



TECHNICAL BRIEF

Attacks on Immigrant Communities and Proposed Changes to Public Charge Rules

Impact on Accessibility of HIV Services and Immigrant Latinx Gay and Bisexual Men



“HIV/AIDS-related human rights include the right to life; the right to liberty and security of the person; the right to the highest attainable standard of mental and physical health; the right to non-discrimination, equal protection and equality before the law; the right to freedom of movement; the right to seek and enjoy asylum”

- UN Human Rights Office of the High Commissionerⁱ

What Are Public Charge Rules

The rules are an interpretation of a provision of the Immigration and Nationality Act (INA) and specify the grounds for a person to be denied admission to the US (i.e. to obtain a visa) or adjustment of legal status (i.e. to obtain a green card) if the US government determines they are likely to become a public charge. A person becomes a public charge if it is determined that they will be primarily dependent on government programs for subsistence. For the last twenty years, subsistence was demonstrated by receipt of public cash assistance or institutionalization for long-term care. The rules do not apply to asylum seekers nor refugees.ⁱⁱ

Access to Social Services & Changes in Public Charge Rules

- On October 15, 2019, the U.S. government proposed to change how it makes public charge decisions. Immigration officials will look more closely at factors like health, age, income, skills (including English language skills), and use of more public programs, including:
 - Supplemental Nutrition Assistance Program (SNAP, “EBT” or “Food Stamps”)
 - Federal Public Housing and Section 8 assistance
 - Medicaid (except for emergency services, children under 21 years, pregnant women, and new mothers)
 - Cash assistance programs (like SSI, TANF, General Assistance)ⁱⁱⁱ
- **Denying housing opportunities based on perceived or actual immigration status is not only discriminatory but can be detrimental to the health of people living with HIV.** Studies have concluded that lack of stable, secure, adequate housing is a significant barrier to consistent and appropriate HIV medical care, access and adherence to antiretroviral medications, sustained viral suppression, and risk of forward transmission.^{iv}

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- As a result of the advocacy efforts of immigrant rights organizations, community health centers, policy makers and community members, multiple federal courts have blocked the changes from going into effect. This is a significant development and given this current administration persistent attacks on immigrant communities. It will be critical to follow these developments closely as they progress.

Anti-immigrant Public Policy Has Long Been a Problem That is Getting Worse

US immigration policies have progressively worsened, since February 2019, when MPact Global Action for Gay Men’s Health and Rights released a National Call to Action to address increases in HIV incidence among Latinx gay and bisexual men. Stricter, more punitive, and xenophobic immigration policies are being introduced and enacted by the current administration, almost daily.

The [National Call to Action](#) shines a spotlight on persistent raids performed by U.S. Immigration and Customs Enforcement (ICE). ICE raids demonize and criminalize immigrant, migrant, and undocumented communities.

MPact and its partners called on policy makers, funding partners, and allies to denounce anti-immigrant initiatives and laws, including changes to Public Charge rules.^{v,vi}

Human rights conditions for immigrant and migrant communities in the U.S. are rapidly deteriorating. ICE-led immigration sweeps continue to take place, mass shootings targeting Latinx community members have occurred in Gilroy, CA and El Paso, Texas, and changes to Public Charge rules are now pending.^{vii,viii,ix} Similarly, there are continued atrocities being reported at detention centers/camps, including the death of two Translatina women, who did not receive proper HIV medical care, the family separation practices of children from HIV positive parents and more recently, the proposed expanded time families spend in detention.^{x,xi} Denial of birthright citizenship is now being considered as asylum seekers from Central and South American countries are being left to fend for themselves in hostile U.S. cities and/or being returned to the southern border with Mexico.^{xii,xiii} Furthermore, Deferred Action for Childhood Arrivals (DACA) is on the verge of being overturned

impacting over 700,000 young immigrants and used as a bargaining tool by the administration.^{xiv} Action is needed now more than ever.

MPact and its partners called on policy makers, funding partners, and allies to denounce anti-immigrant initiatives and laws, including changes to Public Charge rules.

Research studies document a direct correlation between oppressive immigration policies and poor health outcomes among immigrant Latinx communities, especially as it relates to HIV prevention, care and treatment.

