

**MEMORANDUM**

TO: Deputy Under Secretary Stacy Dean  
Food and Nutrition Service  
U.S. Department of Agriculture

FROM: Protecting Immigrant Families (PIF) Co-Chairs, the Center for Law and Social Policy and National Immigration Law Center  
PIF Steering Committee Members, Food Research & Action Center and UnidosUS

DATE: May 25, 2021

CC: Jessica Shahin, Associate Administrator, Supplemental Nutrition Assistance Program (SNAP)  
Sasha Gersten-Paal, Director, Program Development Division, SNAP  
Jessica Luna, Chief, Program Design Branch, Program Development Division, SNAP

RE: Suggestions for Supporting Immigrant Access to SNAP and Other Nutrition Programs In Light of the Removal of the 2019 Public Charge Rule

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Dear Deputy Under Secretary Dean:

The Protecting Immigrant Families Campaign is delighted that the U.S. Department of Agriculture Food and Nutrition Service (USDA-FNS) posted the April 12, 2021, letter from the U.S. Department of Homeland Security (DHS) affirming that receipt of Supplemental Nutrition Assistance Program (SNAP) benefits is no longer taken into consideration by either DHS or the U.S. Department of State in making a public charge determination.

As you know well, the Trump administration's 2019 public charge rule created fear and confusion that deterred SNAP-eligible immigrants and their family members from participating in this critical nutrition program. SNAP participation among U.S. citizen children living with one or more non-citizens fell by an astonishing 35.6 percent when compared to 12.3 percent for U.S. citizen children living in citizen-only households between fiscal years 2016 and 2019. Even though SNAP was the only nutrition program included in the 2019 public charge rule, the damage was done. The rule sowed fear and

confusion and chilled participation in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and other nutrition programs.

President Biden's reversal of the 2019 public charge rule is a vital step toward addressing food insecurity among immigrant families. But much work remains to communicate this important change and build trust so that immigrant families are able to better access critical nutritional support. Such actions are urgently needed in order to ensure that immigrants and their families can benefit from the many new flexibilities and program improvements within SNAP, the Pandemic Electronic Benefit Transfer (P-EBT) program, WIC, schools meals, and other nutrition programs that are designed to respond to the COVID-19 pandemic and the devastating increases in hunger and food insecurity rates.

Here are some suggested actions for your consideration that USDA-FNS could take to help immigrant families access these vital nutrition programs:

- issue additional guidance that states in plain language that neither SNAP nor any other nutrition program are taken into account for a public charge determination and encourage states to share the new guidance broadly;
- highlight long-standing USDA-FNS guidance regarding access to SNAP benefits for members of mixed immigration status families;
- encourage state agencies that administer SNAP, WIC, and other nutrition programs to conduct outreach to immigrants and their family members in partnership with anti-hunger stakeholders and community-based organizations that are trusted partners in serving immigrant communities;
- provide funding for trusted community outreach partners to carry these messages to key audiences; and
- create an easy-to-find, "one-stop-shop" webpage on the USDA-FNS website to post guidance, resources, and messaging to support immigrant families' access to SNAP, WIC, P-EBT, and other nutrition programs.

We have included **three attachments** that build out these suggestions.

The Protecting Immigrant Families Campaign (PIF) is a network anchored by the National Immigration Law Center (NILC), the Center for Law and Social Policy (CLASP), and a steering committee of 15 other member organizations, including FRAC and UnidosUS. PIF is made up of hundreds of diverse organizations. PIF's mission is to unite to advance, protect and defend access to health care, nutrition programs, public services and economic support for immigrants and their families at the local, state and federal level. PIF stands ready to support your efforts to communicate the welcomed news that the 2019 public charge rule no longer applies to SNAP and to improve immigrants' and their family members' access to SNAP and other nutrition programs.

For follow-up, please contact: Alexandra Ashbrook, FRAC, ([aashbrook@frac.org](mailto:aashbrook@frac.org)), Elizabeth Lower-Basch, CLASP ([elowerbasch@clasp.org](mailto:elowerbasch@clasp.org)), and Alberto Gonzalez, UnidosUS ([agonzalez@unidosus.org](mailto:agonzalez@unidosus.org))

**Attachments:**

A: Draft frequently asked questions (FAQ) document

B: List of relevant existing U.S. Department of Agriculture Food and Nutrition Service (USDA-FNS) and other documents to update and disseminate

C: Examples of actions for Supplemental Nutrition Assistance Program (SNAP) agencies to communicate changes in the public charge rule

**Attachment A:**

**Draft Frequently Asked Questions (FAQ) document**

The U.S. Department of Agriculture Food and Nutrition Service (USDA-FNS) may want to consider issuing an FAQ on immigrant family access to SNAP that lifts up key information on public charge and SNAP eligibility for non-citizens.

