

# Hunger or Deportation: Implications of the Trump Administration's Proposed Public Charge Rule

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## ABSTRACT

Until recently, lawfully present noncitizens participating in the US Department of Agriculture *Supplemental Nutrition Assistance Program* (formerly Food Stamps) faced no immigration consequences. However, in September, 2018, the Trump Administration proposed a more expansive public charge rule in the Federal Register that would deny lawfully present noncitizens a path to citizenship if they had participated in certain federal safety net programs, including *Supplemental Nutrition Assistance Program*. This perspective discusses the proposed rule's implications, particularly for those with professional interests in promoting effective nutrition education and healthy behavior through research, policy, and practice among individuals who will potentially be affected.

**Key Words:** immigration, public charge, SNAP, hunger (*J Nutr Educ Behav.* 2019; 51:505–509.)

Accepted January 23, 2019. Published online February 26, 2019.

## INTRODUCTION

Undocumented immigrants have never been eligible to participate in the US Department of Agriculture (USDA) *Supplemental Nutrition Assistance Program* (SNAP) (formerly *Food Stamps*), which is the largest federal food and nutrition assistance program in the domestic hunger safety net.<sup>1</sup> In fiscal year 2018, SNAP had an annual total cost close to \$65 billion.<sup>2</sup> Each month, SNAP typically offers assistance to >40 million citizens or lawfully present noncitizens who satisfy other program eligibility requirements, including income and resource limits. About half of SNAP participants are children (aged ≤17 years).<sup>3</sup> Until recently, lawfully present noncitizens participating in SNAP faced no immigration consequences.<sup>4</sup>

However, in September, 2018, as part of their immigration agenda, the Trump Administration proposed a more expansive public charge rule in the Federal Register that would deny a

path to citizenship if immigrants (lawfully present or not) had participated in certain federal safety net programs, including SNAP.<sup>5,6</sup> As described by the US Department of Homeland Security (DHS), the proposed rule would “define long-standing law to ensure that those seeking to enter and remain in the US either temporarily or permanently can support themselves financially and will not be reliant on public benefits.”<sup>7</sup> In other words, the proposed rule aims to enforce a longstanding statute more strongly that bars individuals who are likely to become a public charge: a person who primarily depends on the government for subsistence.<sup>8</sup> The proposed rule greatly expands the 1999 Interim Field Guidance<sup>9</sup> put in place under the Clinton Administration, which narrowly defined dependence on government assistance as participation in cash assistance or long-term institutionalized care. Now, for the first time under the proposed rule, the definition of dependence includes a more

expansive list of public benefits and government assistance programs: specifically, SNAP, *Temporary Assistance for Needy Families* (also known as welfare), Medicaid, Medicare Part D (also known as prescription drug subsidies), and Section 8 (also known as housing vouchers). Essentially, the proposed rule could potentially deny a path to citizenship both to people seeking to immigrate to the US permanently and to those who are in the country on temporary visas who want to stay permanently (ie, green card) if they received any assistance from the broad suite of identified government safety net programs.<sup>7</sup> The DHS estimates that annually, roughly 382,000 people seeking to adjust their immigration status could be subjected to a public charge review.<sup>10,11</sup>

The proposed rule will not apply to families earning <15% of the federal poverty line (\$1,821 for an individual and \$3,765 for a family of 4 in fiscal year 2018) or certain immigrants (eg, refugees or asylum seekers).<sup>6</sup> In addition, the proposed rule does not include the *Child Health Insurance Program* (which provides low-cost coverage to families that earn too much to qualify for Medicaid), subsidies for Affordable Care Act Marketplace coverage, or the USDA *Special Supplemental Nutrition Program for Women, Infants, and Children* (WIC), which provides supplemental foods, health care referrals, and nutrition education for low-income pregnant and postpartum

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*Conflict of Interest Disclosure:* The authors have not stated any conflicts of interest.

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<https://doi.org/10.1016/j.jneb.2019.01.019>

women and their children aged  $\leq 5$  years.<sup>6</sup>

Given the controversial nature of the proposed rule, >216,000 comments were submitted to the US DHS during the 60-day public comment period that ended on December 10, 2018, which is significantly more than a typical regulatory proposal.<sup>12,13</sup> This perspective discusses the proposed rule's implications, particularly for the citizen children living with immigrant parents who are among the most vulnerable to facing increased food insecurity and poorer health outcomes as a result of the proposed rule. The authors conclude with potential implications for those with professional interests in promoting effective nutrition education and healthy behavior through research, policy, and practice among individuals and households potentially affected by the proposed rule.

