

National WIC Association Talking Points on Public Charge February 14, 2018

On February 8, 2018, media [published](#) a leaked draft of a Notice of Proposed Rulemaking (NPRM) that implies the U.S. Department of Homeland Security (DHS) intends to expand its definition of public charge. The draft suggests that DHS plans to punish immigrants who use certain public programs – including WIC. Under the proposed rule, an immigrant’s use of the listed programs will be “heavily weighted” against any grant of legal status, including the issuance of a green card. The proposed rule would not affect those applying for citizenship, nor would it affect certain humanitarian immigrants (i.e., refugees, asylees, Violence Against Women Act waivers, etc.).

NWA recommends the following talking points in addressing fears expressed by WIC participants and inquiries from other stakeholders:

For participants:

- **Nothing has changed – if you were using WIC before, you can still use WIC now.** There are no immediate consequences for immigrants participating in WIC.
- **The leaked draft is not current law or policy.**
- **Even if the leaked draft does get officially released, it is going to take a long time for this proposed rule to become a final rule.** It will take at least several months and could take a lot longer than that.
- **The leaked draft indicates that there will be no immigration consequences for people who participate in WIC before the rule goes into effect. In other words, the rule will not be retroactive.**
- **WIC staff does not share personal information with ICE, USCIS, or other immigration agencies.** Federal regulations restrict access to your information. Your information only be shared for certain purposes, largely *related to the administration of WIC*. WIC clinics are not obligated to share information with immigration officials or agencies.

For clinic staff:

- **WIC clinics should have sufficient notice if there will be policy changes.** The rulemaking process takes several weeks, perhaps months or even years. Advocacy and stakeholder groups should have a sense of when a final rule will be issued. This should provide WIC clinics with ample opportunities to communicate advance notice.

For media, policymakers, stakeholders, and public-facing:

- **The leaked draft is not current law or policy.** The leaked document is the first draft of a proposed rule. The rule has not yet been formally proposed. If and when it is formally proposed, it will take several weeks for the rulemaking process to be finalized. Immigration officials cannot use a new definition of public charge until the rulemaking process is completed.

- **The leaked draft suggests that any new rule will not retroactively apply.** The leaked draft – which is not yet policy and still months away from even being formally proposed – stipulates that only benefits received on or after the effective date will be considered in a public charge determination. The leaked draft *suggests there will be no immigration consequences for use of WIC that predates the rule going into effect.*
- **Should DHS undergo rulemaking, it would be an attempt to circumvent Congress and deny immigrants important public health and nutrition services that they are legally allowed to use.** Congress has chosen not to restrict participation in WIC and other programs to US citizens or certain immigrant groups. The Administration's attempt to restrict immigrant access to programs is an unfortunate result of their inability to get damaging legislation through Congress.
- **The leak – and any eventual rulemaking – is damaging to public health.** WIC and other programs provides vital nutrition and health assistance to improve birth and health outcomes for pregnant women, new moms, and young children. Denying these services to certain individuals will lead to worse health conditions and unnecessarily burden our healthcare systems.
- **US citizen children in mixed-status families are at risk.** A large number of immigrant families that participate in WIC have children who are US citizens. The leaked rule and any potential rulemaking has created a chilling effect that will discourage immigrant parents from bringing their citizen children into WIC clinics to receive essential services.

The National WIC Association is collecting stories, anecdotes, and further information about the on-the-ground implications of this leaked information and any eventual rulemaking. Please ensure that clinic staff documents any calls and walk-ins who express concerns so that NWA has accurate information and is able to connect with participants who are afraid of these new developments. NWA will use these stories in a confidential manner to assist in advocacy around public charge. If you have stories to share, please fill out our [Updated Survey on Effects of Proposed Changes to Public Charge](#).

Please contact Brian Dittmeier at bdittmeier@nwica.org with any questions or concerns.