

The Final Public Charge Admissibility Rule: Implications for Massachusetts EXECUTIVE SUMMARY

SEPTEMBER 2020



Kelly Anthoula Love
Rachel Gershon
Margaret Sullivan
*Commonwealth Medicine,
University of Massachusetts Medical School*

ABOUT COMMONWEALTH MEDICINE DIVISION, UNIVERSITY OF MASSACHUSETTS MEDICAL SCHOOL

Commonwealth Medicine's primary focus is to help Medicaid and other human service agencies accomplish their missions. As the health care consulting and operations division of UMass Medical School, it draws on the academic knowledge and public health service expertise of Massachusetts' only public medical school to provide comprehensive, innovative health care and policy solutions. Commonwealth Medicine's Public & Private Health Solutions team focuses on designing, implementing, and evaluating health care systems programming with a special focus in the areas of health law and policy, children and families, workforce assessment and development, research and evaluation, and employment for people with disabilities.

ABOUT THE MASSACHUSETTS MEDICAID POLICY INSTITUTE

The Massachusetts Medicaid Policy Institute (MMPI)—a program of the Blue Cross Blue Shield of Massachusetts Foundation—is an independent and nonpartisan source of information and analysis about the Massachusetts Medicaid program, MassHealth. MMPI's mission is to promote the development of effective Medicaid policy solutions through research and policy analysis.

THE PUBLIC CHARGE RULE IN THE CONTEXT OF THE COVID-19 PUBLIC HEALTH CRISIS AND ECONOMIC DOWNTURN

At the time of release of this paper, Massachusetts and the nation as a whole are experiencing sudden and severe public health and economic impacts stemming from the COVID-19 pandemic. These dual crises—public health and economic—are likely to exacerbate the impacts of the public charge rule in Massachusetts.

The U.S. Citizen and Immigration Services has stated that testing and treatment for COVID-19 will not negatively affect any immigrant's public charge determination (see www.uscis.gov/greencard/public-charge). All the same, noncitizens and their family members may still fear that COVID-19 testing and treatment could impact their public charge determinations.

The analysis and quantitative estimates presented in this paper were developed before the health and financial developments associated with COVID-19 took place and therefore do not take their impact into consideration. For example, our estimates related to the decline in enrollment in the Supplemental Nutrition Assistance Program (SNAP) and MassHealth are based on enrollment in these programs before the COVID-19 pandemic; they do not take into account the increased enrollment that is expected in the months ahead, given the increased unemployment the Commonwealth has experienced in recent months. How the economic downturn (which would drive enrollment up) and the public charge (which would drive enrollment down) will interact with one another is unknown.

Nevertheless, the two primary impacts of the public charge rule that we outline in this brief are likely to be magnified owing to the public health and economic crises currently facing the Commonwealth:

- **Health care coverage is more important than ever during a pandemic.** Our analysis finds that the public charge rule will cause 55,000–129,000 Massachusetts residents to avoid or disenroll from MassHealth coverage. Without health care coverage, these residents are even more vulnerable to the impacts of COVID-19; any delays in testing due to lack of coverage could ultimately lead to an increase in the avoidable spread of the infection.
- **Access to food is more critical during an economic downturn.** Our analysis finds that the public charge rule will cause 27,000–63,000 residents to forgo or disenroll from nutrition assistance (SNAP). Yet its benefits are more critical than ever during an economic downturn, when food insecurity is likely to be especially prevalent and severe.

BACKGROUND

The revised “public charge” admissibility rule took effect in Massachusetts on February 24, 2020.^{1,2} This federal rule makes it harder for certain low- and moderate-income individuals to become lawful permanent residents (green card holders) or to obtain certain visas to enter the United States, especially if they have applied for or are enrolled in public benefits such as Medicaid or the Supplemental Nutrition Assistance Program (SNAP). As a result of the public charge rule, experts predict that many people will forgo claiming public benefits out of concern about the rule’s impact on their immigration status, including people to whom the public charge rule does not apply.³

The public charge rule does not apply to all immigrants. For example, the rule does not apply to refugees, asylees, or people applying for naturalization.^{4,5} Few people who are subject to the public charge rule qualify for public benefits as defined in the public charge rule. For example, most immigrants are barred from receiving applicable public benefits for at least five years. Also, not all Medicaid benefits will impact an immigrant’s chances of obtaining a green card or visa under the new rule. Pregnant people and children up to age 21, for instance, may still receive Medicaid benefits. Understandably, such nuances are hard to communicate and apply.

