

# **Expanding Public Charge Inadmissibility: The Impact on Immigrants, Households, and the City of New York**

## *Research Brief – December 2018*

### **INTRODUCTION**

On October 10, 2018, the Department of Homeland Security published a proposed rule change that would, if finalized, greatly expand the applicability of “public charge” inadmissibility.<sup>1</sup> Federal immigration law provides that immigration authorities may deem certain applicants for a visa or for adjustment of status to legal permanent resident to be inadmissible if they are “likely at any time to become a public charge.”<sup>2</sup> Under current federal policy, a public charge determination is limited in its examination of public benefits use, looking only at cash assistance programs for income maintenance and government-funded institutionalization for long-term care. In addition, current policy gives significant weight to affidavits of support filed by an immigrant’s sponsor, generally providing sufficient evidence that an individual would not become a public charge.

The proposed rule would:

- Expand the definition of public charge from an individual who is or is likely to become “primarily dependent on the government for subsistence” to one who receives or is likely to receive one or more specified public benefits;
- Add major noncash benefits and programs – Medicaid, SNAP, Section 8, public housing, and the Medicare Part D Low-Income Subsidy – to the list of specified public benefits;
- Heighten scrutiny of an individual’s income, assets, work history, education and training, health conditions, and other factors by imposing a stricter totality-of-the-circumstances inquiry, even where an individual has not previously used a specified public benefit and presents a sufficient affidavit of support from a sponsor; and
- Require nonimmigrant visa holders seeking an extension or change of status to demonstrate that they have not received nor are likely to receive a specified public benefit.

To examine the potential effects of this proposed rule, this Research Brief was developed by the New York City Mayor’s Office for Economic Opportunity, Mayor’s Office of Immigrant Affairs, and Department of Social Services. We find that this proposed rule, if finalized, would have a deleterious impact on many residents of New York City, both citizens and non-citizens. New York City is a city of immigrants, and changes felt by immigrants have citywide implications. Thirty-eight percent of the city’s residents are immigrants, totaling 3.1 million immigrants – the largest number in history. Over half of the city’s children have a foreign-born parent, and approximately 4.9 million, or 60 percent, of New Yorkers live in households with at least one immigrant member. Immigrants make up 45 percent of the city’s workforce and, in 2017, immigrants contributed an estimated \$195 billion to the city’s Gross Domestic Product.<sup>3</sup>

In this Research Brief, we estimate the potential impacts of the proposed rule’s “chilling effect” on the receipt of some public benefits as a result of fear, misinformation, and uncertainty, as well as the impact on certain immigrants’ future ability to adjust their immigration status even if otherwise eligible. We also estimate the potential economic effects on immigrants, their household members, and the city. While we focus in this Research Brief on the economic impact of the proposed rule, we recognize that it would also have numerous additional effects in other sectors, such as the effects on health, hunger, and more.

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<sup>1</sup> *Inadmissibility on Public Charge Grounds*, 83 Fed. Reg. 51114 (Oct. 10, 2018).

<sup>2</sup> 8 U.S.C. 1182(a)(4).

<sup>3</sup> New York City Mayor’s Office of Immigrant Affairs, *State of Our Immigrant City* (March 2018), available at [https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia\\_annual\\_report\\_2018\\_final.pdf](https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report_2018_final.pdf)

## EXECUTIVE SUMMARY

### **Populations Affected**

The proposed rule, if implemented, would significantly impact many New Yorkers' access to public benefits and eligibility for immigration benefits,<sup>4</sup> according to an analysis conducted by the Mayor's Office for Economic Opportunity and the Mayor's Office of Immigrant Affairs, using augmented U.S. Census Bureau American Community Survey data. We conclude that hundreds of thousands New York City residents could face potential negative effects as a result of the rule:

