



THE CENTER
at Sierra Health Foundation

SAN JOAQUIN
VALLEY
HEALTH FUND

Public Charge: What Advocates Need to Know

November 20, 2018





THE CENTER
at Sierra Health Foundation

SAN JOAQUIN
VALLEY
HEALTH FUND

Panelists



Socorro Santillan
Program Officer
Sierra Health Foundation



Allison Davenport
Staff Attorney
Immigrant Legal Resource Center

Public Charge: What Advocates Need to Know



What is Public Charge?

Is it how the government can find out where I am?

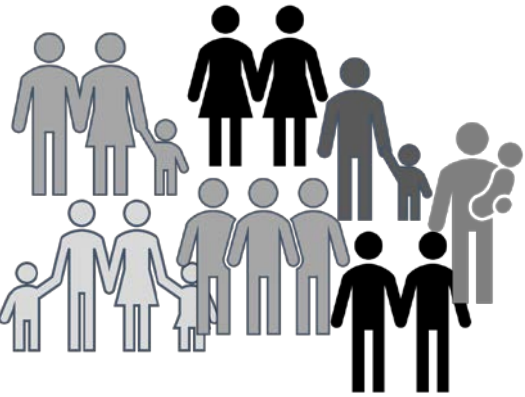
Does it mean that if my children use health care, I will be deported?

What is it?

I think it means I should get off of benefits now.

Does it mean that if use public benefits, I won't qualify for naturalization?

I think it means my family cannot access any benefits.



Accessing Services and Immigration

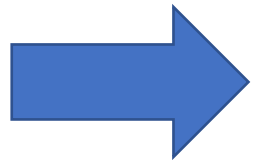
Does the person qualify for a benefit or public program?



If they use the program will it affect their immigration status or options?



Even if I'm not worried about legalizing my status, will they use information to deport me?



Public Charge

A test applied only at certain points along the immigration path:

- when **apply for visa to enter the US** and
- when **apply to become a lawful permanent resident (LPR)**



There is no public charge test when an LPR applies for naturalization.

Mainly impacts individuals who hope to immigrate through a family member
(and their family members)

Public Charge Exemptions

Many immigrants are **not subject to public charge**:

- **Refugees and asylees**
- **Special Immigrant Juvenile Status**
- **U** nonimmigrant status
- **VAWA** self-petitioners
- **T** nonimmigrant status
- **DACA**
- **TPS**
- Others (Amerasians; Afghan and Iraqi military translators; certain Cuban and Haitian adjustment applicants; certain Nicaraguans and Central Americans under NACARA; Registry applicants; Soviet and Southeast Asian Lautenberg parolees)
- Most **legal permanent residents**
- **U.S. citizens**

***But public charge applies if getting green card through family!**

By Statute: INA 212(a)(4)

“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.”



This is a future looking test.