**Public Charge Policies**

Q: Has the policy changed regarding what benefits are taken into account for a “public charge” determination by the Department of Homeland Security (DHS)?

A. Yes, as of March 9, 2021, the Department of Homeland Security reverted to the long-standing 1999 field guidance on public charge. Participation in the Supplemental Nutrition Assistance Program (SNAP) is no longer counted in a public charge determination. Participation in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Pandemic EBT (P-EBT), and all other nutrition programs has never been counted in a public charge determination. See [DHS Letter - Public Charge Ground of Inadmissibility](#).

Q. Can participation in SNAP be taken into account for a “public charge” determination by the Department of Homeland Security or the Department of State?

A. No. DHS issued a final rule that removed the 2019 public charge rule from the Federal Register and reinstated the 1999 Field Guidance, effective March 9, 2021. The 1999 Field Guidance does not count SNAP in a public charge determination. This is the policy that was in effect prior to the revised 2019 Public Charge Rule.

The Department of State's 2019 policy, which applies to people seeking visas from abroad, has also been enjoined.

Q. Is receipt of any nutrition benefits taken into account for a public charge determination?

A. No. Under this new policy, DHS has determined that application for or receipt of SNAP benefits is no longer taken into account in a public charge determination. SNAP was the only nutrition program included in this 2019 public charge rule. Receipt of other nutrition benefits, including WIC, school meals, Pandemic EBT, and other supplementary and emergency nutrition programs *have never been* considered as part of a public charge determination.

Q. Are there negative immigration-related consequences for people who get SNAP or other nutrition assistance for which they are eligible through FNS?

A. No. Getting nutrition assistance through FNS programs does not negatively impact immigration applications, or more specifically, participating in these benefits will not be negatively factored into an individual's "public charge" assessment. That is, a person will not be deported, denied entry to the country, denied permanent resident status, or the ability to naturalize (become a U.S. citizen) because he or she lawfully receives SNAP, WIC benefits, free or reduced-price school meals, or other nutrition assistance through FNS. See FNS' [Nutrition Benefits and Public Charge: Effect on Immigration Status](#).

## **SNAP Policies**

Q. Are non-citizens eligible for nutrition assistance under SNAP?

A. Only U.S. citizens and certain lawfully present non-citizens may receive SNAP benefits. Non-citizens who are eligible based on their immigration status must also meet other SNAP eligibility requirements such as income and resource limits. See: [Nutrition Benefits and Public Charge: Effect on Immigration Status](#).

Q. If a parent is not eligible for SNAP because of their immigration status, can they apply for their eligible children?

A. Yes. SNAP provides critical assistance and improves children's health, nutrition, and learning. A parent or other adult member of the household who is not eligible for SNAP, based on immigration status, can opt out of applying for themselves while still applying for SNAP for eligible children. Household members that opt out are considered non-applicants and are ineligible for SNAP benefits. However,

the individual's income and resources are still counted to determine eligibility for the remaining household members as set forth in 7 CFR 273.11(c). A family member who opts out and is only applying for other household members will not have to provide their Social Security number or information about their immigration status. They can leave these sections of the SNAP application blank.

Q. Can information that is provided on a SNAP application be used for immigration enforcement?

A. No. Personal information provided when applying for SNAP is kept private. Any information given when applying for SNAP can be used only to determine program eligibility and to run the program. This information cannot be shared with immigration enforcement. If a parent or other adult household member is applying for a child or another family member but not themselves, they do not have to provide any information about their immigration status. Instead, they may say or write, "I am not applying for this program for myself."

Q. Will a parent need to repay the government for SNAP used by their U.S. citizen child?

A. No. If a child is eligible for SNAP benefits, the costs of these benefits will not need to be repaid in the future.

Q. Do SNAP applicants need to provide their Social Security number? What about for household members who are not applying for SNAP benefits?

A. Individuals must provide a Social Security number (or apply for one) to receive SNAP benefits. However, people in the household *who are not applying for benefits for themselves* do not need to provide a Social Security number, even in instances where their income is being considered. For example, if a parent is applying for their children, but not for themselves, the parent does not have to provide a Social Security number and the state agency cannot require the parent to provide one.

Q. Does the agency need to verify the immigration status of people applying for SNAP benefits? What about for household members who are not applying for SNAP benefits?