- An estimated 304,000 low- and middle-income New Yorkers, including U.S. citizens and green card holders who would not be subject to a public charge admissibility determination, could be discouraged from participation in crucial public benefits programs simply because they are non-citizens or live with a non-citizen, due to confusion and fear about the scope of the public charge rule change. This includes an estimated 72,000 U.S. citizen children and 29,000 individuals with disabilities.
- An estimated 75,000 low- and middle-income PRUCOL<sup>5</sup> non-citizens, including recipients of Deferred Action for Childhood Arrivals (DACA) and immigrants who could be the beneficiaries of family-based visa petitions, could be deterred from continuing to receive or applying for the limited number of public benefits for which they may be eligible under state law, in order to avoid endangering possible immigration applications in the future.
- Up to 400,000 low- and middle-income immigrant New Yorkers could be deemed inadmissible, or ineligible to adjust their immigration status, in the future as a result of the rule's stricter weighing of factors such as their education, income, age, or health conditions, even despite their present ineligibility and non-use of public benefits. This impact to this group is potential, as many of these non-citizens are unlikely to be eligible to adjust their status to lawful permanent residence. However, to the extent that pathways currently exist or are created in the future for some of these non-citizens, they could be deemed inadmissible.

### **Impact on Poverty**

Due to the magnitude of the population that we estimate would be subject to a chilling effect on participation in the rule's enumerated public benefits programs, we anticipate that the rule could have a meaningful impact on poverty. If 20 percent of those enrolled in public benefits programs were to withdraw due to fear and misinformation, then the poverty rate for this population would increase by as much as 3.8 percentage points. The child poverty rate for this population would rise by 9.1 percentage points.

### **Economic Impacts**

Although assessing the full economic impact of the rule using the population estimates described above is beyond the scope of this Research Brief's analysis, we provide a snapshot using administrative data provided by the New York City Department of Social Services as an example of the potential economic impact of the chilling effect for certain public benefits recipients on the City's caseloads. If 20 percent of the approximately 220,000 non-citizen recipients of Supplemental Nutrition Assistance (SNAP), cash assistance, or both, and 54,000 non-citizen recipients of Supplemental Security Income and the state supplement (SSI/SSP), they and those on their benefits case would suffer an annual loss of \$235 million in benefits. This in turn could produce \$420 million in reduced economic activity in the city overall.

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<sup>4</sup> "Immigration benefits" is used in several sections of the Immigration and Nationality Act (INA) to refer to the range of types of visas and statuses that may be obtained.

<sup>5</sup> PRUCOL, or "permanently residing under color of law," is a public benefits eligibility category under New York state law and is not a form of immigration status. PRUCOL means that the individual is residing in the United States with the knowledge and permission, or the knowledge and acquiescence, of the federal immigration authorities and they are not planning to seek the individual's deportation. New York City Office of Citywide Health Insurance Access, *Immigrants: Qualified Aliens/PRUCOL Aliens*, available at [https://www1.nyc.gov/assets/ochia/downloads/pdf/prucol\\_information.pdf](https://www1.nyc.gov/assets/ochia/downloads/pdf/prucol_information.pdf).

## DISCUSSION

The Mayor's Office for Economic Opportunity and the Mayor's Office of Immigrant Affairs estimate, based on an analysis of augmented U.S. Census Bureau American Community Survey data, that the proposed rule will cause potential harm to hundreds of thousands of people in New York City. This potential harm includes negative impacts on residents' economic security as they may be prompted to withdraw from or not claim benefits for which they may be eligible, for fear of compromising their own or their household members' immigration application or status. This in turn will mean a loss in income to these families, which will negatively impact New York City's economic activity and the poverty rates for these families. It also includes potential negative impacts on some non-citizens' future ability to adjust their immigration status, even if they are otherwise legally eligible to do so.

### **I. Expanding the grounds for public charge determinations may impact hundreds of thousands of New Yorkers.**

We estimate that the proposed rule, if finalized, would chill participation in a range of programs and benefits for about 304,000 immigrants and their household members who are not subject to the public charge test but may nevertheless withdraw from or forgo services due to confusion and fear about the scope of the rule change.