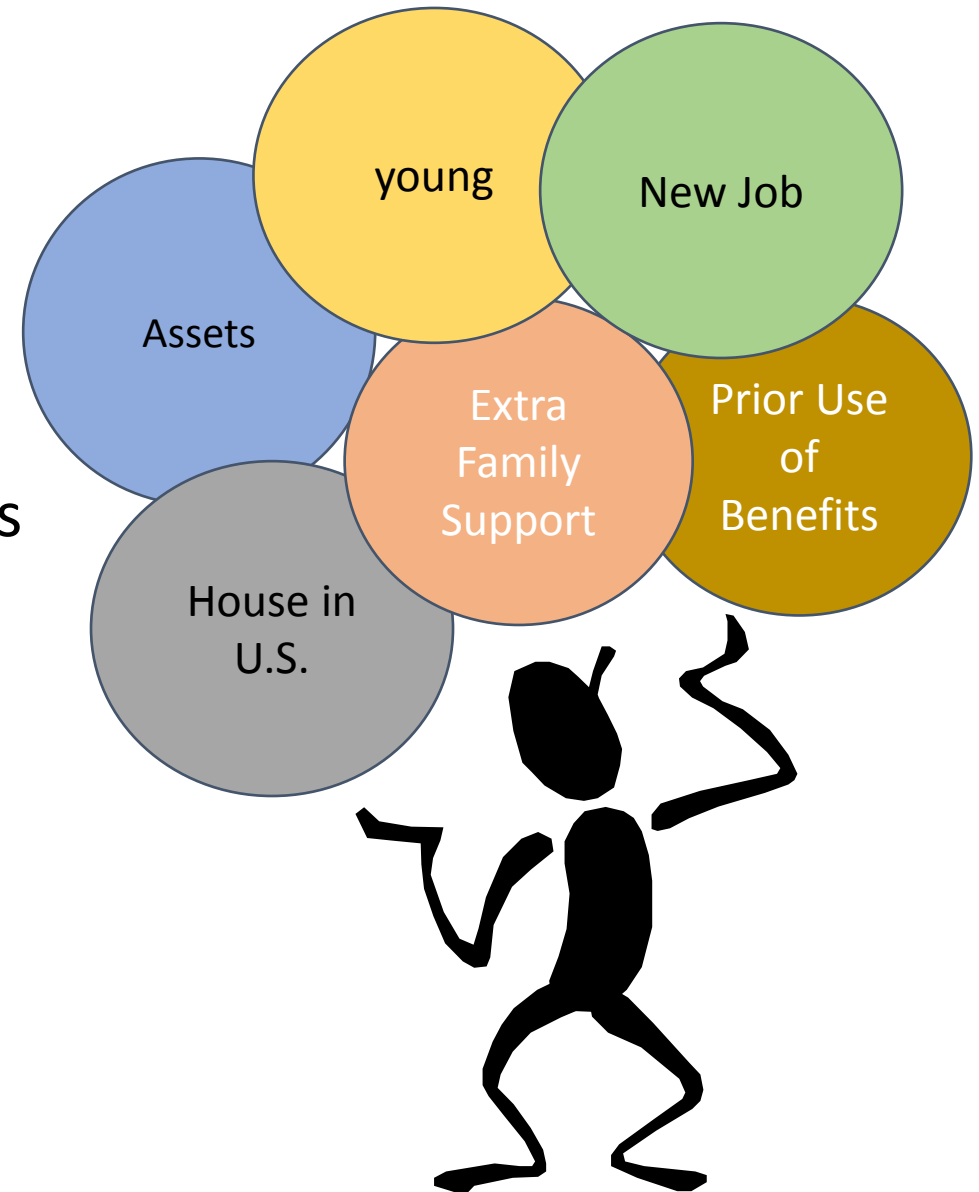


Public Charge- assessing future likelihood

Immigration officials are **required** by law to consider:

- age
- health
- assets, resources, and financial status
- family status
- education and skills
- affidavit of support
- other factors may be considered

DHS must consider the totality of circumstances



Public Charge – Current Policy

Programs that currently “count”

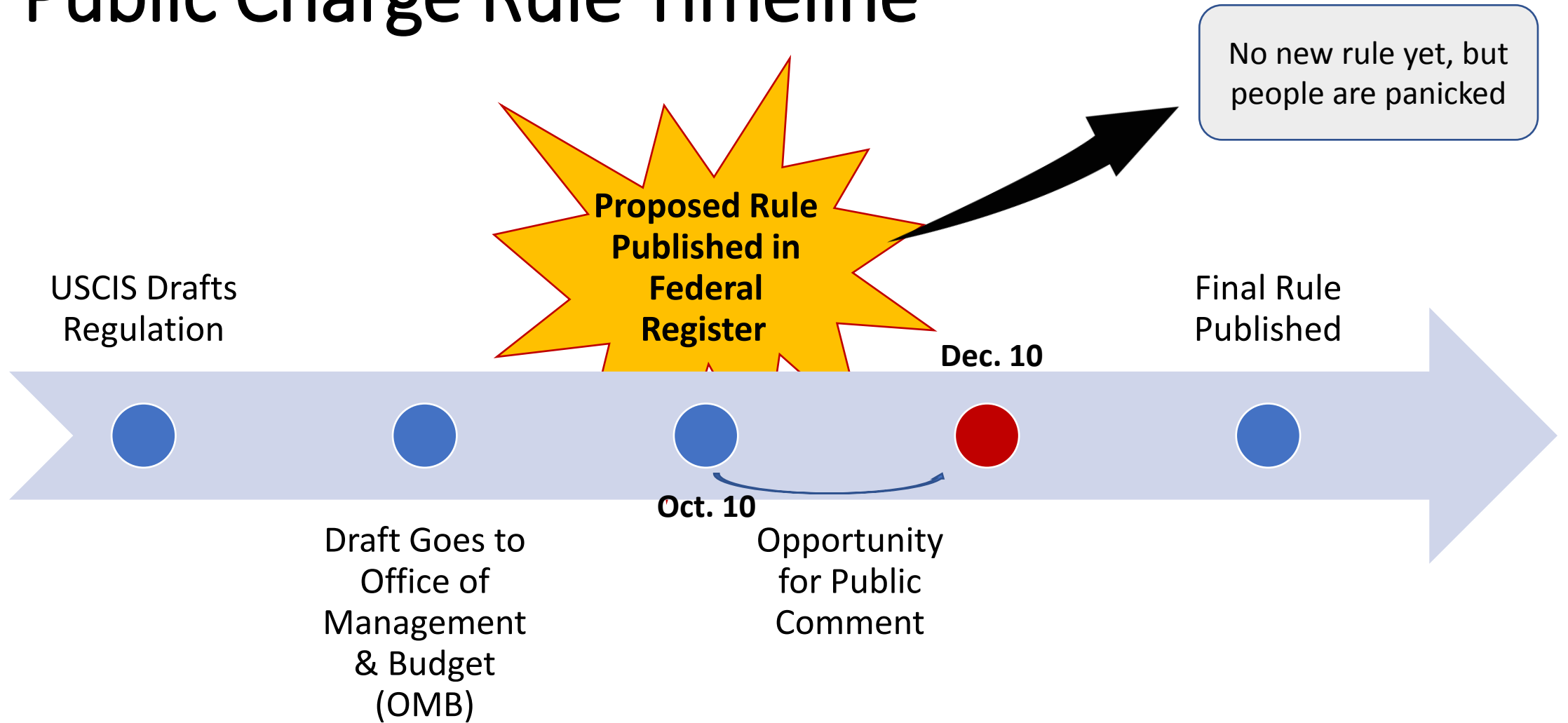
- Cash assistance
- Long term institutionalization

