated party, such as the alien's sponsor, fails to repay. The benefit granting agency must seek repayment within 5 years of the alien's entry into the United States, obtain a final judgment, take all steps necessary to collect on that judgment, and be unsuccessful in those attempts. Even if these conditions are met, the alien has the opportunity to show that the reasons he or she became a public charge arose after the alien's entry to the U.S. An alien who can make such a showing is not deportable as a public charge.

Q6: What kind of benefits are considered in deciding whether someone is or is likely to become a public charge?

A6: Not all publicly funded benefits are relevant to deciding whether someone is or is likely to become a public charge. INS' guidance and proposed regulation clarify what kinds of benefits may and may not be considered in making a public charge determination. In order to decide whether an alien has become or is likely to become a public charge, INS and State will consider whether the alien is likely to become primarily dependent on the government for subsistence as

(more)

demonstrated by either (1) the receipt of public cash assistance for income maintenance purposes, or (2) institutionalization for long-term care at government expense (other than imprisonment for conviction of a crime). Short-term institutionalization for rehabilitation is not taken into account for public charge purposes.

Public benefits considered to be public cash assistance for income maintenance include:

(1) Supplemental Security Income (SSI);
(2) Temporary Assistance for Needy Families (TANF), but not including supplementary cash benefits excluded from the term "assistance" under TANF program rules or any non-cash benefits and services provided by the TANF program;
(3) State and local cash assistance programs for income maintenance (often called state "General Assistance," but which may exist under other names).

In addition, the costs for institutionalization for long-term care, which may be provided under Medicaid or other programs, may be considered in making public charge determinations.

While the receipt of these benefits may be considered by INS and State for public charge purposes, having received them does not automatically make someone a public charge. As explained above, the totality of circumstances test applies for admission and adjustment. For deportation, all of the procedural requirements, described above, apply.

Q7: **Are there public benefits that aliens can legally receive without worrying that the INS and State will consider them a public charge?**

A7: Yes. Not all publicly funded benefits will be considered by the INS or the State Department in deciding whether someone is or is likely to become a public charge. The focus of public charge is on cash benefits for income maintenance and institutionalization for long-term care at government expense. Examples of benefits that will not be 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, prenatal care, etc.) other than support for institutionalization for long-term care
- Children's Health Insurance Program (CHIP)
- Nutrition programs, including Food Stamps, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the National School Lunch and Breakfast programs, and other supplementary and emergency food assistance programs

(more)

- Housing assistance
- Child care services
- Energy assistance, such as the Low Income Home Energy Assistance Program (LIHEAP)
- Emergency disaster relief
- Foster care and adoption assistance
- Educational assistance, including benefits under the Head Start Act and aid for elementary, secondary, or higher education
- Job training programs
- In-kind, community-based programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter).

Note that not all categories of aliens are eligible to receive all of the types of benefits described above.

Q8: **Do the INS and State consider all types of cash assistance in deciding whether someone is a public charge?**

A8: No. INS and State only consider cash benefits intended for income maintenance purposes. Some programs provide cash benefits for special purposes, such as the Low Income Home Energy Assistance Program (LIHEAP), transportation or child care benefits provided in cash under TANF or the Child Care and Development Block Grant (CCDBG), and one-time emergency payments made under TANF to avoid the need for on-going cash assistance. These special-purpose cash benefits are not for income maintenance and therefore are not considered for public charge purposes.

Q9: **Normally Food Stamp benefits are given in the form of paper coupons or an electronic benefit card that can be used at authorized stores to buy food. However, in a few areas Food Stamp benefits are given in the form of cash. If Food Stamp benefits are given in the form of cash, can those benefits be considered for public charge purposes?**

A9: No. Food Stamp benefits will not be considered for public charge purposes regardless of the method of payment because they are not intended for income maintenance.