In total, about 1.5 million citizens and non-citizens are potentially eligible for public benefits named in the draft rule *and* live in low-income households with at least one non-citizen member. (Note that with some exceptions, only "qualified aliens"<sup>6</sup> and citizens may receive these public benefits.) This total includes U.S. citizens, "qualified aliens" (such as lawful permanent residents or green card holders, refugees, and asylees), and PRUCOL non-citizens, who are eligible for limited benefits. These individuals are at risk of withdrawing from public benefits because of fears about their own immigration issues or fears that their use of benefits could damage the immigration prospects of their non-citizen household members. However, we do not expect that 100 percent of this group would withdraw or forgo assistance; our model assumes that 20 percent, or about 304,000, would withdraw from or forgo public benefits due to fear and confusion. This includes 72,000 U.S. citizen children, 29,000 people with disabilities, and 30,000 seniors (age 65 and over). We elaborate further on the 20 percent assumption in the "Methodology, Data Sources, and Assumptions" section below.

There are an estimated 75,000 PRUCOL non-citizen New Yorkers who may have to choose between public benefits support and potential future immigration consequences. This group is comprised of non-citizens with various forms of interim immigration statuses or pending applications who meet one or more of the factors to be considered from the rule and who may be eligible for certain New York state public benefits. Some of these individuals may be in a position to seek a visa or permanent resident status now or in the future. However, if the proposal becomes law, they would be at risk of being deemed public charges if they lawfully utilize one or more of the public benefits named in the rule.

Finally, up to 400,000 non-citizen New Yorkers could be deemed inadmissible under the proposed rule because of their age, health, education and employment, income and assets, and other factors unrelated to public benefits usage. These 400,000 low- to middle-income non-citizen New Yorkers are not currently eligible for public benefits as they are considered non-"qualified aliens" under relevant federal and state public benefits laws. Many in this group are unlikely to be eligible to adjust their immigration status and thus would not face the expanded public charge rule. However, to the extent that pathways exist or are created in the future for some of these non-citizens, they could be deemed inadmissible due to the stricter totality-of-the-circumstances assessment described in the proposed rule, based on factors and characteristics named in the rule. In addition to the utilization of one or more of the enumerated public benefits that meets the proposed rule's threshold for monetizable or non-monetizable benefits, the following criteria

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<sup>6</sup> The term "qualified aliens" refers to immigrants who are eligible for federal public benefits after 5 years in a qualified status, unless they meet an exemption. Note that this brief uses the term "qualified alien" because it is a term of U.S. immigration law.

would serve as potential bases for making a public charge determination to find an immigrant applicant to be inadmissible:

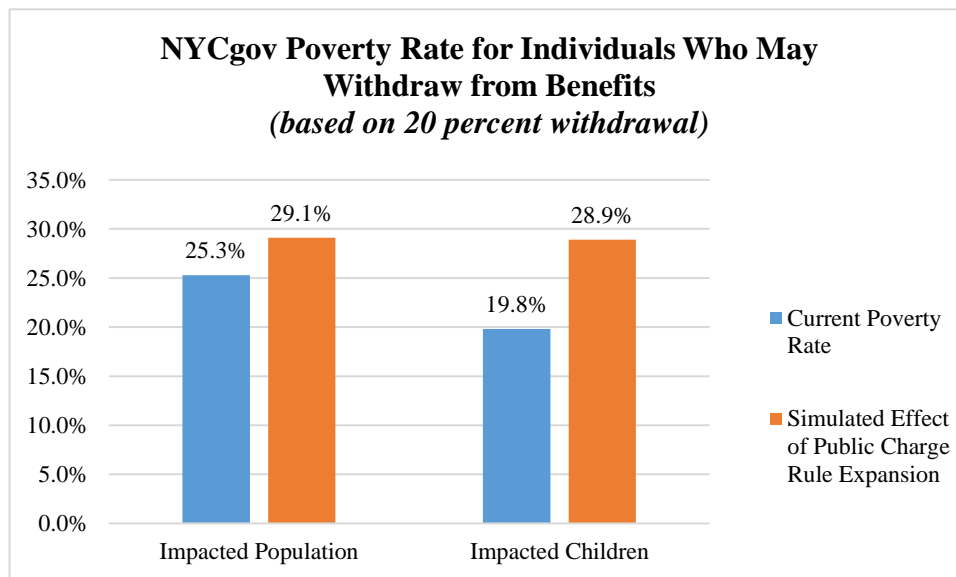
- Age
- Family size
- Assets, resources, and financial status
- Health/evidence of a medical condition and lacking private insurance
- Educational attainment (less than high school graduate or high school equivalency) and skills
- English proficiency
- Immigration status (the applicant’s prospective immigration status)
- Affidavit of support from a sponsor

While the immigration laws already require the government to look at the totality of a number of these factors when assessing whether someone is likely to become a public charge, the proposed rule dictates strict evidentiary standards and guidelines to be used in assessing these factors. Additionally, it newly emphasizes heavily weighted factors against an individual such as public benefits receipt and income.