Programs that do not “count”

- Health and nutrition programs
- Any non-cash assistance


Use of Benefits by Family
members do not count against
you

Public Charge Rule Timeline



Public Charge

Current: Someone who is likely to become primarily dependent on the government to support themselves.



Proposed Rule: An immigrant “who receives one or more public benefits”

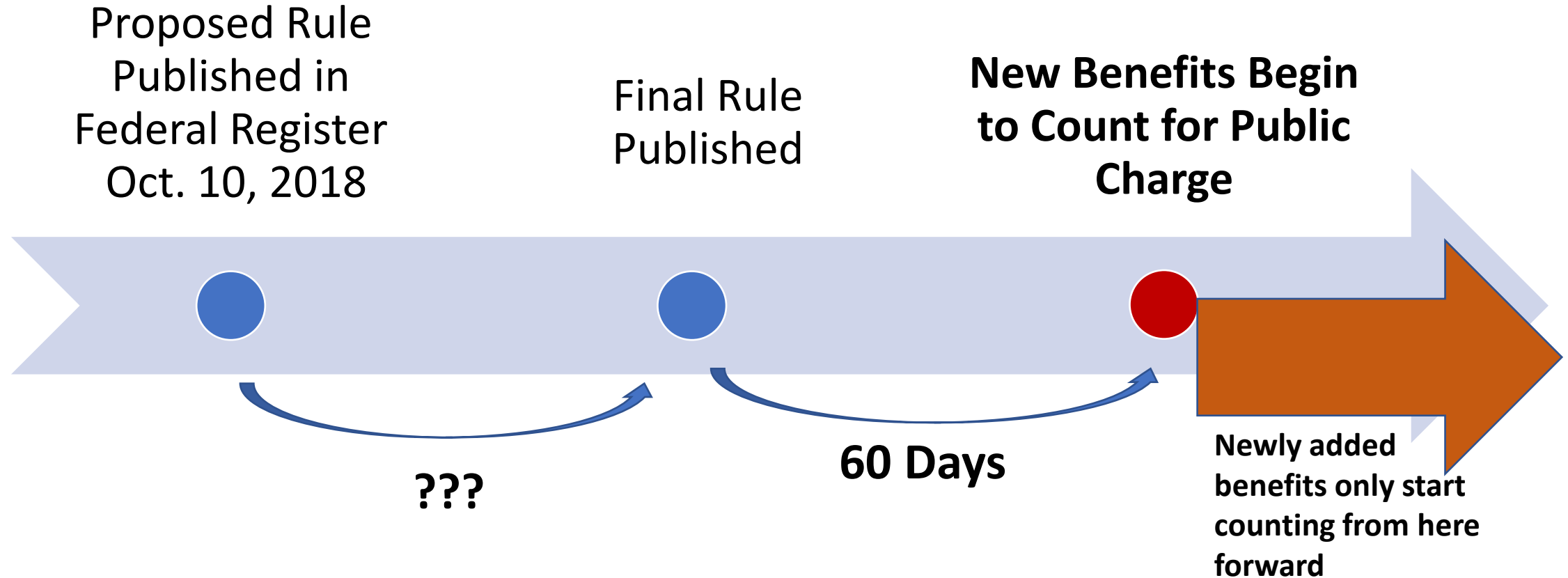
Proposed Changes

New definition of “public charge”