Q10: **Are health care benefits and enrollment in health insurance programs like Medicaid and CHIP considered for public charge purposes?**

A10: No, not unless an alien is primarily dependent on the government for subsistence as demonstrated by institutionalization for long-term care at government expense. In particular, INS and State will not consider participation in Medicaid or CHIP, or similar state-funded programs, for public charge purposes. This approach will help to safeguard public health, while still allowing INS and State

(more)

to identify people who are primarily dependent on the government for subsistence by looking to the receipt of public cash assistance for income maintenance. In addition, short-term institutionalization for rehabilitation will not be considered for public charge purposes.

Q11: **Do the public charge field guidance and regulation change the policy issued by the Food and Nutrition Service for the WIC Program in WIC Policy Memorandum #98-7, dated March 19, 1998, "Impact of Participation in the WIC Program on Alien Status"?**

A11: No. The new field guidance and regulation on public charge are consistent with the WIC policy memorandum issued in 1998. The WIC policy memorandum was developed based on agreements reached with the INS and State. The new field guidance and regulation merely restate and reinforce the agreement previously reached on the impact of participation in the WIC Program and alien status. As noted above, INS and State will not take WIC participation into account for public charge purposes.

AFFIDAVIT OF SUPPORT

Q12: **What is an affidavit of support, and who is required to have one?**

A12: The Personal Responsibility and Work Opportunity Reconciliation Act and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Section 213A, created a new requirement for all family-sponsored immigrants and those employment-based immigrants who will work for a close relative or for a firm in which a U.S. citizen or lawful permanent resident relative holds a 5 percent or greater ownership interest. An alien who applies for an immigrant visa or adjustment of status in one of these categories on or after December 19, 1997, must have an affidavit of support (AOS), INS Form I-864, from a qualifying sponsor or he or she will be found inadmissible as a public charge. An AOS is a legally binding promise that the sponsor will provide support and assistance to the immigrant if necessary.

The AOS must be signed by a sponsor who meets certain statutory requirements. Sponsors must be able to demonstrate that they are able to maintain the sponsored alien(s) at an annual income of not less than 125 percent of the federal poverty level. (Currently, 125 percent of the poverty level for a family of four is $20,875.) If the family member who filed the visa petition does not have enough money to sponsor the alien(s), then another person can sign an AOS as a "joint sponsor," indicating that he or she is willing to support the immigrant in the future if needed. The sponsor's obligation under the AOS lasts until the immigrant has naturalized, has worked or can be credited with 40 quarters of work, leaves the U.S. permanently, or dies. The sponsor and joint sponsor (if any)

(more)

must also agree to repay the government if the immigrant uses certain benefits during that time and if the government asks the sponsor for repayment.

Before IIRIRA, aliens were sometimes sponsored using INS Form I-134, but these affidavits of support were found by some courts not to be legally enforceable. Form I-134 may still be used for categories of aliens who are not required to use the new, enforceable affidavit of support, such as students, parolees, or diversity immigrants.

Q13: Can an affidavit of support help an alien demonstrate to the INS and State that he or she is not likely to become a public charge?

A13: Yes. Since many aliens who apply for an immigrant visa or adjustment of status after December 19, 1997, will have an affidavit of support, INS and State will take that into account in deciding whether the alien is likely to become a public charge in the future. Even though an AOS is necessary for some immigrants and helps to convince the government that they will not become dependent on the government for subsistence in the future, INS or State can still deny an immigrant admission or adjustment of status under the totality of circumstances test based on other factors such as age, health, employment, and education, as described above.

Q14: If lawful permanent residents want to sponsor a relative to come to the U.S., will it hurt their chances if they are receiving or have received public benefits in the past?

A14: Sponsors are not subject to public charge screening under the immigration laws; the question is whether the alien being sponsored is likely to become a public charge. Sponsors must satisfy a different test: they must be able to demonstrate that they are able to maintain the sponsored immigrant(s) at an annual income of not less than 125 percent of the federal poverty level.