This group of up to 400,000 non-citizens who could face negative immigration consequences includes about 6,000 people with disabilities, 17,000 individuals age 62 and over, and 49,000 children.

**II. Expanding the public charge rule would significantly increase poverty for these populations.**

Looking only at the portion of those that are currently enrolled in public benefits programs who could be “chilled” from lawful participation in public benefits programs, we estimate that a 20 percent withdrawal rate among these households would significantly reduce their income, thereby increasing the poverty rate for this population by 3.8 percentage points, from a 25.3 percent poverty rate now to a projected 29.1 percent.<sup>7</sup>



Similarly, these withdrawals would increase child poverty among this population by 9.1 percentage points – from 19.8 percent to 28.9 percent.

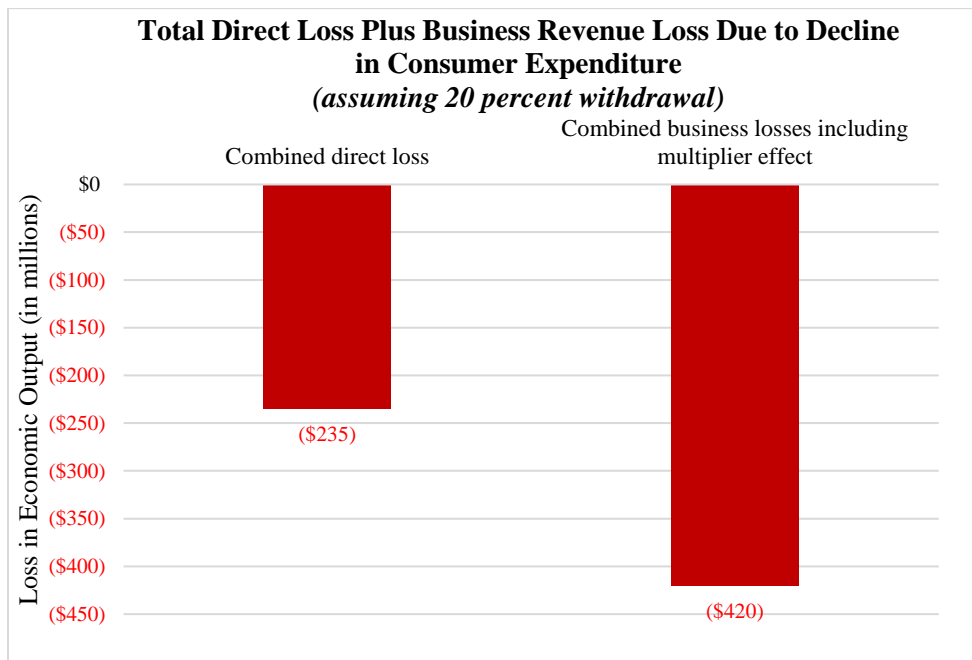
**III. The rule’s chilling effect would have a large economic impact on the City.**

<sup>7</sup> We are unable to model the effect on poverty rates of a 20 percent withdrawal rate in the administrative data at this time. As an alternative, we use American Community Survey data in the NYCgov poverty model to simulate poverty rates before and after the proposed rule change. For further discussion, see the “Methodology, Data Sources, and Assumptions” section below.

A full analysis of every aspect of the economic impact of the rule is beyond the scope of this Research Brief's analysis. However, we use administrative data provided by the New York City Department of Social Services (rather than the augmented U.S. Census data described above) to estimate a large economic impact of the "chilling effect" for certain benefits recipients in the City's caseload, as a demonstration of how great the effect could be.