A. State agencies must verify the immigration status of non-citizen applicants, but only for those members of the household who are eligible for SNAP and *applying to receive* SNAP benefits (7 CFR 273.2(f)(1)(ii)). A non-citizen who does not have a qualified immigration status is not eligible for SNAP. State agencies cannot deny benefits to eligible household members because other members have chosen not to disclose their citizenship or immigration status. It is important to note that, if someone is applying for benefits for themselves and does not disclose their citizenship or immigration status, a state agency must give a household the

option to either withdraw its application or to apply only for those persons who choose to verify their immigration or citizenship status.

Q: What is the role of the state agency in verifying the immigration status of non-citizens applying for SNAP?

- A. “To ensure that only those who are eligible for SNAP receive the benefits they are eligible to receive, State agencies must verify the immigration status of only those individuals who are applying for SNAP benefits. State agencies are not required to verify the immigration status of anyone who is applying for SNAP on behalf of others in their household. For example, a non-citizen may choose to apply only for his or her U.S. citizen children in the household.

Under no circumstances may a State agency:

- 1) Require any information about the citizenship or immigration status of anyone who is not applying for SNAP;
- 2) Deny SNAP to applying household members because a non-applicant household member has not disclosed his or her citizenship or immigration status or Social Security number; or
- 3) Try to establish or verify immigration status through any means other than the procedures outlined below. DHS has primary responsibility to determine the status of non-citizens.”

## **Attachment B:**

### **List of Relevant Existing U.S. Department of Agriculture Food and Nutrition Service (USDA-FNS) and Other Documents To Update And Disseminate**

USDA-FNS may want to consider updating key existing resources related to immigrant access to the Supplemental Nutrition Assistance Program (SNAP) and other benefits programs, particularly the resources listed below, which focus on public charge, non-citizen SNAP eligibility, SNAP applications, and language access.

#### **Public Charge**

[Nutrition Benefits and Public Charge: Effect on Immigration Status](#)

[Impact of Participation in the WIC Program on Alien \[sic\] Status](#)

[United States Citizenship and Immigration Service Restated its Longstanding Policy Regarding Public Charge](#)

#### **Eligibility**

[SNAP Policy on Non-Citizen Eligibility](#)

[Supplemental Nutrition Assistance Program Guidance on Non-Citizen Eligibility](#)

[Supplemental Nutrition Assistance Program Guidance on Non-Citizen Eligibility \(2011\)](#)

#### **Applications**

[Policy Guidance Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, SCHIP, TANF and Food Stamp Benefits](#) (often referred to as the “Tri-Agency Guidance”)

[SNAP - Conforming to the Tri-Agency Guidance through Online Applications](#)

[Sample – Important Notice to Applicants](#)

#### **Language Access**

[Exec. Order No. 13166](#), 65 Fed. Reg. 159,50121 (Aug. 11, 2000)

[Exec. Order No. 13166, Overview](#) (Aug. 11, 2000)

[Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency](#), 79 F.R. No. 299, 70771, 70777 (Nov. 28, 2014)

## **Attachment C:**

### **Examples of Actions for Supplemental Nutrition Assistance Program (SNAP) Agencies to Communicate Changes in the Public Charge Rule**

The U.S. Department of Agriculture Food and Nutrition Service (USDA-FNS) may want to consider promoting to state SNAP agencies the following examples of suggested activities to communicate public charge changes.

**Train agency staff:** State and county agencies should educate their staff members about the change in public charge policy and review applicable rules and policies that impact immigrant family eligibility for SNAP.

**Educate immigrants and their family members:** State agencies should work to educate immigrants and their family members who are participating in SNAP, or are potentially eligible to do so, about the changes to the new public charge policy. Post the [Department of Homeland Security \(DHS\) Letter - Public Charge Ground of Inadmissibility](#) on your agency website, on in-office bulletin boards, and in other relevant locations. Materials should be available in the appropriate languages for people in your area with limited English proficiency. To help communicate information about the changes in the public charge rule, agencies should use all available communication channels (such as websites, social media, mailings, flyers, or posting signage) and follow applicable language access guidance.

**Connect with outreach partners:** Agencies should ensure that all entities included in their SNAP outreach plans have accurate and up-to-date information about the public charge rule. Agencies should also look for opportunities to incorporate immigrant-serving organizations and other trusted community partners in their SNAP outreach plans.

**Provide information to organizations that serve immigrants and their families:** Agencies are encouraged to reach out to schools, child care centers, Head Start agencies, park and recreation centers, enrichment programs, health care clinics, faith-based organizations, food pantries, and immigrant-serving organizations to disseminate accurate information about the current public charge rule.