

RECENT DEVELOPMENTS IMPACTING ACCESS TO HOUSING, NUTRITION, AND OTHER SOCIAL DETERMINANTS OF HEALTH

Much has happened in recent months with respect to social determinants of health, including administrative actions that might impact access to public benefits and health programs both in negative and potentially some positive ways. Developments related to public charge determinations, the calculation of the federal poverty level, housing assistance and nutrition program eligibility, and the removal nondiscrimination protections threaten to weaken health and benefit access for certain vulnerable populations. In other areas, the Administration is moving to place a greater emphasis on social determinants of health for certain Medicare and Medicaid populations and within innovative and cost-saving delivery models.

In the email below, we describe a number of upcoming and recent developments and link you to our own analysis as well additive analysis from prominent think tank organizations, where available.

Nutrition Programs

On Tuesday, the House Education and Labor Subcommittee on Civil Rights and Human Services will convene a [hearing](#) to examine the policies and priorities of USDA's Food and Nutrition Service. Specifically, Democrats plan to question Brandon Lipps, Acting Deputy Under Secretary for FNS, on the Administration's rollback of school nutrition standards and its proposal to toughen work requirements able-bodied adults without dependents (ABAWDs) in the Supplemental Nutrition Assistance Program (SNAP). WHG summaries of those USDA proposals, respectively, may be read [here](#) and [here](#). Related nutrition updates are compiled [here](#).

Changes Considered Regarding the Calculation of the Federal Poverty Level

The Office of Management and Budget (OMB) [released](#) a [request for information](#) (RFI) seeking stakeholder input on the various consumer price indices used to estimate the Official Poverty Measure (OPM) and other income measures used to determine eligibility in a wide array of federal health and nutrition programs. Specifically, OMB invites comment on the potential use of the chained Consumer Price Index (CPI) or the Personal Consumption Expenditures Price Index (PCEPI), which would reduce the number of individuals who qualify as impoverished. **Comments are due to OMB by June 21, 2019.** A WHG summary is available [here](#).

The Center on Budget and Policy Priorities [estimates](#) that the proposed change, over a ten year budget window, could result in in the loss or reduction of: Medicaid and Children's Health Insurance Program (CHIP) coverage for 300,000 children and more than 250,000 expansion group adults on Medicaid; cost-sharing reduction assistance for 150,000 marketplace consumers and tens of thousands more with premium tax credits; and premium assistance and Part D low-income drug coverage subsidies for 250,000 seniors on Medicare.

Public Charge Rulemaking

The Administration recently released its updated Spring 2019 Unified Regulatory Agenda. In it, the Department Homeland Security (DHS) final rule addressing public charge “inadmissibility” is listed with a “target date” of September 2019. This rule would allow for the government to prevent an immigrant that is deemed likely to become a public charge from entering the country or altering their immigration status to one of a legal permanent resident. The regulatory agenda also reflects that the Department of Justice (DOJ) plans to issue a parallel proposed rule addressing deportability with a “target date” of June 2019. This proposal, if finalized, would allow the government to remove an immigrant from the country if he or she is determined a public charge. Note that these are non-binding estimates of when the agencies anticipate releasing the regulations.

WHG staff explored the definition of public charge and the health implications of these proposals in a [blog](#) published last fall.

The Urban Institute recently published [data](#) regarding the impact of pending changes to public charge on enrollment in public programs ([full study](#); [summary](#)). The report finds that as many as one in seven adults in immigrant families reported avoiding public benefit programs in 2018, in anticipation of the DHS proposed rule. While there have been many on the ground reports of enrollment declining, this brief and the data it pulls from offers more statistical details in terms of the negative impact of the chilling effect. The report concludes that the negative impact will be exacerbated once the changes are finalized by DHS and the DOJ addresses deportability.

Housing Protections for Immigrant Families & Pending HUD Rule

The Housing and Urban Development Department (HUD) recently issued a [proposed rule](#) that would alter mix status families’ eligibility for public housing assistance including Section 8. Currently, mixed status families receive prorated assistance based on the number of individuals in their family that are citizens or in a protected class of immigrants. The head of household or spouse is also currently not required to have their immigration status verified in order for a mixed family to qualify for housing assistance.