**Direct loss.** There are approximately 220,000 non-citizen recipients of Supplemental Nutrition Assistance (SNAP), cash assistance, or both, and 54,000 non-citizen recipients of Supplemental Security Income and the state supplement (SSI/SSP),<sup>8</sup> in New York City. If 20 percent were to withdraw, they and those on their benefits case would suffer a loss of \$235 million in benefits per year.<sup>9</sup>

**Indirect, or business revenue, loss.** Applying an economic multiplier to estimate the broader economic impact, we estimate that this 20 percent withdrawal among the non-citizens receiving SNAP, cash assistance, or SSI/SSP would lead to a larger loss for the economy of approximately \$420 million annually. These losses would flow from the reduced economic activity of the affected population, such as diminished spending, lower business revenue, and losses in job creation.



Given that the rule names additional benefits that are not administered directly by the City or are not directly quantifiable in dollar values, we anticipate that the overall economic impact to the City could well be even greater than this figure. Furthermore, this analysis does not present the full economic impact that this rule may have because the analysis does not take into account the tax revenue implications of a loss of opportunity to achieve higher wages attributable to those who as a result will not obtain a green card.<sup>10</sup>

In addition to these effects, we acknowledge that there may be other impacts resulting from benefit withdrawal that are not quantified here such as fiscal impact to the City. Also, it is very likely that reduced enrollment in programs like SNAP, Medicaid, and cash assistance would lead to other far-reaching impacts that are difficult to quantify, such as hunger, lack of appropriate preventive medical care, and increased

<sup>8</sup> Note that there is substantial overlap between these two numbers as most SSI recipients also receive SNAP.

<sup>9</sup> New York State analysis of administrative data as of June 2018.

<sup>10</sup> See, e.g., Sherrie A. Kossoudji and Deborah A. Cobb-Clark, *Coming out of the Shadows: Learning about Legal Status and Wages from the Legalized Population*, 20 *Journal of Labor Economics* 598 (2002).

hospital emergency and acute care costs.<sup>11</sup> In New York City, approximately 495,000 non-citizens participate in the Medicaid program, and many more individuals live in households with those non-citizen Medicaid beneficiaries.<sup>12</sup> New York City and New York State have among the best insured rates of any major city and any state.<sup>13</sup> Policies that exacerbate the negative immigration consequences for use of health insurance, even when an individual is in fact eligible, will undermine participation and increase stress on hospitals and clinics that treat the uninsured, while also impacting the public health of all residents. Additionally, reduced utilization of preventive and low-acuity services could result in downstream increases in higher-acuity and emergency services. Similarly, this rule could cause reduced utilization of housing assistance programs like Section 8 and public housing, which could then cause increases in unstable housing, overcrowding, and shelter use, and ultimately increase rates of homelessness.

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<sup>11</sup> NYC Health + Hospitals estimates that the negative fiscal impact of the rule, if implemented, could be up to \$362 million in the first 12 months. NYC Health + Hospitals analysis (2018), on file with author.

<sup>12</sup> New York State analysis of administrative data as of June 2018.

<sup>13</sup> Edward R. Berchick, Emily Hood, and Jessica C. Barnett, *Health Insurance Coverage in the United States: 2017*, U.S. Census Bureau (2018), available at [https://www.census.gov/content/dam/Census/library/visualizations/2018/demo/p60-264/Unins\\_25metroareas.pdf](https://www.census.gov/content/dam/Census/library/visualizations/2018/demo/p60-264/Unins_25metroareas.pdf).

## Methodology, Data Sources, and Assumptions

### **A. Methodology and Data Sources for Population Estimates: Assumptions Used to Define the Affected Populations**

**Subject to harm from chilling effect:** We use augmented 2016 One-Year American Community Survey (ACS) Public Use Microdata Sample to estimate the number of qualified aliens, PRUCOL individuals, and those in their household that may be subject to broad chilling effect (at risk of withdrawing from benefits for which they are eligible for fear of impact on themselves or their household member). We estimate who has received SNAP, SSI, cash assistance, Medicaid (19 and older), Section 8, or Public Housing—as well as who has not received these benefits but has income below 200 percent FPL that would qualify them for at least one of the benefits.