Q15: Why does the new INS affidavit of support form ask about whether a sponsor or member of his or her household has received "means-tested public benefits" in the past 3 years?

A15: The purpose of this question is to ensure that the INS or State official making the decision has access to all facts that may be relevant in determining whether the 125 percent test, described above, is met. Any cash benefits received by the sponsor, such as SSI or cash TANF, cannot be counted toward meeting the 125 percent income threshold, but they are not held against the sponsor if he or she can meet the 125 percent test through other resources. The receipt of other means-tested public benefits – such as Food Stamps, Medicaid, or CHIP – have no effect on sponsorship.

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Q16: What happens if a sponsor who has signed the new affidavit of support dies?

A16: The obligation to support the alien terminates with the sponsor's death, but the sponsor's estate would still be obligated to repay any obligations accrued before the sponsor's death. If there is a joint sponsor and only one of the sponsors dies, the remaining sponsor would remain liable under the affidavit of support.

For deportation purposes, if a sponsor has died and there is no joint sponsor, there is no legal obligation under the affidavit of support to repay any means-tested benefits. This means that the first prong of the test for deportation would not be met and the sponsored alien would not become deportable based on the affidavit of support.

EXAMPLE SITUATIONS

Q17: Are there categories of aliens who are not subject to public charge determinations?

A17: Yes. Refugees and asylees are not subject to public charge determinations for purposes of admission or adjustment of status. Amerasian immigrants are also exempt from the public charge ground of inadmissibility for their initial admission to the U.S. In addition, various statutes contain exceptions to the public charge ground of inadmissibility for aliens eligible for adjustment of status under their provisions, including the Cuban Adjustment Act, the Nicaraguan Adjustment and Central American Relief Act (NACARA) and the Haitian Refugee Immigration Fairness Act (HRIFA).

Q18: If an alien has received cash public benefits in the past, but has stopped, will INS or State find that he or she is likely to become a public charge?

A18: Past receipt of cash public benefits does not automatically make an alien inadmissible as likely to become a public charge. It is one factor that will be considered under the totality of the circumstances test to decide whether the alien is likely to become a public charge in the future. For example, if an alien received benefits in the past during a period of unemployment, but now has a job and is self-supporting, he or she would most likely not be found inadmissible as a public charge. The more time that has elapsed since the alien stopped receiving the benefit, the less weight it will be given. The length of time that an alien received benefits and the amount of benefits received are also relevant considerations.

Q19: If an alien has received public benefits in the past, does the alien have to repay them to avoid having INS or State find that he or she inadmissible as a public charge, or ineligible to adjust status and become a lawful permanent resident?

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A19: No. INS and State do not have authority to request that aliens repay public benefits in connection with visa issuance, admission, or adjustment of status.

Q20: Who decides whether an alien must repay a public benefit he or she has received in the past?

A20: The requirements and procedures concerning any demand for repayment of a public benefit are governed by the specific program rules established by law and administered by the benefit granting agencies, or by state and local governments, not by INS or State. The public charge rules in the immigration law do not change these program requirements.

Q21: If a member of an alien's family is receiving or has received public benefits, but the individual alien hasn't, will INS or State hold this against the alien for public charge purposes?

A21: In most cases, no. As a general rule, receipt of benefits by a member of an alien's family is not attributed to the alien who is applying to INS or State for admission or to INS for adjustment of status to determine whether he or she is likely to become a public charge. The only time this general rule would not apply would be if the family were reliant on their family member's cash public benefits as its sole means of support.

In particular, alien parents do not have to worry that the INS or State will consider them to be public charges if they enroll their children in programs for which they are eligible, unless these are cash programs which provide the sole financial support for the family. This is true whether the children are U.S. citizens or non-citizens.

If a parent enrolls in TANF for cash benefits for the "child only," this could be used by INS or State for a public charge determination concerning the parent if this cash is the sole support for the family. However, if there are other sources of support or a parent is working, then the cash assistance would not represent the family's sole source of support.

