



Morris County Organization  
for Hispanic Affairs



# Undocumented Customers Dilemma

Presenter:

Xiomara Guevara, Esq.

Executive Director-MCOHA



Morris County Organization  
for Hispanic Affairs

- Identifying Immigration Statuses
- Public Charge Rule Change
- Methods to outreach and best support eligible LIHEAP families

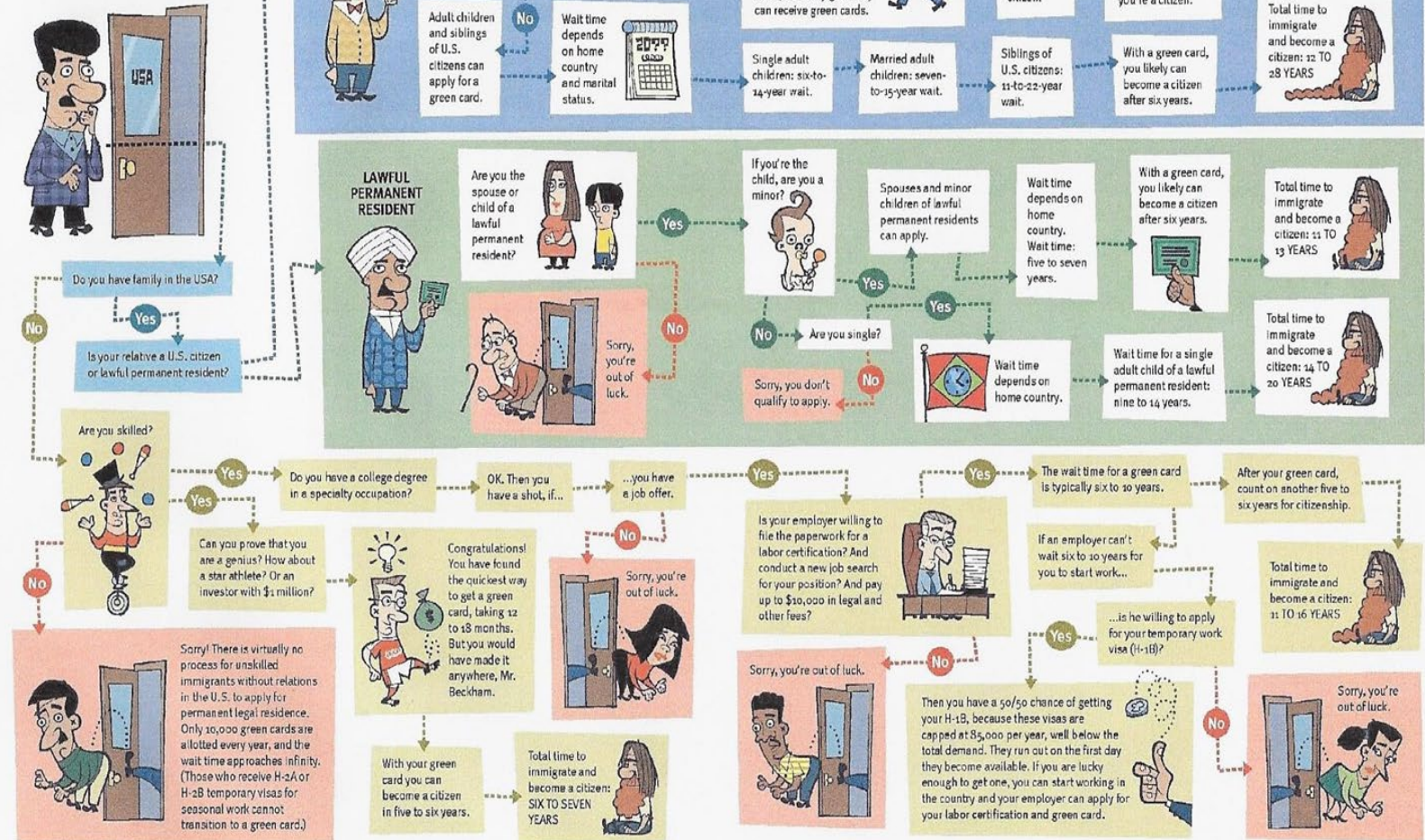


# What Part of Legal Immigration Don't You Understand?

Mike Flynn and Shikha Dalmia

Illustrated by Terry Colon

Opponents of illegal immigration are fond of telling foreigners to "get in line" before coming to work in America. But what does that line actually look like, and how many years (or decades) does it take to get through? Try it yourself!



(Flynn is director of government affairs and Dalmia is a senior policy analyst at Reason Foundation. This chart was developed by Reason Foundation in collaboration with the National Foundation for American Policy.)