Taken together these groups total about 1.5 million individuals. We assume that some number in this combined group is at risk of giving up or forgoing benefits for which they may be eligible due to fear and misinformation generated from the rule. Specifically, if we estimate that 20 percent will do so our affected population becomes approximately 304,000.

**Subject to Inadmissibility:** We use 2016 One-Year American Community Survey (ACS) Public Use Microdata Sample, as augmented by the Mayor’s Office for Economic Opportunity, to estimate the 475,000 New Yorkers who may be subject to inadmissibility (defined as non-qualified aliens and some individuals “permanently residing under color of law” (PRUCOL) who may seek adjustment of status and who meet one or more of the following factors that could be considered to assess whether someone is likely to become a public charge).

This 475,000 estimate only includes non-qualified aliens and some PRUCOL individuals who meet one or more factors for public charge *inadmissibility* listed in the proposed rule. We exclude individuals from our impacted populations if they have an income of 250+ percent FPL, which would be treated as heavily weighted positive factors by the proposed rule (note that most public benefits subject to the rule have income thresholds far below 250 percent FPL).

While the law requires the government to look at a number of factors (the “totality of the circumstances”) when assessing whether someone is likely to become a public charge, the proposed regulation introduces specific evidence and standards that must be used in assessing these factors. At this time, of those standards, we are only able to model age (under 18 or 62+)<sup>14</sup>, income (<250 FPL), educational attainment (less than HS/HSE), medical condition and no private health insurance,<sup>15</sup> and English proficiency (those that are limited English proficient). We are unable to model family size, additional financial assets, or whether someone will have an affidavit of support. This Research Brief also does not model what proportion of the 400,000 does or does not have a pathway to legal status.

The 75,000 group is a subset of the group described above and includes individuals who are (1) PRUCOL (we are able to estimate DACA and immigrants who could be petitioned for family-based visas); and (2) have one or more negative factors for public charge inadmissibility listed in the proposed rule (including < 250 percent FPL household income, age, English proficiency, education, etc.). Some PRUCOL individuals may be or may become eligible to seek adjustment and could also be impacted by the “totality of circumstances” assessment or be deterred from pursuing permanent legal status should it be available to them under federal immigration law.

**Economic impact for qualified aliens withdrawing from SNAP, SSI/SSP, and cash assistance:** To estimate the economic impact of this broad chilling effect and the dollars that families would lose, we rely

<sup>14</sup> This research brief looks at these ages because they are enumerated in the rule.

<sup>15</sup> We use a selection of responses from the American Community Survey “disability” variable here as a proxy for medical conditions that is likely to require extensive medical treatment. We include self-care difficulty, independent living difficulty, and ambulatory difficulty. Cf. William Erickson, *A Guide to Disability Statistics from the American Community Survey (2008 Forward)* 56-57 (June 2012), available at <https://digital-commons.ilr.cornell.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1290&context=edicollect>.

on June 2018 SNAP, SSI/SSP, and cash assistance receipt data from the New York City Department of Social Services. These data indicate the number of non-citizens receiving select public benefits, as well as the benefit amounts provided to these non-citizens and other members of their benefit cases. The overall economic impact was then derived using a multiplier generated by the USDA, which has estimated that for every SNAP dollar spent, a total of \$1.79 in economic activity is generated.<sup>16</sup>

These administrative data estimates use different assumptions to derive impact than the augmented ACS census data that was used to estimate the expanded population, including non-benefit users. The ACS methodology includes those who could be impacted in myriad direct and indirect ways by the new proposed rule. We provide both data sets because each presents a different picture to round out the overall impact. Administrative data offers the only verified source of actual benefit amounts and individual eligibility, but they cannot tell us anything about impacts beyond the individual or “case” level. Census data, on the other hand, provide broader insight into households and extended families, their income sources, and their utilization of benefits over the course of a year.

## **B. Notes on Administrative Data Methodology**

New York City enrollment of non-citizen individuals was generated for the month of June 2018 by the New York State Office of Temporary and Disability Assistance (OTDA) for three major benefit programs (SNAP, cash assistance and SSI/SSP). Benefit issuance amounts for that month for the entire associated cash assistance and SNAP case was also provided, including citizens who may live in non-citizen households and who share the benefit amounts, as well as the individual benefit amounts for SSI/SSP. These monthly issuances were then annualized to estimate the total annual value of the benefits.

