

NATIONAL WIC ASSOCIATION TALKING POINTS ON PUBLIC CHARGE

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On March 28, 2018, the *Washington Post* [published](#) a new [leaked draft](#) of the long-rumored Notice of Proposed Rulemaking (NPRM) on public charge. For several months, the U.S. Department of Homeland Security (DHS) has indicated that it intends to expand the definition of public charge to punish immigrant families that access public benefit programs. After the leak on February 8, 2018, DHS drafts have explicitly listed an immigrant family's use (including a US citizen child's use) of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) as a "negatively weighted factor" to be considered when granting a visa, green card, or legal permanent residency. On March 29, 2018, DHS sent a draft NPRM to the Office of Management and Budget (OMB) – one of the final steps before the proposed rule is published for public comment.

As a result, the National WIC Association (NWA) recommends the following talking points:

- **THE PROPOSED RULE HAS INSTIGATED A PUBLIC HEALTH CRISIS BY FORCING IMMIGRANTS TO CHOOSE BETWEEN FEEDING THEIR CHILDREN AND THE LONG-TERM SECURITY OF THEIR FAMILY.**
- **THE PROPOSED RULE WILL DENY CHILDREN ACCESS TO HEALTHCARE, MOTHERS ACCESS TO CRUCIAL BREASTFEEDING SERVICES, AND FAMILIES ACCESS TO NUTRITIOUS FOODS.** Programs like WIC benefit the public health and nutrition needs of communities across the country. WIC improves birth outcomes, reduces childhood obesity, and ensures the long-term success of our kids. Eligible pregnant women and new moms in need should not be turned away from WIC's nutrition and breastfeeding support.
- **US-CITIZEN BABIES AND CHILDREN WILL BE DENIED SERVICES.** Over 90% of children under age six born to an immigrant parent are American citizens. The proposed rule will discourage families with US citizen children from obtaining the assistance that they need.
- **THE PROPOSED RULE AFFECTS LEGAL IMMIGRANTS – THOSE WHO ARE WORKING AND COMPLYING WITH THE SYSTEM.** Public charge determinations only occur when an individual is applying for or already in possession of legal status, such as a visa or green card. These immigrants are following the rules and legally entitled to access certain benefits like WIC.
- **THE PROPOSED RULE CIRCUMVENTS CONGRESS BY DENYING IMMIGRANTS ACCESS TO PUBLIC HEALTH AND NUTRITION PROGRAMS THAT THEY ARE LEGALLY PERMITTED TO USE THROUGH THE REGULATORY PROCESS.** In the 1990's, Congress deliberately rejected this broad interpretation of public charge, resulting in a consensus that public charge should only be considered for income maintenance (TANF, SSI, etc.) or long-term care. The proposed rule would upend decades of immigration policy and the carefully considered 1996 welfare reforms.



- **THE PROPOSED RULE'S PENALTY FOR HAVING CHILDREN IS INCONSISTENT WITH FAMILY VALUES.** The government should not be in the business of telling families when and how many children they should have. In blessing the consideration of dependents by immigration officials, the proposed rule will discourage families from choosing to have children.
- **THE CHILLING EFFECT OF THE LAST SEVERAL MONTHS IS JUST A PRECURSOR TO WORSE HEALTH OUTCOMES.** Ever since the first leaked draft in January 2017, WIC clinics have reported that clients have cancelled appointments and requested that their personal information be deleted from WIC's files. Some clients have even attempted to return food benefits and breast pumps. When eligible families are denied WIC services, there are long-term health consequences that will impact immigrant families and communities for decades to come.
- **EARLY AND TARGETED NUTRITION INTERVENTION LEADS TO COST-SAVINGS IN THE FUTURE.** WIC's preventative health benefits address childhood obesity, anemia, iron deficiency, and other health indicators that could lead to more significant conditions as children mature into adults. By encouraging participation and investing in WIC, the government is saving later costs to Medicaid, emergency health services, and the American taxpayer.
- **THE PROPOSED RULE IS ADMINISTRATIVELY INFEASIBLE AND RAISES CONCERNS ABOUT DATA SECURITY.** It is unclear how DHS intends to implement this rule. Privacy laws currently restrict the use of WIC program data, and participants will grow increasingly concerned about trusting federal programs if their health information is shared with other government agencies to ensure an adverse outcome.
- **CHARITABLE ORGANIZATIONS ARE UNPREPARED AND ILL EQUIPPED TO FILL THE GAP WHEN POPULATIONS ARE DENIED ACCESS TO FEDERAL PROGRAMS.** Many charitable organizations, such as food banks and churches, are already operating at capacity. Despite their good intentions, these organizations also lack the expertise to provide other services, such as WIC's nutrition education and breastfeeding support.

It is important to keep the following points in mind:

- The proposed rule is an attempt to target families that have lawfully immigrated to the US, including US citizen children. This proposed rule is *not* aimed at undocumented immigrants.
- Certain classes of humanitarian immigrants – such as refugees, asylees, and VAWA self-petitioners – are protected by statute and therefore not subject to public charge determinations. These immigrants are expressly exempted from the proposed rule.
- Public charge determinations do not take place during naturalization proceedings – the final step before an immigrant becomes a US citizen. However, changes to public charge will have a huge impact on the “pipeline” as immigrants move through the legal immigration process.



NWA has received dozens of stories from clinics across the country documenting the harm of these leaked executive actions. A few, edited for clarity, are below:

- January 2018 in Colorado: a mother returned her Symphony breast pump to the WIC clinic. She was a DACA recipient who was not able to renew her permit. As a result, she did not want any services linking back to her.
- February 2018 in California: a mother with two children on WIC walked in and pleaded to “stop her WIC.” She came to the US when she was a child, but was instructed by her lawyer to cancel her participation in government programs, including WIC and Medicaid.
- February 2018 in California: a mother returned food checks after learning about public charge through a Korean newspaper. She stated that her husband is applying for a green card and she does not want her receipt of WIC benefits to affect him.
- February 2018 in Kansas: a pregnant woman married to a doctoral student discontinued her WIC benefits, claiming that she was fearful that her receipt of services would impact her ability to obtain citizenship in the future.
- April 2018 in Washington: a mother came into a WIC clinic after being pulled over by a police officer and three ICE patrol cars. She was terrified and asked if she was pulled over because she participated in WIC.
- April 2018 in New York: a mother with two children on WIC returned food checks after learning about public charge through Spanish-language news. The mother is applying for citizenship (which isn’t affected by public charge) but still fears it will impact her petition.

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