

## *Judge Blocks Trump Policy That Favors Wealthy Immigrants*

For immigrants seeking legal residency, the administration's "public charge" rule would disqualify many applicants who receive federal assistance like Medicaid.



By Miriam Jordan

Oct. 11, 2019, 2:38 p.m. ET

LOS ANGELES — A federal judge in New York issued a nationwide injunction on Friday blocking implementation of a new federal policy that would deny legal residency to immigrants who are likely to depend on public welfare.

Judge George B. Daniels of the United States District Court in the Southern District of New York said those potentially affected by the new regulation could suffer "irreparable harm" if it goes into effect. "The balance of equities and the interests of justice favor issuance of a preliminary injunction," the judge wrote.

The "public charge" rule, which had been scheduled to take effect on Tuesday, set new standards for determining who might become a burden on the public purse and barred them from obtaining permanent residence in the country.

Judge Daniels's order, which the Justice Department is likely to appeal, came a few days after President Trump also moved to deny immigrant visas to those who cannot prove that they will either have health insurance or can afford to pay for their own health care.

The president said legal immigrants were three times as likely as American citizens to lack health insurance, making them a burden on hospitals and taxpayers in the United States.

The separate public charge regulation that was the subject of the latest court order had been roundly condemned by immigrant advocacy groups and the medical establishment, which argued that the rule would discourage immigrants from seeking government assistance when they may need help buying food or seeing a doctor.

The regulations published by the Department of Homeland Security on Aug. 14 expand the definition of what it means to be a “public charge,” making it more difficult for immigrants to be approved for a green card if they have received benefits such as Medicaid, housing assistance or food stamps, or are deemed likely to receive them in the future.

For a nation that has long welcomed immigrants from poor countries seeking to improve their lot, the new rule could drastically change the composition of newcomers admitted to the United States. The rule would favor those who are educated and wealthy, more likely to hail from Europe than from the developing world.

The new standards would directly affect about 1.2 million applicants annually, including about 500,000 who are already in the country. But that figure does not include millions of family members and others who might also be affected. Immigration experts said the rules would disproportionately affect applicants from Africa and Latin America.

Under the policy, which is still subject to full legal review by the courts, agency officials are to consider a “totality of circumstances” in assessing green card applicants based on a list of “positive” and “negative” factors. Negative factors include being unemployed, not completing high school and lacking proficiency in English. Assets, personal debts and credit score are also taken into account.

Heavily weighted positive factors include having a household income that is 250 percent above the federal poverty line, currently \$53,325 for a family of three, or having private health insurance that is not subsidized by Affordable Care Act tax credits.

Most people seeking to obtain legal permanent residency or to immigrate to the United States are immediate relatives of naturalized Americans or have a family-based sponsor. Thus, critics have said, the new criteria force immigrants to choose between the well-being of some family members in the United States and their

desire to reunite with those waiting to join them from overseas. A family's use of benefits could hamper the chances that a spouse in a foreign country would ever be allowed to immigrate to the United States, even if the family members who use the benefits are United States citizens.

Diminished participation in Medicaid and other programs would undermine the financial stability of immigrant families and the healthy development of their children, according to several recent studies. Nationwide, 13.5 million users of Medicaid and the Children's Health Insurance Program, including 7.6 million children, live in a household that includes at least one noncitizen, making it possible they would decrease their use of government health benefits as a result of the rule, according to the Kaiser Family Foundation.

The new criteria would also result in more deportations because those denied legal permanent residency would be placed in removal proceedings.

The new rule regards a public charge as a person who receives listed public benefits for more than an aggregate of 12 months over any 36-month period. Each benefit used counts toward the 12-month calculation; if an applicant receives two different benefits in one month, they would count as two months of benefits.

The complexity of the regulation and fear of being denied a green card have sown confusion in immigrant communities. Annick Koloko, an immigration lawyer, said she had encountered immigrants who have forgone benefits in anticipation of the rule, even when they had children who were citizens and in need of help.

A client from Cameroon who has a blue-collar job pulled out of a cash assistance program that benefited her son, who is American, because she believed it would jeopardize the green-card application of her husband, who is awaiting approval in Africa.

"People are afraid," said Ms. Koloko, who practices in New York. "The rule is extremely complex. From the moment they hear about it, they think it's applicable to them."

Many lawyers and immigrant groups have been encouraging low-income clients to file their green-card applications before the new rule goes into effect.



Ms. Koloko said she made such a recommendation to a Bangladeshi man in his 20s who works at a pizza parlor and hopes to bring his wife to the United States. He is a naturalized citizen but has yet to establish a strong financial record, Ms. Koloko said, and That he has received Medicaid and food stamps “would be seen in a negative light” after the new regulations are in place.

Julie Dinnerstein, a staff lawyer at Citizenship Now with the City University of New York, a university-based program that provides free immigrant legal services to the public, said she has been spending the bulk of her days recently helping people fill out green-card applications.

“Every immigration lawyer that I know across the country is knocking themselves out to get these applications filed before the rules go into effect,” she said.

Nearly 85 percent of legal immigrants live in a family with at least one full-time worker, according to the Kaiser study, a rate higher than that of citizens. However, they are more likely than citizens to live in low-income families and work in jobs and industries that do not offer health coverage, which is why many turn to government-funded assistance such as Medicaid.

Mr. Trump’s latest order, on mandatory health insurance coverage for immigrants, which takes effect on Nov. 3, directs consular officers abroad to deny green cards to applicants unless they “will be covered by approved health insurance” or can prove that they have “the financial resources to pay for reasonably foreseeable medical costs.”

The directive is aimed primarily at those seeking to join their families in the United States through “family reunification,” an immigration process that Mr. Trump has criticized because it favors people who already have family in the United States over those admitted based on their ability to contribute to the economy.

Like the public-charge policy, the proclamation on health insurance does not affect refugees.

The latest court ruling is one of several that have blocked various government attempts to limit immigration. Even so, the Trump administration has been able to roll out policies that restrict asylum, tighten requirements for skilled-work visas and slash the number of refugees that the country will accept.

Miriam Jordan is a national immigration correspondent. She reports from a grassroots perspective on the impact of immigration policy. She has been a reporter in Mexico, Israel, Hong Kong, India and Brazil. @mirjordan