## **C. Methodology for Poverty Rate Changes: Assumptions Used to Model Impact on Poverty Rates**

We use ACS data in the NYCgov poverty model to simulate poverty rates before and after the proposed rule change. Based on 2016 One-Year American Community Survey (ACS) Public Use Microdata Sample, as augmented by the Mayor’s Office for Economic Opportunity, we model a 20 percent withdrawal of SNAP, SSI, and cash assistance (TANF and Safety Net) using the NYCgov poverty measure for all persons living in non-citizen households who receive these benefits over the course of the year.

## **D. Withdrawal Rate Assumptions**

We assign a potential chilling effect rate of 20 percent as a conservative approximation of the chilling effect rate, based on the chilling effect rates observed following the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and the implementation of the Department of Homeland Security’s Secure Communities immigration enforcement initiative.<sup>17</sup> As more evidence becomes available on the impact of the public charge rule in practice, we may update this assumption. To date, the proposed rule has already begun to create (as reported about the WIC program nationally<sup>18</sup>), a chilling effect on use of public benefits by immigrant families, and withdrawal of benefits by lawfully resident non-citizens and their household members, including U.S. citizens and non-citizens.

## **E. Methodology used to Estimate the Immigration Status of Non-citizens**

Procedures for estimating the foreign-born population by immigration status in New York City were developed by the Mayor’s Office for Economic Opportunity based primarily on data from the ACS. The

<sup>16</sup> Kenneth Hanson, *The Food Assistance National Input-Output Multiplier (FANIOM) Model and Stimulus Effects of SNAP*, United States Department of Agriculture (2010), available at [https://www.ers.usda.gov/webdocs/publications/44748/7996\\_err103\\_1\\_.pdf](https://www.ers.usda.gov/webdocs/publications/44748/7996_err103_1_.pdf).

<sup>17</sup> See Michael Fix and Ron Haskins, *Welfare Benefits for Non-citizens*, The Brookings Institution (Feb. 2, 2002), available at <https://www.brookings.edu/research/welfare-benefits-for-non-citizens> and Marcella Alsan & Crystal Yang, *Fear and the Safety Net: Evidence from Secure Communities*, pages 22-24, National Bureau of Economic Research (2018), available at <http://www.nber.org/papers/w24731.pdf>.

<sup>18</sup> Helena Bottemiller Evich, *Immigrants, Fearing Trump Crackdown, Drop Out of Nutrition Programs*, Politico (Sept. 3, 2018), available at <https://www.politico.com/story/2018/09/03/immigrants-nutrition-food-trump-crackdown-806292>



ACS is the largest household survey in the United States covering approximately one percent of the total population. The annual survey provides detailed social and economic data.<sup>19</sup>

The methodology is based on the most recent scholarship used by established practitioners in the field to estimate undocumented immigrants in survey data. Undocumented immigrants in this context include persons who either entered the country across a U.S. border without inspection or entered the U.S. legally and subsequently lost legal status. Also included in this population estimate are quasi-legal immigrants (PRUCOL), certain individuals who are allowed to stay in the country for an indefinite period with the authorization of the Department of Homeland Security, such as pending asylee applicants, Temporary Protected Status (TPS), and Deferred Action for Childhood Arrivals (DACA).

The methodological approach includes the following three major steps:

- The Mayor's Office for Economic Opportunity made a series of assumptions (or "logical edits") based on characteristics of non-citizens in the survey. During this process, legal status was inferred based on responses in an ACS data file that has been augmented by the Mayor's Office for Economic Opportunity that was created to produce the City's alternative poverty model.<sup>20</sup> For example, non-citizens reporting the receipt of SSI are assumed to have lawful immigration status. Immigrants with temporary visas such as foreign students or diplomats are assigned temporary status based on their characteristics, such as date of entry, and on certain educational and occupational characteristics.
- To further refine the estimate, independent estimates of undocumented immigrants are needed. Working in conjunction with the Center for Migration Studies (CMS), the Mayor's Office for Economic Opportunity developed country-specific ratios using administrative and other data.<sup>21</sup> These ratios were then used to control for the final number of undocumented immigrants counted in the ACS.
- Under-enumeration, or undercount, is inevitable in sample surveys, particularly for hard-to-reach groups. Studies have shown that under-enumeration for undocumented immigrants is correlated with length of stay in the United States—that is to say, the longer an undocumented immigrant has been in the United States, the less likely she is to be missed by a sample survey. The Mayor's Office for Economic Opportunity applied undercount rates that range from about 2 percent for those who arrived in 1982 to 15 percent for those who entered in 2016. These undercount assumptions are consistent with undercount rates measured by the Census Bureau over the last few decades.