- The presence of ICE in communities has been shown to be related to reduced engagement with health services, increased fears related to immigration status, and decreased likelihood of receiving health care.^{xv}
- Latino migrants' fears of disclosing immigration status have been shown to reduce the likelihood of accessing HIV-prevention services; getting tested for HIV and other cofactors, including STIs; or receiving adequate treatment if they are living with HIV.^{xvi}
- Geographic variation in healthcare access and quality, inadequate health insurance due to residency status, and HIV criminalization laws threaten health outcomes in Latinx people living with HIV.^{xvii}
- Living in a state with more exclusionary immigration policies worsened mental health outcomes for all residents. This effect was strongest, however, among Latinx people. Latinx people living in states with a more exclusionary immigration policy climate had worse mental health outcomes than Latinx people living in states with a less exclusionary policy climate.^{xviii}



- Anti-immigration policies result in worse access to health services. These policies result high rates of depression, anxiety, and post-traumatic stress disorder among Latinx people.^{xix}
- Societal intolerance of HIV and stigma-related experiences result in feelings of secrecy and shame. In addition, the undocumented state complicates the situation even further. These unique barriers include fear of deportation, work restrictions, inadequate translation services and difficulties meeting paperwork requirements.^{xx}
- Immigrants without legal status have less access to social and economic resources, including health insurance and housing.^{xxi}
- Regardless of legal status, immigrants experience social stigma/discrimination due to their immigrant identity, which exacerbates other challenges.^{xxii}
- Food insecurity increases risk for HIV transmission, impedes access to HIV treatment and care services, and is associated with worse clinical outcomes for individuals on HAART.^{xxiii}
- Unfettered access to behavioral health services has also shown to improve health outcomes for people living with HIV.^{xxiv}
- Stigma, homophobia, and discrimination put gay and bisexual men at risk for multiple physical and mental health problems and may affect whether they seek and are able to receive high-quality health services, including HIV testing, treatment, and other prevention services.^{xxv}

Recommendations

Studies also point to the positive effect of progressive laws and policies. That research recommends:

- Pro-migrant policies that increase economic opportunity, diminish fear of deportation, and foster community cohesion may do more than support migrants' social incorporation; they may also reduce HIV vulnerability.^{xxvi}
- Obtaining legal status can be life-changing, which may mitigate the risk of HIV. This recommendation underscores the overall importance of having service providers who are knowledgeable about immigration policies and can refer individuals for affordable legal advice. This usually requires strong partnerships with community and advocacy organizations, and, when possible, medico-legal collaborations.^{xxvii}
- Collaborations between medical and legal professionals, which are essential for ensuring a more comprehensive approach to the needs of immigrant communities.^{xxviii}

Access to Health Services

Other important recommendations include:

- Community specific Know Your Rights educational materials in Spanish, English and where appropriate indigenous languages. These materials should be readily available at HIV prevention, care and treatment organizations serving immigrant Latinx gay and bisexual men and immigrant communities. Inclusive of visible posting of statements such as: “Everyone should have access to health services without fear.” Currently, immigration agents should avoid arrests and other enforcement actions in hospitals, health clinics, urgent care, or doctor’s offices.”^{xxix}
- Medical-legal partnerships to enact rapid response systems in the event of ICE raids in local communities. At health centers funded under HRSA, offering enabling services such as legal assistance will help ensure structural barriers to health care are effectively addressed. ^{xxx}

As researchers, policy makers, advocates, direct service providers, community stakeholders, allies and those of us who are immigrants and/or descendants of immigrants, it is our duty to publicly stand against xenophobia and racism. Trump administration policies hinder the effectiveness of any efforts at ending the epidemic.

We urge HRSA, SAMSHA, CDC, and NIH to provide adequate funding and resources to Latinx gay and bisexual organizations that have traditionally partnered with immigrant rights organizations to proactively address this public health crisis.

We urge state health departments to assess the impact of immigrant attacks and changes to public charge rules on the effective implementation of Getting to Zero campaigns and Ending the Epidemic(s) campaigns. This includes providing guidance to local health departments on how to respond to this public health crisis.

We urge local health departments and HIV prevention, care and treatment providers (including community health centers and CBOs) to take a public stance on their relationship with ICE and making know your rights information available to providers, clients and community members.

We urge community activists and allies to continue their critical advocacy work with and on behalf of those that may not be able to speak out, for fear of detention and deportation. If possible, in coalition with community partners and networks, develop rapid response protocols to respond to direct xenophobic attacks and ICE raids.

FOR RESOURCES AND MORE INFORMATION:

[Protecting Immigrant Families](#)
[National Immigration Justice Center](#)
[Immigrant Legal Resource Center](#)

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