## DISCUSSION

Expanding the definition of dependence in the proposed rule to include a more expansive list of safety net programs has important potential implications for (1) declining participation in government assistance programs, especially SNAP, and resulting economic instability among nonparticipating eligible individuals and households; (2) increasing food insecurity and worsening health outcomes as a result of the proposed rule for citizen children living with immigrant parents; and (3) straining the charitable food sector and the health care systems because of heightened demand.

### Declining Participation in Government Assistance Programs

The proposed rule has the potential to decrease participation significantly in the safety net programs, likely exceeding the number of people who are subject to the rule. In fact, the preamble of the proposed rule acknowledges how the new approach might lead to disenrollment or foregone enrollment in safety net programs among foreign-born noncitizens as well as US citizens who are members of mixed-status households.<sup>6</sup> Put another way, eligible families may not participate in a range of government assistance programs out of fear or confusion that

participation could affect their immigration status or the immigration status of members of their respective household negatively.<sup>14,15</sup> Evidence from the 1996 Personal Responsibility and Work Opportunity Reconciliation Act of 1996<sup>16</sup> (P.L. 104-193; also known as welfare reform) suggested that declines in participation, even among those eligible, may be likely. That is, welfare reform eliminated eligibility for legal immigrants to key safety net programs including cash welfare assistance for families with children, Food Stamps, Medicaid, the *Child Health Insurance Program*, and Supplemental Security Income, and participation in these programs declined for immigrants compared with native citizens; some of the largest declines were for Food Stamps.<sup>16,17</sup> Indeed, 1 analysis examined the impacts of the 1996 welfare reforms using data for 1995–2010 and found that Food Stamp participation among immigrants compared with native citizens declined significantly by 3.9 percentage points.<sup>16</sup>

The proposed rule also points out that the changes may decrease disposable income and increase poverty. One primary function of SNAP is to lift families out of poverty.<sup>18,19</sup> From among the many government programs designed to assist low-income families and individuals, SNAP is the third most important antipoverty program (Supplemental Security Income is first followed by refundable tax credits).<sup>20</sup> In 2017, SNAP lifted 3.4 million people out of poverty, half of whom were children.<sup>20</sup> The income support from SNAP promotes financial stability, and because SNAP is an entitlement program (serving all eligible participants as they apply), participants can apply for the program and receive assistance relatively quickly.

Moreover, SNAP contributes to financial stability for households by promoting work.<sup>21–23</sup> For example, the *SNAP Employment and Training* program funds training and work activities for unemployed adults who receive SNAP.<sup>24</sup> Among families with children that receive SNAP in a given month and include an adult who is not elderly or disabled, most (87%) worked in the prior year or will work the following year. Of note, existing

SNAP policy limits participation for childless adults who are not employed  $\geq 20$  h/wk for 3 months in any 3-year period, but states can seek waivers from implementing this policy.<sup>25</sup> Despite initial inclusion in earlier drafts, stricter work requirements were not ultimately included in the 2018 Farm Bill (which President Trump signed into law on December 20, 2018).<sup>26</sup> However, shortly after the Farm Bill was passed, the USDA announced a proposed rule that aims to make it harder for states to seek waivers from existing SNAP work requirements for able-bodied adults without dependents.<sup>27–29</sup>

### Increasing Food Insecurity and Worsening Health Outcomes

The likely chilling effect of the public charge rule on enrollment may be felt particularly among children. In the US, nearly 20 million children (25%) live in a family with an immigrant parent, and the vast majority of these children are citizens (86%).<sup>30</sup> It is common for undocumented immigrants to live in a household that receives SNAP or other safety net programs, because undocumented parents often apply for assistance on behalf of their children. Because unauthorized immigrants are ineligible for nearly all safety net programs, immigrant families may choose to remove their children from safety net programs (or not enroll at all) to keep their families together, which makes these children among the most vulnerable.

Among low-income households with children, immigrant households rely more on earnings and less on the safety net, which has led to larger increases in poverty for children in immigrant-headed households especially during economic downturns.<sup>16</sup>

Decreased participation in government assistance programs will probably affect the health and financial stability of immigrant families negatively.<sup>31</sup> Evidence<sup>17,29,32</sup> suggests that increasing immigrants' public assistance participation (eg, cash benefits, SNAP, or Medicaid) reduces their food insecurity. Furthermore, participation in SNAP was linked to significant improvements in birth outcomes<sup>33</sup> and better academic learning during school-aged years,<sup>34</sup> and was shown to

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