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## Appellate Court Blocks “Public Charge” Immigration Rule

### *Ruling Affirms Injunction Temporarily Stayed by U.S. Supreme Court*

**(August 4, 2020, New York)** – Today, the Second Circuit Court of Appeals [affirmed](#) the district court’s October 2019 decision granting a preliminary injunction against the Trump administration’s domestic “public charge” immigration rule. That rule, which permits the Department of Homeland Security (DHS) to label immigrants as future “public charges” on the basis of expected future use of cash or non-cash benefits such as food stamps or Medicaid, was allowed to take effect in February 2020 after the U.S. Supreme Court stayed the district court’s order blocking it nationwide. The government’s appeal of the October 2019 decision was in the case [Make the Road New York v. Cuccinelli](#), a federal lawsuit brought to challenge the public charge rule, which would deny millions of immigrants lawful permanent resident status.

In its unanimous ruling, the three-judge panel of the appeals court explained why the widespread use of non-cash benefits makes the rule unfair, writing:

Accepting help that is offered to elevate one to a higher standard of living, *help that was created by Congress for that precise purpose*, does not mean a person is not self-sufficient – particularly when such programs are available not just to

persons living in abject poverty but to a broad swath of low- and moderate-income Americans, including those who are productively employed.

“This is a great victory for our plaintiffs and the immigrant communities they serve, and for the immigrant clients of The Legal Aid Society. The Trump administration's explicit policy of exploiting the hopes and dreams of immigrants seeking to make a permanent life in the U.S. to deter their use of benefits like SNAP, federal Medicaid, and public housing is not only illegal but unconscionable. Today's decision is an important step in seeing this policy eradicated permanently,” said **Susan Welber, Staff Attorney, Civil Practice Law Reform Unit, The Legal Aid Society.**

“This decision reaffirms what we have known all along: the Trump administration’s public charge rule is racist and unlawful,” said **Javier H. Valdés, Co-Executive Director at Make the Road New York.** “This racist wealth test is an inhumane attack on immigrants of color and low-income families, and as we face the COVID-19 pandemic, immigrants should be able to access vital services without fear. We applaud the court’s decision and will continue to fight to protect all immigrants and our communities from this administration’s harmful policies.”

“DHS flouted Congress and issued a rule that would deny millions of people the ability to become lawful permanent residents because one day they might use supplemental benefits,” said **[Ghita Schwarz](#), Senior Staff Attorney at the Center for Constitutional Rights.** “The court rightly found the rule to be arbitrary and ignorant of an economic reality in which large numbers of full-time workers use SNAP, housing assistance, and Medicaid to help keep their families healthy and safe.”

In October 2019, a federal district court had blocked the rule from taking effect while it is challenged in the courts, but in January 2020 the Supreme Court granted a Trump administration request to stay the injunction just a month before the expedited appellate argument before the Second Circuit. While the appeals court’s decision today reinstated the preliminary injunction, the Supreme Court’s stay from January will remain in place through any appeals the government may make to the Supreme Court. The appeals court also modified the scope of the injunction from one that applied nationwide to one that applied only to the states of New York, Connecticut, and Vermont.

On July 30, the same federal district court that had blocked the rule in October 2019 again issued a nationwide injunction temporarily blocking the same DHS public charge rule for the duration of the COVID-19 pandemic. That decision [[hyperlink](#)] prevents DHS from enforcing, applying, implementing, or treating as effective the “public charge” rule for any period during which there is a declared national health emergency in response to the COVID-19 outbreak. The ruling came

after the *MRNY* team and state and city plaintiffs successfully argued that the COVID-19 pandemic has made the DHS public charge rule lethal to immigrant communities by chilling the use of healthcare and other benefits. The court also enjoined the Department of State from applying its parallel “public charge” rules, including the President’s Health Care Proclamation, to applicants for visas at U.S. embassies and consulates abroad.

*Make the Road New York v. Cuccinelli* was filed against the Department of Homeland Security by the [Center for Constitutional Rights](#), [The Legal Aid Society](#), and the law firm of [Paul, Weiss, Rifkind, Wharton & Garrison LLP](#), on behalf of [Make the Road New York](#), [African Services Committee](#), [Asian American Federation](#), [Catholic Charities Community Services](#), and [Catholic Legal Immigration Network, Inc. \(CLINIC\)](#).

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