Q22: If an alien receives public benefits, will it hurt his or her chances to become a U.S. citizen?

A22: No. There is no public charge test for naturalization purposes, so the receipt of benefits is not relevant, as long as they were legally received. Nor is there a requirement to repay benefits received in the past in order to qualify for citizenship.

Q23: Can a naturalized citizen lose his or her citizenship because of receiving public benefits?

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Q31: An alien who is primarily dependent on the government for subsistence as demonstrated by the institutionalization for long-term care at government expense can be found deportable as a public charge. Does this mean that INS will be conducting raids in nursing homes or other long-term care institutions?

A31: No. INS will not send investigators into nursing homes or other long-term care facilities to look for aliens who might be deportable as public charges. INS may use information concerning institutionalization if it comes to ins' attention through other avenues, but the only way an alien could be found deportable is if all the procedural requirements described above were met.

Q32: If I'm eligible to self-petition for adjustment of status under the Violence Against Women Act (VAWA), do I have to show that I'm not likely to become a public charge?

A32: The Administration is still considering the extent to which self-petitioners under VAWA are subject to the public charge requirements, and will address this in future guidance. The law does make clear that self-petitioners under VAWA do not need to submit an affidavit of support with their application, unlike other family-based immigrants.

Q33: Cuban/Haitian entrants are eligible to receive certain public benefits under welfare reform. If they receive such benefits, will they be barred from adjusting status because they will be considered public charges?

A33: The answer depends on how they become eligible to adjust status. There are statutory exceptions to the public charge ground of inadmissibility for those Cubans who are eligible to adjust to lawful permanent resident status under the Cuban Adjustment Act and NACARA and for those Haitians who are eligible to adjust status under the HRIFA. Cuban/Haitian entrants are subject to the usual public charge rules if they seek adjustment under other provisions of law that do not contain public charge exemptions.

Q34: Certain Amerasian entrants are eligible to receive public benefits under welfare reform. If they receive such benefits, will they be considered public charges?

A34: Amerasian entrants are admitted to the U.S. as lawful permanent residents (LPRs), and they are exempt from the public charge ground of inadmissibility at their initial admission. In most cases, the issue of public charge would never come up again, unless the alien leaves the U.S. for more than 6 months and seeks readmission. At that time, the exemption from public charge screening would no longer apply and the alien would be treated like any other LPR under the totality of the circumstances test.

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A23: No. Nobody can lose his or her citizenship because of receiving public benefits. Once an immigrant becomes a citizen, he or she can receive benefits on the same basis as all other citizens. Citizens cannot be deported or barred from reentering the U.S. after an international trip based on the receipt of public benefits.

Q24: Does an alien have to stop participating in some benefit programs in order to adjust status and become a lawful permanent resident?

A24: No, but someone who is receiving a cash benefit for income maintenance at the same time that he or she applies to become a lawful permanent resident may be considered ineligible for adjustment as a public charge. An alien who has received a cash benefit in the past could reapply to the INS after he or she stops receiving the benefit, and might or might not be considered a public charge.

Someone who is receiving a non-cash benefit – for example, WIC, Food Stamps, Medicaid, or CHIP – would not have to stop participating in the program in order to be eligible to adjust to lawful permanent resident status.

As explained earlier, in all of these situations, the usual "totality of the circumstances" test would apply.

Q25: If a lawful permanent resident has received public benefits and leaves the country, will INS stop him or her from returning on public charge grounds?

A25: In general, a lawful permanent resident who has been outside the U.S. for 6 months or less is not screened for public charge purposes when he or she returns. This is because lawful permanent residents who leave for 6 months or less at a time are not considered applicants for admission when they return, and none of the grounds of inadmissibility, including public charge, apply to them.

There are exceptions to this general rule if (1) the alien has abandoned his or her status as a lawful permanent resident; (2) the alien has engaged in certain illegal activity; (3) the alien was in removal proceedings before he or she left the country; or (4) the alien attempts to enter other than at a port of entry. See INA section 101(a)(13)(C) for more details on these exceptions.

