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Trump's Public-Charge Rule Is a One-Two Punch Against Immigrants and Public Assistance

[Jonathan Blitzer](#)

For several years, Arelii, a thirty-four-year-old Mexican mother of two who lives in Queens, had a routine. On the ninth day of every month, she would receive a hundred and ninety dollars from the Supplemental Nutrition Assistance Program, informally known as food stamps. The benefits belonged to her eleven-year-old daughter, who is a U.S. citizen, but they came on a card issued by the government in Arelii's name. The following weekend, Arelii would go to the supermarket. "I try to pack my daughter with sandwiches, juice, things like that," she told me recently. "The schools don't give the kids anything half-decent to eat." Arelii cleans houses in Brooklyn, and her husband works at a deli in Manhattan. They are both undocumented and ineligible for food stamps, as is their son, who was nine when he came to the United States and is now twenty and in the process of applying for his green card.

This August, when it was time to renew her daughter's food stamps, Arelii decided against it. She had heard rumors, on television and on Facebook, that the President had a new plan to punish immigrants who were receiving public benefits. If a family accepted them in any form, Arelii was told, no one in the household could qualify for a green card. Although these rumors were inaccurate, they were based on a widely reported development: the Trump Administration was considering ways to revamp the access that immigrants have to public benefits. That fact was enough to intimidate Arelii, given what she knew about [Donald Trump](#). "These benefits were going to be a block on my son's application," she told me. "I was divided in two. To give my son a chance, I had to take something away from my daughter."

Last weekend, in a four-hundred-and-fifty-page document, the Department of Homeland Security announced a newly proposed regulation to dramatically expand the list of public benefits that the government would treat as “negative factors” in visa and green-card applications. For the past twenty years, only cash-based assistance amounting to more than fifty per cent of a person’s income could potentially be disqualifying. Non-cash benefits, such as food stamps and Medicaid, will now count, too. The threshold for how much public assistance the government can flag as excessive is also being lowered considerably. At the same time, a broad new array of personal factors, including financial status, education, and family size, will count against immigration petitions in unprecedented ways. According to a recent report from the Migration Policy Institute, the proposed standards—which will disproportionately affect immigrants from Central America, Africa, and Asia—are a “modern-day version of the National Origins Quota Act of 1924,” a law that “sought to tilt immigration to Western Europe.” Mark Greenberg, a senior fellow at M.P.I., told me, “The proposal is giving the Administration enormous discretion over who enters the country and who can get a green card.” An even bigger concern, he said, is that many immigrant families, out of fear, might forgo benefits to which they’re legally entitled.

On Tuesday, Arelii and I met at the offices of Make the Road New York, an immigrant-advocacy organization, in Jackson Heights, Queens, where staff members were holding a training session on the government’s proposal. By then, she and her family had gone more than a month without their food stamps. Arelii wanted to increase her hours at work, but she can’t afford a babysitter, and the money she spends to get to Brooklyn for work each week—twelve dollars for a MetroCard, four dollars for bread and coffee to snack on—cuts into her actual earnings (eighty dollars for two days of work a week). “My husband has been working at two separate delis,” Arelii told me. “He leaves every morning at four-thirty and comes home at nine-thirty at night. That’s before my daughter wakes up every day, and after she goes to sleep. They can only see each other on the weekends. She asks us why this is, and we tell her, ‘We’re working on a special project right now.’ ”

After earlier versions of the proposal surfaced—in the form of an unsigned executive order dating to January, 2017, and a leaked draft of the D.H.S. regulation from March—fears about accepting public benefits became entrenched in communities across the country, especially in states with large immigrant populations and robust public-benefit programs. (Of the nearly eighteen million immigrant families who received public benefits between 2014 and 2016, some seven million—about forty-one per cent—live in California and New York.) “Eight months ago was around the first time we started to feel it,” Arline Cruz, one of the staff members at Make the Road, told me. “People started cancelling their benefits. We keep telling members, ‘Don’t stop getting the services you need to survive. This is still only a proposal!’ ” Even the most recent proposed guidelines are still months from going into effect, she said, and they will not be imposed retroactively. Arelii understood the advice, but she was reluctant to take any chances. “They tell me it won’t affect my son’s application,” she said. “But I don’t want to risk anything. No one knows anything for sure.”