The proposed regulation would make two changes:

- (1) Individuals would no longer have the option of not submitting documentation “if they do not contend to having immigration status.” Instead, all individuals under the age of 62 would have to submit documentation and have their immigration status screened through the Department of Homeland Security’s (DHS) SAVE system.
- (2) Individuals whose immigration status is not verified would be prohibited from serving as the head of household or spouse, referred to as the holder of the lease.

As specified in the proposed rule, “HUD believes that an individual without verified eligible status living in a mixed household receiving long-term prorated assistance is benefiting from HUD financial assistance in a way that is prohibited by Section 214.” As such, HUD asserts that continuing to allow mixed families to receive housing assistance violates President Trump’s Executive Order and related statutes. The rule also

states, “with respect to a family, the term “eligibility” means the eligibility of each family member.” This is a marked change from current statutory interpretation.

If the rule is finalized, it will put access to safe, stable housing – a key social determinant of health – in jeopardy for citizen children and their mixed status families. [Comments are due by July 9, 2019.](#)

Nondiscrimination Protections for Transgender Individuals

The Department of Health and Human Services Office of Civil Rights (HHS OCR) recently issued a [proposed rule \(fact sheet\)](#) under section 1557 of the Affordable Care Act rolling back previously finalized nondiscrimination protections for transgender individuals. A federal court had preliminarily enjoined, on a nationwide basis, the enforcement of the Obama Administration’s section 1557 final rule’s application of nondiscrimination on the “basis of sex” to include termination of pregnancy and gender identity. The Trump Administration’s proposed rule would repeal the 2016 final rule’s definition of sex discrimination so it no longer includes gender identity. HHS OCR would continue to enforce section 1557’s nondiscrimination protections as they relate to race, color, national origin, disability, age, and sex based on the “plain meaning of the term.”

WHG’s full summary of the proposed rule is available [here](#). **Comments will be due within 60 days** upon formal publication of the rule in the *Federal Register*, which is currently pending.

The Commonwealth Fund recently released a [briefing](#) regarding the Administration’s efforts to eliminate protections for transgender persons.

Census 2020

Much debate has occurred regarding proposals to include a question regarding citizenship in the 2020 Census, including at the Supreme Court where a decision is anticipated this month. Last Tuesday, the House Oversight and Reform Committee convened a [field hearing](#) titled, “Getting Counted: The Importance of the Census to State and Local Communities.” The hearing featured two panels of state and local officials as well as consumer advocates. Overall, panelists emphasized the importance of the census for informing policy decisions and the ramifications for undercounting historically underrepresented communities ([press release](#)). A video recording is available [here](#).

Funding Opportunities & Investments Related to Medicaid and Social Determinants of Health

The Robert Wood Johnson foundation released a [call for proposals](#) for research regarding how Medicaid programs are using managed care payment and contracting strategies to address enrollee’s social needs. The stated intention of the funding is to help shape future state and federal policy making and RWJF is particularly interested in how such activities affect health equity.

Recent and Potential HHS Action on SDOH

HHS is considering how adjusting reimbursement mechanisms can better allow providers to address beneficiaries’ SDOH. Most recently, HHS has expanded Medicare Advantage plans’ abilities to provide supplemental benefits to beneficiaries for non-primarily health-related conditions if doing so is reasonably expected to improve overall health (WHG analysis [here](#) and [here](#)). Such services can include, for example, providing meals, transportation services for non-medical needs, pest control, and indoor air quality

equipment and supplies, among others. In addition, according to the Spring 2019 regulatory agenda update, HHS is considering modifications to anti-kickback rules that would create safe harbors to permit more robust provision of SDOH-related services.

Beyond these more concrete changes, HHS has also alluded to potential upcoming models through the Center for Medicare and Medicaid Innovation (CMMI) that would provide greater flexibilities for providers to address patients' SDOH. Specifically, HHS Secretary Alexander Azar suggested such upcoming models could address nutrition- and housing-related services ([details](#)).