

# Public Charge & USDA's proposal to cut SNAP for low- income households: What you need to know

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# Goals

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- **Overview of Public charge**
- **Proposed Rule Changes**
  - Impact and what we can do
- **Overview of current “Broad Based Categorical Eligibility”**
  - What this policy actually means for low-income households
- **Proposed Rule Changes from Trump Administration**
  - National context & scope of harm
  - Impact in MA - now and in the future

# What is “Public Charge”?

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1982 Act to Regulate Immigration (first comprehensive national immigration law)

→ Made inadmissible “any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge”

# What the Statute Says Now:

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## 8 U.S.C. s. 1182(a)

### (4) Public charge

#### (A) In general

Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, **is likely at any time to become a public charge** is inadmissible.

#### (B) Factors to be taken into account

(i) In determining whether an alien is inadmissible under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's--

(I) age;

(II) health;

(III) family status;

(IV) assets, resources, and financial status; and

(V) education and skills.


(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under [section 1183a](#) of this title for purposes of exclusion under this paragraph.

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## Who the Statute Exempts:

- Current permanent residents
- People applying for citizenship
- Refugees and asylum-seekers
- Applicants for adjustment of status under VAWA
- Applicants for U or T visas
- Special Immigrant Juveniles

## Who is Impacted:

- Noncitizens outside the U.S. seeking to immigrate to the U.S.
  - Noncitizens within the U.S. seeking to adjust their status
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# The Current Rule

- Defined what it meant to be a “public charge” as being “primarily dependent on the government for subsistence as demonstrated by either the receipt of public cash assistance for income maintenance, or institutionalization for long-term care at government expense.”
  - Benefits triggering public charge inadmissibility limited to TANF & SSI
  - Prospective, case-by-case, “totality of the circumstances” test

# The New Rule Effective 10/15/19

\*\*The new rule goes into effect on October 15, and **only applies to applications filed on or after that date.**

- Redefines “public charge” as someone who “is more likely than not at any time in the future to receive one or more designated public benefits for more than 12 months in the aggregate within any 36- month period”
- Expands the triggering benefits to include:
  - SNAP
  - Section 8
  - Medicaid\*
  - Public housing
  - All cash assistance- including state and tribal
- Does *not* include
  - Benefits received by family members
    - However, the Foreign Affairs Manual does include a sponsor’s receipt of public benefits as a consideration in determining whether the public charge ground of inadmissibility applies
  - \*Emergency medical care and disaster relief, Medicaid received by pregnant women and children under age 21, and Medicaid under the ADA
  - WIC
  - School-based services

# The New Rule (continued)

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- Factors for consideration in addition to current/past receipt of benefits (which is a “heavily weighted negative factor”) include:
  - English proficiency
  - Medical conditions
  - Availability of private insurance
  - Past use of immigration fee waivers
- There are certain “heavily weighted positive factors,” including household income above 250% of FPL
- Bonds of at least \$8,100 may be required in some cases



# Takeaways

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- This is a horrible change that is going to negatively impact so many people
- Even so, remember that:
  - It's still a multi-factor test that looks at more than just past receipt of benefits
  - It doesn't apply to all categories of noncitizens
  - It doesn't go into effect until October, and litigation is already underway

# QUESTIONS?

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# What is “Broad Based Categorical Eligibility”?

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A longstanding federal SNAP option that allows states to:

- Use a gross income test above federal standard of 130% FPL - capped at 200% FPL.\*
- Waive the SNAP asset test (\$3,500 for elder/disabled households and \$2,250 for other households).