Uncertainty about the details of the government’s proposal is making it difficult for advocates to counsel community members, many of whom have already received conflicting advice from immigration lawyers, media reports, and anguished neighbors. The collective confusion is understandable: not only is the Administration’s new plan in flux (there will be a two-month period for public comment before it’s adopted) but this is also the first time since 1999 that the benefits policy for immigrants has been overhauled. In the past, the government distinguished between immigrants who were “receiving” government assistance and those who were “primarily dependent” on it, a distinction that the Trump Administration is now trying to efface. D.H.S. is proposing a set of formulas for determining which immigrants are labelled a “public charge,” meaning that they are considered overly dependent on public assistance and therefore ineligible for legal status. “It’s very hard to figure out why the government would put out such a complex standard,” Greenberg, of M.P.I., said. “People will not be able to figure out which side of the line they fall on.” Other changes are less technical but more alarming. If an immigrant comes from a large family or has an existing health condition, these could be considered “negative factors.” And if that person’s income is within a hundred and twenty-five

per cent of the federal poverty line—roughly thirty thousand dollars for a family of four—it would be another mark against her. “Even if someone isn’t receiving a public benefit, they could in the future,” according to Greenberg. “That’s the idea behind this.”

By the end of the training session, which lasted an hour, the message was provisional but clear. “Folks should not cancel their benefits just yet,” Sienna Fontaine, a legal director at Make the Road, told the group. Afterward, I asked Arelii if she was persuaded to renew her daughter’s food stamps, at least for now. “I’m feeling fifty-per-cent better,” she told me. “I’m still not sure, though. I’m scared there’s something I might do that could hurt my son’s application.” Even if the new proposals were adopted immediately, the food stamps that Arelii’s daughter receives would not affect her son’s green-card application; he isn’t a direct recipient of the food stamps and thus is not at risk of getting penalized for them. When I asked Arelii if this changed her thinking, she told me it didn’t. “The danger is still too great,” she said.

In 1996, after Congress passed a welfare-reform bill that curtailed immigrants’ access to public assistance, tens of thousands of additional immigrants who weren’t affected by the law nevertheless stopped using benefits, as a precaution. By 1998, the use of food stamps by noncitizen families had fallen by forty per cent, with particularly steep drop-offs (about sixty per cent) among refugees, even though they remained eligible for the assistance. The effect was especially pronounced on children who were U.S. citizens and lived in households where at least one of the parents was not. More than half of them went off food stamps, despite the fact that, as Dara Lind pointed out recently, at [Vox](#), the law “was supposed to allow them to stay on.” In 1999, the Clinton Administration issued special guidance to mitigate the damage. Barbara Strack, who recently retired from her role as an official at D.H.S., helped draft those clarifying directives, which remain in effect. (The Trump Administration’s proposed regulation will supplant them.) “We were acutely aware of the chilling effects, and one part of the policymaking was about minimizing them,” she said. “Now it seems like it’s the opposite: the Administration is embracing the chilling effect so it can achieve its goal of having people un-enroll even before the regulation becomes operative.”

On Tuesday afternoon, in the back part of the Make the Road office, a woman from Ecuador named Maria asked a benefits counsellor for advice. Maria was the third person that day to come to the office to try to cancel her benefits. She and her husband are currently applying for their green cards, and they receive food stamps and emergency Medicaid coverage for their eight-year-old daughter, who is a U.S citizen and has special needs. An immigration lawyer had told them, inaccurately, that they needed to end their benefits in order to stay qualified for legal permanent residency. "I heard this from my cousins, too," she said. "All of them cancelled their food stamps." Doris Mejia, the benefits counsellor, was gentle but insistent. "This is for your daughter," she told her.