If you are seeking advice on whether the public charge rule applies to you, please refer to resources provided by Protecting Immigrant Families, at www.protectingimmigrantfamilies.org. Other resources are listed in Appendix A of the full report.

Though the public charge rule only applies to the small number of people who are also eligible for public benefits, the “chilling effect” that is expected will be much greater. Many thousands of Massachusetts residents may disenroll from benefits or forgo applying for benefits in the first place because they believe that their use of public benefits could be held against them or against their family members under the public charge rule.⁶ Anecdotal reports suggest that Massachusetts residents started doing without health care and public benefits even before the rule took effect.⁷

KEY FINDINGS

IMPACT ON ENROLLMENT IN MASSHEALTH AND SNAP

“We estimate that **55,000–129,000** Massachusetts residents will forgo or disenroll from MassHealth coverage and **27,000–63,000** residents will be in households that forgo or disenroll from SNAP.”

Using available census data and studies of the effect of similar past policies, such as the 1996 federal welfare legislation that restricted public benefit eligibility for some immigrants, we estimate that **55,000–129,000 Massachusetts residents** will forgo or disenroll from MassHealth coverage (Massachusetts’ combined Medicaid and Children’s Health Insurance [CHIP] Programs) and **27,000–63,000 residents** will be in households that forgo or disenroll from SNAP.⁸ Reduced enrollment in housing assistance is also expected.⁹ As tens of thousands of Massachusetts residents face new barriers accessing health, nutrition, and housing, they are likely to experience worse health outcomes and a lower quality of life.¹⁰

It is important to note that our estimates for the public charge’s impact on enrollment in MassHealth and SNAP in Massachusetts are based on national studies and not based on the experience so far in Massachusetts. There is inherent uncertainty in any estimate, and ultimately the impact in Massachusetts could be smaller—or larger—than our estimates. These estimates also do not account for strategies that are taking place within some

states, including in Massachusetts, to try to mitigate the impact of public charge on enrollment in MassHealth, SNAP, and other public benefit programs—including intensive outreach and education in immigrant communities.

IMPACT ON HEALTH CARE PROVIDERS AND THE LTSS WORKFORCE

Experts predict that both health care providers and potential recipients will be affected by this loss of health care coverage and reduction in use of public benefits. If people avoid using health care out of concern for how it could impact their immigration status or that of their family members, quality, continuity, and coordination of care can be hampered. Also, if the public charge rule leads people to avoid health care coverage, hospitals, community health centers, and other health care organizations may feel the effect of lost revenue. Previous research estimated the amount of hospital spending at risk in Massachusetts to be \$457 million per year.¹¹ Further, immigrants make up a sizable portion of the long-term services and supports (LTSS) workforce, and so the public charge rule, by making it harder for low-income immigrants to obtain green cards and visas, could also make it harder to address workforce shortages among personal care attendants (PCAs) and home health aides.

IMPACT ON THE COMMONWEALTH'S PUBLIC POLICY PRIORITIES

The public charge rule may affect the Commonwealth, too. Reduced enrollment in public benefits translates into less federal revenue flowing into the state—from federal housing subsidies, from an estimated **\$36–\$85 million** in SNAP retailer redemptions (SNAP benefits used to buy food at Massachusetts stores) per year, and from federal matching dollars for MassHealth.¹² Over the past few decades, Massachusetts developed a health care system that demonstrably improved access to health insurance, culminating in the lowest uninsured rate in the nation. The state is now focused on controlling health care costs, maintaining high levels of health care enrollment and access,¹³ and addressing social determinants of health. The public charge rule may hamper these efforts by dissuading eligible individuals from enrolling in MassHealth and nutrition assistance and decreasing access to important preventive health care.¹⁴