\*There is no gross income test for elder/disabled households

# What's the difference in the gross income test?

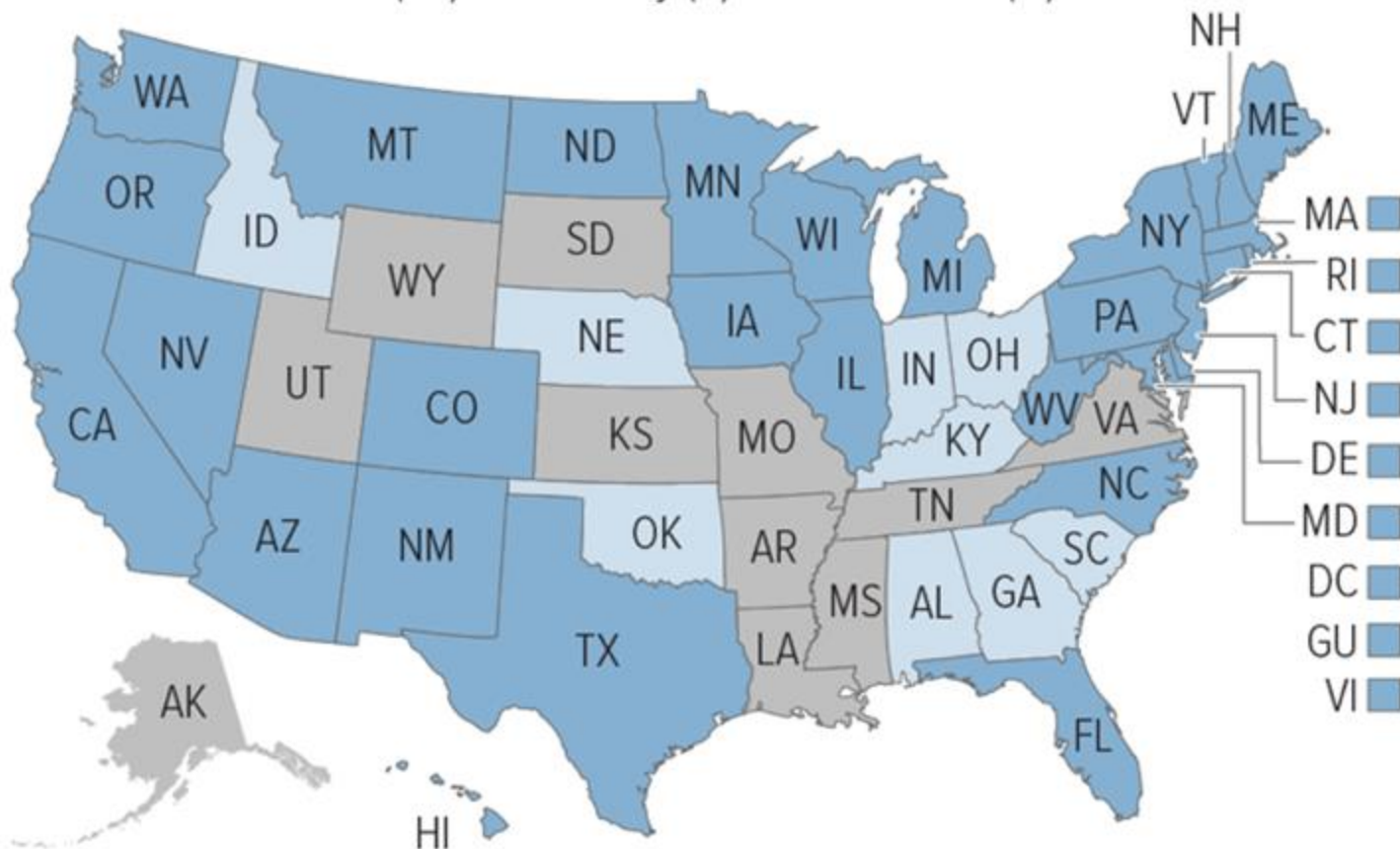
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Household size	130% FPL / month	200% FPL / month	What's the difference?
2	\$1,784	\$2,818	<b>\$1,034/mo</b>
3	\$2,252	\$3,555	<b>\$1,303/mo</b>
4	\$2,720	\$4,292	<b>\$1,572/mo</b>

# How many states use this federal option?

## Over 40 States Use Broad-Based Categorical Eligibility

■ Raise income and asset limits (33)   ■ Raise asset limits only (9)   ■ No BBCE policy (11)



Source: Department of Agriculture, "Broad-Based Categorical Eligibility," October 2018

➤ Over 40 states have elected to minimize the “cliff effect” on households and simplify administration of SNAP.

# What is USDA proposing to do?

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1. Deny SNAP to any low-wage working individuals or families with *gross* income above 130% poverty level – before any shelter or child care deductions

(Note: This will not affect households with elder or disabled individuals).

1. Impose the low asset tests for all households

# What is USDA proposing to do?

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Type of household	Current Gross Income Test	Proposed Gross income test	Current Asset Test	Proposed Asset Test.
Families and individuals (not over 60, not disabled)	200% FPL	<b>130%</b>	No	<b>Yes</b>
Households with 60+ or disabled members	None	None	No	<b>Yes</b>

# Impact on family of 3: Working Mom with 2 kids

Gross income Hourly wage @ 40 hours/week x 4.3 weeks	Current SNAP amount (assumes she has high shelter costs & pays \$600/mo child care)	SNAP amount under <b>proposed rule</b>
\$12/hr = \$2,079/mo	\$401/mo	\$401/mo - still eligible
\$14/hr = \$2,408/mo	\$318/mo	<b>NO SNAP</b>
\$15/hr = \$2,580/mo	\$276/mo	<b>NO SNAP</b>
\$18/hr = \$3,096/mo	\$151/mo	<b>NO SNAP</b>



# Why is this SNAP state option important?

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## Increasing the gross income test...