Morris County Organization  
for Hispanic Affairs



- **Categories of Alien Status**
  - **Alien=Legal term for non-U.S. Citizen**
    - LPRs or “green card” holders
    - “Nonimmigrant” visa holders-many kinds
    - Other lawfully present categories (TPS)
    - DACA
    - Undocumented (No status or out of Status)



Morris County Organization  
for Hispanic Affairs

## • US Citizenship

- Birth: Born in the US or territories and Subject to its Jurisdiction
- Naturalization: becoming citizens through Naturalization process
- Acquisition: Born in another country to U.S citizen parents
- Derivation: through the naturalization of parents or adoption by U.S citizen parents



- Documents showing U.S. Citizenship
  - U.S. Birth Certificate
  - U.S. Passport or card
  - Certificate of Naturalization
  - Certificate of Citizenship
  - .....or document the U.S. Citizenship of one's parents/grandparents to show acquired or derived citizenship



Morris County Organization  
for Hispanic Affairs

- **Legal Permanent Residents:**
  - Relative/Family Relationship
  - Employment
  - Country-specific Laws
  - Prior Legal Status
  - Diversity Lottery
  - Other special laws





- **Nonimmigrant Status**
  - Admitted to the U.S. for a limited period of time & for a specific purpose
    - But some offer a transition to LPR status (ie.T or U)
- **20+categories: some common type include :**
  - B-2 Visitors for pleasure (ie.Tourists)
  - F-1 Students



## ● Other Lawful Statuses (Many!)

- Asylees and Refugees\*
- Parolees (short-term or 1 year+)\*
- Withholding of removal (or deportation)\*
- Battered spouses & children & victims of trafficking\* or qualifying crimes
- Temporary Protected Status (TPS) beneficiaries
- Deferred Enforced Departure (DED) Grantees
- Deferred Action for Childhood Arrivals (DACA)
- Under supervision or Stay of Removal
- Certain beneficiaries of “prosecutorial discretion”
- And other including applicants for a status, with or without work authorization
- \*\*\*”qualified aliens” for benefits purposes, along with “Cuban-Haitian Entrants”

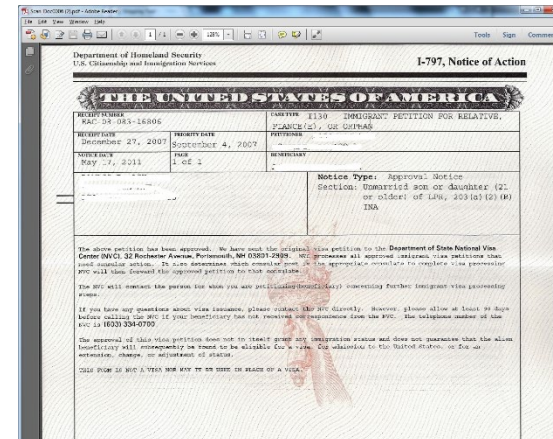


- Immigrant documents that may apply to multiple statuses:

- Employment Authorization Document (EAD Card)



- USCIS Notice of Action





- **Undocumented or Out of Status**
  - Present in U.S. beyond expiration of time allowed
  - Present in violation of nonimmigrant visa
  - Illegal entrant-present without having been inspected by an immigration officer or thru use of false documents

- **Public Charge Admission Rule**

- The public charge admission rule means:  
Likely to become “primarily dependent on the government for subsistence” or financial support
    - Primarily dependent means:
      - Getting certain public cash assistance for income maintenance
      - Being institutionalized at government expense for long term care
- \*Admission=permission to enter US @ border and when seeking to obtain LPR status.





Morris County Organization  
for Hispanic Affairs

- **Current USCIS (DHS) Policy treats the following as Non-Cash benefits and are not under the public charge rule:**
  - WIC
  - Head Start
  - NJ Family Care or Medicaid
  - Healthy Safety Net
  - School Lunch or Breakfast
  - Fuel and Housing Assistance
  - Emergency Disaster Relief



- **When does the rule apply?**
  - When seeking LPR status based on a family relationship
  - But the rule requires a totality of circumstances test:
    - Age, health, family status, resources, financial status, education & skills-plus 1 or more affidavits of support are required in certain family cases



Morris County Organization  
for Hispanic Affairs

- **When does the rule not apply?**
  - Does not apply to these LPR or green card applications:
    - By refugees & asylees
    - For registry, suspension, & Cancellation of Removal
    - By Special Immigrant Juveniles
    - In Special Adjustment of status cases (ie. U visas, T visas, battered spouses/children of LPR/USC beneficiaries)



# Immigration Consequences of Receiving Benefits

- Possible consequences of being determined a “public charge” or earning negative consideration on an immigration application are:
  - Denial of LPR status
  - Refusal of admission at border\*
  - Removal/deportation from U.S. in limited circumstances

\*Returning LPR's have 180 day allowance with some exceptions



## PUBLIC CHARGE: KEEP GETTING THE HELP YOU NEED

### WHAT IS PUBLIC CHARGE?

“Public charge” means immigration officials can keep a person out of the U.S. or deny them a “green card” if they believe the person may depend on the government as their main source of support. Officials can only look at certain benefits that the applicant has used and also consider current income, employment, health, and skills.