ENDNOTES

- 1 United States Citizenship and Immigration Services. 2020. [USCIS Announces Public Charge Rule Implementation Following Supreme Court Stay of Nationwide Injunction](#).
- 2 There are still pending court cases that may affect the public charge rule's status in the future. As of the date of this publication, the rule is in force in Massachusetts.
- 3 Ku, Leighton. 2019. [New Evidence Demonstrates That the Public Charge Rule Will Harm Immigrant Families and Others](#). Health Affairs blog (October 9, 2019).
- 4 42 C.F.R. 212.23.
- 5 *Refugee* is defined as a person outside his or her country of nationality who is unable or unwilling to return to his or her country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. *Asylee* is defined as a person who meets the definition of refugee and is already present in the United States or is seeking admission at a port of entry. *Naturalization* confers U.S. citizenship upon foreign nationals who have fulfilled the requirements Congress established in the Immigration and Nationality Act (INA). After naturalization, foreign-born citizens enjoy nearly all of the same benefits, rights, and responsibilities that the Constitution protects for native-born U.S. citizens, including the right to vote. Sources: <https://www.dhs.gov/immigration-statistics/naturalizations>; <https://www.dhs.gov/immigration-statistics/refugees-asylees>.
- 6 Ku, Leighton. 2019. [New Evidence Demonstrates That the Public Charge Rule Will Harm Immigrant Families and Others](#). Health Affairs blog (October 9, 2019).
- 7 Kimball, Sarah and David Opp. [The Public Charge Rule for Immigrants and the Hidden Impact on Public Health](#). HealthCity (July 12, 2019) (concern expressed at Boston Medical Center); Commonwealth of Massachusetts Office of the State Auditor. 2019. [Executive Office of Health and Human Services—Barriers to Access to Public Benefits for the Period July 1, 2015, Through December 31, 2017](#) (avoidance of WIC, even though WIC is not included in the definition of public benefits in the public charge rule).
- 8 Authors' calculations of the 2014–2018 United States Census Bureau's American Community Survey Public Use Microdata Sample (PUMS). Calculated by (1) identifying noncitizens and household members of noncitizens; (2) identifying noncitizens and household members who are on MassHealth; (3) identifying noncitizens and household members who are in households that receive Supplemental Nutrition Assistance Program benefits; and (4) applying a chill estimate of 15–35 percent following the majority of organizations estimating chill (including the Kaiser Family Foundation, which did a literature review of chill effects from a 1996 welfare reform law). Artiga, Samantha, Rachel Garfield, and Anthony Damico. 2019. [Estimated Impacts of Final Public Charge Inadmissibility Rule on Immigrants and Medicaid Coverage](#). Kaiser Family Foundation. See Appendix C for more detailed methodology.
- 9 [Declaration of Ryan Allen, Ph.D., Make the Road New York v. Cuccinelli \(S.D.N.Y.\)](#); National Housing Law Project. 2018. Comments on the public charge proposed rule by the National Housing Law Project (describing a larger chill effect than anticipated in the text of the proposed rule).
- 10 Gundersen, Craig and James P. Ziliak. 2015. "Food Insecurity and Health Outcomes." Health Affairs 34(11): 1830–1839. Wagnerman, Karina, Alisa Chester, and Joan Alker. 2017. [Medicaid Is a Smart Investment in Children](#). Georgetown University Center for Children and Families.
- 11 Mann, Cindy, April Grady, and Allison Orris. 2018. [Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule](#). Manatt.
- 12 United States Food and Nutrition Services. [2018 Year-End Retail Management Report](#).
- 13 Blue Cross Blue Shield of Massachusetts Foundation. 2019. [MassHealth: The Basics—Facts and Trends](#). Slide 5: MassHealth Improves Access to Care and Health Outcomes (evidence from Massachusetts); Antonisse, Larisa, Rachel Garfield, Robin Rudowitz, and Madeline Guth. [The Effects of Medicaid Expansion Under the ACA: Updated Findings From a Literature Review](#). Kaiser Family Foundation (August 15, 2019) (national evidence).
- 14 Brooks, Tricia, Edwin Park, and Lauren Roygardner. 2019. [Medicaid and CHIP Enrollment Decline Suggests the Child Uninsured Rate May Rise Again](#). Georgetown University Center for Children and Families. Bernstein, Hamutal, Dulce Gonzalez, Michael Karpman, and Stephan Zuckerman. 2019. [One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018](#).



MASSACHUSETTS

FOUNDATION