Although the estimates are based on the best data and methodology available, they are still subject to both sampling and non-sampling errors. Assumptions used in this methodology to infer legal status are a primary source of non-sampling error in which inevitably some misclassification of undocumented immigrants occurs. As a result, numbers have been rounded to avoid a false sense of accuracy.

## **F. Data Notes and Limitations of this Analysis**

- Our analysis does not include the exemption that the proposed rule makes for public benefits received where the cumulative annual value is less than 15 percent FPL (\$1,821 for a household of one) in any one year for a household. We do not model this because we assume that confusion and fear may cause even these groups exempt from the rule change to withdraw from benefits.
- Additionally, we do not model the exemptions in the proposed rule that some immigrant groups are not subject to the public charge rule. These include refugees, asylees, survivors of trafficking

<sup>19</sup> The Census Bureau is required by law to take steps in order to make sure no individual can be identified in the survey data.

<sup>20</sup> Data on the receipt of public benefits are collected in the ACS for only four public benefits: Supplemental Security Income, Medicaid, SNAP, and public assistance and other cash benefits. The methodology used to create the NYCgov alternative poverty rate involves the imputation of other benefits such as WIC, and HEAP. A tax model simulated refundable tax credits such as the EITC.

<sup>21</sup> See Robert Warren, *Democratizing Data about Undocumented Residents in the United States: Estimates and Public-use Data, 2010 to 2013*, 2 *Journal on Migration and Human Security* 305 (2014), available at <http://jmhs.cmsny.org/index.php/jmhs/article/view/38>.

and other serious crimes, self-petitioners under the Violence Against Women Act, special immigrant juveniles, certain people who have not been paroled into the U.S., and several other categories of noncitizens. We do not model this because although they are legally exempt, these groups may still be impacted by the widespread confusion caused by this rule change as these groups are still subject to the adjustment of status process.

- While we only examine the benefits named in the rule, we anticipate that broad fear and confusion may prompt individuals to withdraw from benefits that go beyond those named in the rule, e.g. WIC.
- While those who receive Medicaid or live in public housing and Section 8 are included in the affected population, the dollar benefit amounts from these programs are not included in our analysis of economic impacts and poverty rates because of the complexities of modeling these types of impacts.
- We do not model the number of legal permanent residents (LPRs) who may be treated as seeking admission and thus may be subject to inadmissibility (for example, an LPR who has been outside the U.S. for a continuous period of 180 days).
- This Research Brief presents an analysis of the impact of the DHS proposed rule, not the impact of amendments to the U.S. Department of State's Foreign Affairs Manual (FAM) in early 2018, which made significant changes to public charge determinations by consular officials.<sup>22</sup> These amendments to the FAM may also contribute to a chilling effect on public benefits utilization and immigration consequences for New York City residents because some immigrant residents are required to travel overseas as part of their immigration application process.
- Numbers throughout this research brief may not add up due to rounding.
- Based on administrative data from the Department of Homeland Security,<sup>23</sup> we assume that we underestimate the number of immigrants with temporary visas by as many as 80,000.

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<sup>22</sup> 9 FAM § 302.8.

<sup>23</sup> Bryan Baker, *Nonimmigrants Residing in the United States Fiscal Year 2015*, U.S. Department of Homeland Security, available at [https://www.dhs.gov/sites/default/files/publications/Nonimmigrant\\_Population%20Estimates\\_2015.pdf](https://www.dhs.gov/sites/default/files/publications/Nonimmigrant_Population%20Estimates_2015.pdf).