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MEMORANDUM

TO: Program Directors and Senior Nutritionists

FROM: Jane Dvorak, Director, Operations
Alicia High, Health and Human Service Coordinator

DATE: August 16, 2019

RE: Public Charge-Final Rule
(FY20: WIC Memo #008)

Earlier this week, the Department of Homeland Security (DHS) released the final rule related to public charge. As published in the Federal Register on August 14th (and available at <https://www.federalregister.gov/documents/2019/08/14/2019-17142/inadmissibility-on-public-charge-grounds>), this rule redefines the term "public charge" as follows:

"...an alien who receives one or more designated public benefits for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months). This rule defines the term "public benefit" to include cash benefits for income maintenance, SNAP, most forms of Medicaid, Section 8 Housing Assistance under the Housing Choice Voucher (HCV) Program, Section 8 Project-Based Rental Assistance, and certain other forms of subsidized housing."

Under the DHS rule, **WIC is not included in public charge determinations.**

It is important to know that the final rule does not permit public charge consideration of Medicaid benefits if the immigrant is under 21 years of age, or is a pregnant woman (including a postpartum period of 60 days). In addition, please note that, under the final rule, public charge determinations will not take into account any benefit use by other US citizen members of the household, including US citizen children.

The final rule does not go into effect until October 15th, 2019. Receipt of Medicaid, SNAP, or housing assistance prior to this date will not be considered in a public charge determination.

The release of the final rule will undoubtedly cause confusion and worry among some of your participants. Participants should be encouraged to stay enrolled in WIC.

Here are some of the facts related to public charge that will be helpful to share:

- DHS' *Inadmissibility on Public Charge Grounds* final rule explicitly states that WIC is not and will not be a public benefit considered in the public charge determination. Immigrants and their families are **NOT** considered a "public charge" for receiving WIC benefits and participation will not affect their immigration or permanent status.
- Public charge does not apply to certain groups of immigrants, including refugees, asylees, and victims of domestic violence, trafficking and other crimes. The final rule also does not affect naturalization proceedings, which is when an immigrant petitions for citizenship status.
- Massachusetts WIC will continue to welcome all families who are eligible to receive WIC services. The commitment of the WIC Program to provide services is unchanged. Our goal is to ensure women, infants, and children receive the nutrition services they need to stay healthy.
- The United States Department of Agriculture (USDA) has not changed the federal regulations overseeing the eligibility requirements or guidelines for the WIC Program.
- The WIC Program continues to be governed by "strict" confidentiality regulations protecting **all** information of any applicant or participant (active or inactive) that applies or receives WIC services.

Please make sure staff have a full understanding of what to say when addressing any applicant or participant questions regarding their participation in WIC and public charge. If contacted by the media, share the facts noted above as talking points. Local programs should address rumors in their communities that are verified as not valid.

Please find attached the information for families receiving and applying for WIC regarding benefit programs that are not considered a "public charge" (English, Spanish and Portuguese notices). These notices have been updated and should replace any other versions referencing public charge information. The Program Order Form has been updated and additional copies of the notice (English, Spanish, and Portuguese) can now be ordered. A Haitian Creole translation of this notice will be sent in the immediate future; additional translations will be forthcoming.

In addition, the National WIC Association's *Frequently Asked Questions* document is attached to this memo. This document is an excellent review of the public charge final rule and may be helpful in sharing with participants and your community partners. Spanish and Chinese versions of this document are available at <https://www.nwica.org/immigration-resources>. Applicants or participants seeking legal resources can be referred to the *Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition* at <https://www.miracoalition.org/legal-services>.

Please contact Alicia High (alicia.high@state.ma.us) or Tina Andrade (tina.andrade@state.ma.us) with any questions regarding the public charge rule. Thank you.

attachments