### PROPOSED CHANGES

The government wants to change how it makes public charge decisions. If that plan becomes final, immigration officials will look more closely at certain factors like health, age, English language skill, and use of public programs, including:

- Some health care under Medicaid
- Supplemental Nutrition Assistance Program (SNAP, “EBT” or “Food Stamps”)
- Medicare Part D (medicine costs) subsidies
- Some Federal housing programs

*Immigration officials handling visa and green card applications in other countries have already been asking more questions about immigrants and their sponsors. But those changes do not affect immigration decisions made in the U.S.*

### THE CHANGES ARE NOT FINAL YET

We don’t know when the government will make this plan final. **It may never happen.** If the rule is finalized, there will be at least a 2 month period for you to make a decision about whether or not to stay enrolled in critical public programs

If you are applying for a green card in the U.S. now, use of benefits listed in the proposed changes cannot be used against you. And programs used by your U.S. citizen children will never be used against you unless it’s your family’s main source of income. **Right now, there is no reason to drop health care, food assistance, or housing your family needs.**

### GET HELP MAKING THE RIGHT CHOICE FOR YOUR FAMILY

**Every family is different, and the programs that help your family might not even be covered by the government’s proposal.**

There are lots of organizations that can help. An immigration attorney familiar with this issue can give you advice based on your specific situation. Local nonprofits may also be able to provide help and legal advice.

To find help in your area , visit:  
<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

### TIMELINE OF PUBLIC CHARGE





## PUBLIC CHARGE: DOES THIS APPLY TO ME?

Do you and your family members already have green cards?

Public charge and any changes under this rule **WILL NOT** impact you. However, if you plan to leave the country for more than 6 months, it is a good idea to talk with an immigration attorney.



Are you applying for one of the following statuses?

U.S. Citizenship, Green card renewal, DACA renewal or TPS, U or T Visa, Asylum or Refugee status, or Special Immigrant Juvenile Status

The public charge test does **NOT** apply to some immigrants, including the categories listed here. If you already have or are in the process of applying for one of these immigration statuses, you can continue to use any government programs that you qualify for.



Does your family plan to apply for a green card or visa from inside the United States?

Right now, **nothing has changed**. We recommend that you continue to use the health, housing, and nutrition programs that help your family. For example, if you or your children are enrolled in Medicaid or SNAP (food stamps), we recommend that you stay enrolled.



Does your family plan to apply for a green card or visa from outside the United States?

You should talk with an expert for advice on your case before making any decisions. For free or low-cost options near you visit: [www.immigrationadvocates/nonprofits/legaldirectory](http://www.immigrationadvocates/nonprofits/legaldirectory).



You can still fight back by speaking up! If you think that this rule could impact you or your family, you can help policymakers understand how this policy would hurt families. Please go to <http://bit.ly/PIFstory> for more information on how to share your experience.

For more information and resources visit [www.protectingimmigrantfamilies.org](http://www.protectingimmigrantfamilies.org)



Morris County Organization  
for Hispanic Affairs

- **How does this affect our families?**
  - The reality of mixed legal status households is an important reality for everyone to consider. In the United States, **one in four children live with at least one immigrant parent.** Twenty-eight percent of all children of immigrants — **5.3 million** children and youth — are growing up with either an undocumented parent or are undocumented themselves. Specifically, **4.5 million children are U.S.-born citizens with at least one undocumented parent** and 775,000 have undocumented status themselves. (Institute of Human Development and Social Change-NYU)





- Outreach and support to families eligible for LIHEAP

### **Make sure that clients feel you are a safe place**

Federal and state laws protect the privacy of people who apply for or receive health care coverage, nutrition, economic support, or other public benefits. Applications for public programs should not request information about the immigration status of non applicants in the household. Benefit agencies may share information with other government agencies only for purposes of administering their programs, with limited exceptions. You can provide only the information necessary and should not misrepresent anything when completing public benefit applications or dealing with any government agency.



- **Outreach and support to families eligible for LIHEAP**

- Partnering with Community Based Organizations and Advocacy Groups-Know your rights and Family Preparedness Education
- Expand Access to Immigrant Legal Services that integrate Service Referrals
- A collaborative approach among community stakeholders, policymakers, and immigrant individuals ensures that resources are aligned and maximized. Be part of the conversation even if you are not considered an immigrant advocate. If you serve the immigrant community then you are part of the conversation.



## ● Resources:

- Mass legal Service: <https://www.masslegalservices.org/node/42547>
- USICS: <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>
- National Immigration Law Center: <https://www.nilc.org/wp-content/uploads/2018/02/NILC-FAM-Summary-2018.pdf> and <https://www.nilc.org/wp-content/uploads/2018/02/talking-to-immigrants-about-public-programs-2018.pdf>
- Clinic: <https://cliniclegal.org/sites/default/files/resources/webinars/Public-Charge-Webinar-PPT-Slides.pdf>
- Protecting Immigrant Families: <https://protectingimmigrantfamilies.org/>
- New York University-Institute of Human Development and Social Change: [https://steinhardt.nyu.edu/ihdsc/research/mitigating\\_strategies](https://steinhardt.nyu.edu/ihdsc/research/mitigating_strategies)