- Reduces the “benefits cliff” – especially in states like MA with high housing and child care costs
- Supports work and lifts families out of poverty



Average fair market rent for a 2 BR apartment in MA is \$1,758/mo



MA is the 2nd most expensive state in the country for infant care costs – \$17,062/year

# Why is this SNAP state option important?

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## Connects families to additional benefits...

- Provides automatic free school meals (“direct certification”) for low income families
- Connects MA families to HIP, EBT Card to Culture, utility discounts



# The Harm: National Numbers

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- USDA estimates that **3.1M individuals would lose SNAP** including 1.9 million who live with kids, 600K adults 60+, and 300K households that include a disabled individual.
- Loss of \$25-30B in SNAP over the 10 years (\$3B/year).
- Ends free school meals for 500,000 children

## 90,000 in Mass. could be affected by Trump's callous food-stamp cuts



How did it get to the point that the Trump administration now seems to be hunting for excuses to deprive low-income families of food benefits? (MARK RALSTON/AFP/GETTY IMAGES)

# The Harm: Massachusetts

- Could cut 90K MA residents from SNAP – nearly 12% of MA caseload – including
  - Families working or getting back to work
  - Older adults & persons with disabilities

# The Harm: Massachusetts

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- Loss of grocery revenue to 5,000 MA retailers
- Increased health care costs
- Severs connection to HIP and free school meals
- Undercuts the work DTA has done to simplify SNAP & decrease churn

# Impact on school meals and MA school districts

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- ❑ Families 130% to 185% FPL gross income will lose automatic free school meals, must apply for “reduced-price” meal status if no child gets SNAP or TANF
- ❑ Reduction in “directly certified” children for free school meals may impact –
  - Schools ability to qualify for the Community Eligibility Provision (CEP) – universal free meals for all children
  - distribution of “Chapter 70” state education dollars
  - qualifying teachers for student loan forgiveness in low income schools (TCLI list)
  - E-rate programs for school and library technology based for high poverty schools

# Example of MA family harmed by gross income test

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- Sarah works 2 jobs to provide for herself and 3 yr old son.
- Earns \$2,060/mo gross.
- Sarah pays child care and \$1,300 rent, car insurance & gas to get to work
- She gets \$133/mo SNAP + qualifies for \$40/mo HIP benefit.

Sarah would lose her SNAP under proposed rule. Gross income exceeds 130% FPL.



# Example of MA family harmed by asset test

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- Joel, Maria & son live doubled up with Maria's sister and her family. Maria works in the service industry, commutes 1.5 hours each way
- They has \$3,000 saved for first/last month's rent & security deposit to get an apartment closer to work.
- Under proposed rules, they would lose SNAP if \$2,250 SNAP asset test imposed.
- Losing SNAP means dipping into \$3,000 savings. Loss of SNAP keeps their family from moving forward.



# Example of MA older adult harmed by asset test

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- Jane is 82, sole income is \$1,100 Social Security.
- She keeps \$4,000 in her bank account & refuses to touch it so her daughter can pay for burial/funeral costs. No other assets.
- Jane has a heart condition, doctor told her she needs to eat healthier foods.
- Could not afford her rent + transportation + healthier foods without SNAP. Jane would be denied SNAP with \$4,000 in the bank.
- Jane is currently eligible for \$100/mo SNAP plus \$40/mo HIP
- Jane's health gets worse because she does not have SNAP and HIP.

# QUESTIONS?

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# What you can do

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- Become informed
- Talk to your colleagues
- Comment- deadline is September 23

# Why do we need YOU?

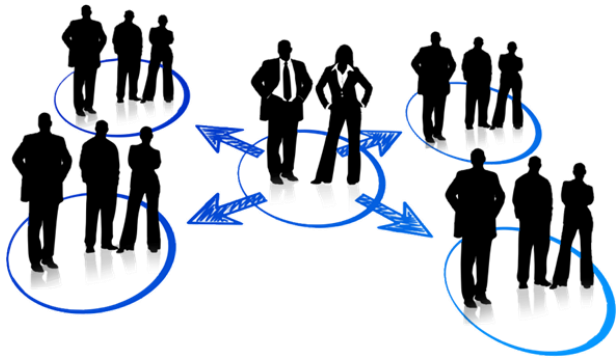
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- ❖ Comments are an effective tool to make sure your voice is heard in any government rule change.
- ❖ USDA must review every unique comment it gets.
- ❖ Comments help focus public attention on an issue, and may help with legal challenges in court.



# The DOs of commenting!

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- ✓ Tell USDA what your organization does, your mission, who you serve.
- ✓ Talk about your community – why is it hard for low- wage working families to get by?
- ✓ Share stories/struggles of those who are working but need help from SNAP

# How to comment!

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- Templates for organizations: Add original text about your organization, who you serve, and your concerns.
- Comment platform for individuals: [HandsOFFSNAP.org](https://HandsOFFSNAP.org)
- Go to Regulations.gov to post comment directly