Q26: Can an LPR continue to receive benefits while he or she is out of the country?

A26: If an LPR plans to be out of the country for longer than a month, he should check with the agency providing the benefit to determine the rules. In general, people are not allowed to receive many benefits if they are absent from the country or state of residence for longer than 30 days. If an LPR receives benefits improperly, it can hurt his chances of re-entering the U.S. or becoming a citizen.

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Q27: If a refugee has adjusted to LPR status and then leaves the country for more than 180 days – is he or she at risk of being found to be a public charge and denied reentry?

A27: As noted above, refugees are exempt from public charge determinations for their admission and adjustment to LPR status. Public charge has never been a problem for refugees who travel and return to the U.S., and nothing in the welfare reform law or immigration reform law has changed this.

Q28: When an LPR returns from an international trip, can INS make her pay back Medicaid or Food Stamps that she or her children used before?

A28: No. INS does not have the authority to ask immigrants to pay back these benefits. If an alien has received benefits improperly (e.g., if a person claims to be a resident of a state for purposes of eligibility when she is not a resident, or if she does not tell a caseworker about all of her income), it is up to the benefit-granting agency to request repayment, based on the rules governing that program. Typically a benefit-granting agency would only request repayment in situations involving fraud or overpayment, and it would follow its procedural rules involving notice to the individual and the right to appeal.

Q29: What if an alien has never used cash welfare and is not residing in a nursing home. Can the INS still deny him a green card because they think he might use cash welfare in the future?

A29: Yes, it is possible. INS and State officials must look at all of the factors listed above to determine if a person can support himself in the future. If an alien's current situation related to age, health, resources, and the other statutory factors does not satisfy them that the alien is likely to be able to be self-supporting in the future, then they can refuse to grant a visa or approve adjustment of status, even if he is not currently receiving public cash assistance.

Q30: What if a person is not receiving cash assistance but is very sick and needs an extended period of care in a nursing home or other long-term care institution? Will she have trouble getting her Permanent Resident Card ("green card")?

A30: Yes. If someone is living in a nursing home or has a serious long-term illness that requires institutionalization, she will probably have trouble getting a green card unless she can show that she can get the care she needs without using Medicaid or other government-funded health programs (e.g., county aid). However, a short-term stay in a nursing facility, for example, to physically rehabilitate after surgery, will not be used to deny a green card. The alien is not deportable on public charge grounds if the alien can show that she received benefits for causes that arose after entry into the U.S.

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Q35: **If an alien has been in the U.S. since January 1, 1972, and wants to become a lawful permanent resident under the "registry" provision of the Immigration and Nationality Act, section 249, is there a public charge test?**

A35: No. Public charge is not a factor for "registry" aliens under section 249.

Q36: **Is it improper for an immigration or consular officer to ask non-citizens at an airport or in an interview whether they have received public benefits in the past, or whether someone in their family has?**

A36: No. Immigration or consular officers can ask questions about whether a non-citizen or someone in his or her family is receiving or has received public benefits in the past. Non-citizens should answer such questions completely and truthfully. If an alien tells an immigration or consular officer that he or she has received a benefit that is exempt from consideration for public charge purposes, such as Food Stamps or Medicaid, the officer will not use that information in deciding whether the alien is likely to become a public charge.

Q37: **INS is publishing this public charge definition as a proposed rule for notice and comment. What happens if an alien receives one of the "safe" benefits— that is, a supplemental, non-cash benefit and the final rule is different from the proposed rule — can aliens rely on the field guidance?**

A37: Aliens may rely on ins' field guidance in determining the benefits that they may safely accept before the final rule is issued. If the final rule is different from the proposed rule, INS will issue additional guidance at that time designed to ensure that non-citizens who relied on the current guidance will not suffer harsher immigration consequences based on that reliance.

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