



PRESS RELEASE

Attorney General Frosh Joins Lawsuit Against DHS “Public Charge” Rule

Under New Rule, Fewer Families and Children will Receive Food, Health Care and Shelter

BALTIMORE, MD (August 14, 2019) – Maryland Attorney General Brian E. Frosh today joined 12 other attorneys general in filing a [lawsuit against the U.S. Department of Homeland Security](#) over changes to the “public charge” rule that targets immigrants and their families. Under the changes, if an immigrant who is legally in the country uses benefits to which he or she is entitled — such as food assistance to feed their U.S. citizen children or housing assistance — even for a short time, the federal government may revoke their legal status, or even deport them.

Even if an individual does not use these benefits, the new rule expands the government’s ability to deny visa renewal or permanent residency to anyone they predict will use a broad range of short-term benefits, without any clear formula for making that determination.

Federal law allows many lawful immigrants to apply for public benefits if they have been in the country for at least five years. The new rule creates a “bait-and-switch” — potentially punishing qualified immigrants for using the public assistance to which they are legally entitled..

“Wealth has never been, and should not now be, the primary determinant of an immigrant’s status in America,” said Attorney General Frosh. “America has always stood as a beacon of hope for those looking for a better life, and immigrants have lifted our country up as we have given them refuge. The ‘public charge’ rule is unlawful and un-American, and it jeopardizes the health and welfare of children and families.”

A coalition of 13 states assert that the Department of Homeland Security (DHS) violated federal immigration statutes, the Welfare Reform Act and the Administrative Procedure Act when it unlawfully expanded the definition of “public charge.”

Under long-standing law and policies, a public charge is an individual whose survival depends upon a specific public benefit or who is institutionalized for long-term care at government expense. This does not include temporary assistance, such as food or housing assistance or health care, including the Children’s Health Insurance Program (CHIP). Immigration officers can deny new visas, visa renewals and lawful permanent residency under the public charge rule only if the applicant meets this concrete definition. If an individual already present in the United States becomes a public charge, they can be deported.

Under the new rule, a public charge now will include lawfully present individuals or families who will use a broad range of federal assistance for housing, food or health care at any time in the future, for as short as four months.

The new definition expands immigration officials' ability to deny visas and permanent residency to any individual who they predict may use these types of assistance in the future. Permanent residents may also be labeled a public charge if they used government assistance and leave the country for more than 180 days.

In the lawsuit, the attorneys general write that the Trump Administration's rule "effects a radical redirection of federal immigration law from a system that promotes economic mobility among immigrants to one that advantages immigrants with wealth."

The Department of Homeland Security concedes in the rule that it would "deter legally present visa holders from using important assistance programs."

Many noncitizens will refrain from seeking assistance for themselves or their families because it could make them ineligible to renew their legal immigration status or become a permanent resident, exposing them to deportation.

As a result, fewer families and children will receive services they need, including food, health care and housing. Children, including many U.S. citizen children, will go without adequate meals, vaccines or shelter, and more families will suffer homelessness.

Hundreds of thousands of individuals will lose health care for themselves and their families. Many of these people will go to the emergency room for routine medical care, requiring states to cover the vastly more expensive medical costs.

Additionally, women will lose routine reproductive care services, resulting in more unintended pregnancies, more high-risk deliveries and increased costs for newborns whose health is compromised by the lack of adequate pre-natal care.

The attorneys general assert that the rule violates the Immigration and Nationality Act by redefining "public charge" in a way unconnected to its original meaning and Congress' intent.

The attorneys general also assert that DHS violated the Administrative Procedure Act in numerous ways, including by reversing a decades-old, consistent policy without reasoned analysis and offering an explanation for the rule that runs counter to the evidence before the agency.

In addition to Maryland, the lawsuit was joined by the attorneys general of Colorado, Delaware, Illinois, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Rhode Island, Virginia and Washington.