Totality of circumstances test has new detailed negative factors that make it harder for low and moderate income people to pass

Additional public benefits included

Will not punish prior use of newly considered benefits



Weighted Factors

Certain heavily weighted factors

- **Positive**—Includes having income and assets of at least 250 FPL
- **Negative**—Includes receiving public benefits in the past 36 months



Benefits Considered in Proposed Rule

➤ Medicaid (federally-funded Medi-Cal),

NOT including:

Emergency services

School-based benefits to children

➤ Food Stamps- SNAP (federally-funded CalFresh)

➤ Section 8 housing assistance

➤ Subsidized housing

➤ Financial assistance under Medicare Part D

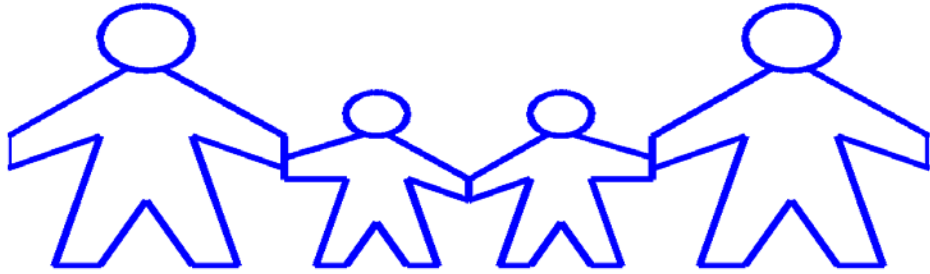
➤ Long-term care

➤ Cash assistance: SSI, TANF, General Assistance

**proposed additions in red, cash assistance and long-term care would continue to be considered*

What does NOT count against the immigrant?

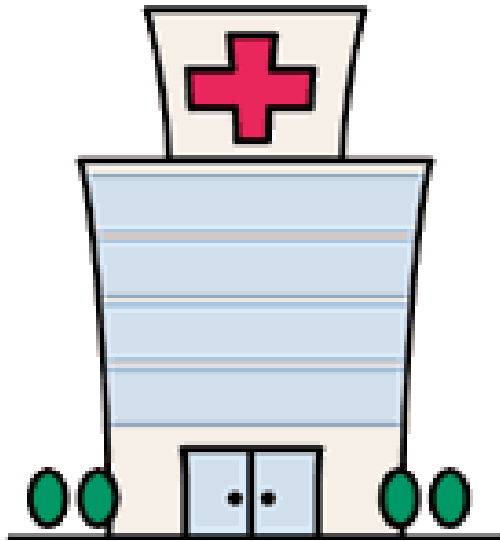
- BENEFITS USED BY U.S.-CITIZEN FAMILY MEMBERS!!
- Children's Health Insurance Program (CHIP) – this may change in final rule
- Emergency and school-based Medicaid
- Emergency and disaster relief
- Services available to the community as a whole (no income requirement)
- WIC
- Public health services
- School-based nutrition services and public education, including Head Start
- Earned benefits, such as unemployment, social security retirement, workers compensation
- Tax credits
- Any other federal, state, or local benefit that is not listed on the prior slide
- Benefits used by members of the military, Ready Reserve, and their spouses and children



Family Members

- Receipt of benefits by dependents (including U.S. citizen children) will **not** directly be a factor in applicant's public charge test.
- If a child or family member is an immigrant, his/her own use of benefits counts toward his/her own public charge determination.
- Dependents are included in the calculation of household size and may make it harder for immigrants to meet the income test.

Eligibility for Benefits:



THE PROPOSED CHANGES
DO NOT AFFECT A PERSON'S
ELIGIBILITY FOR BENEFITS!

All immigrants and their family members can and should apply for and receive all benefits they are otherwise eligible for.

What Can We Do?

Step 1:

Submit a
Comment on the
Proposed Rule by
December 10th!

Step 2:







Share Clear and
Accurate
Information with
the Community

Step 1: Submit Comments

- The Government must review and respond to comments before publishing a Final Rule
- Comments can be from an individual or organization and should describe potential impact on community based on your personal experience or work with the community.
- There is guidance to help you draft your comments- try to avoid using generic language. <https://protectingimmigrantfamilies.org/resources/>
- Comments can be submitted by mail or on-line at: <https://protectingimmigrantfamilies.org/#take-action>

Step 2: Inform the Community

PUBLIC CHARGE:

-  Continue enrolling in and receiving public benefits!
-  Proposal only- no changes yet
-  Nothing to do with eligibility for public benefits
-  Only applies when seeking permanent residence (green card) through a relative
-  Many immigrants NOT impacted (refugees, U, VAWA, DACA, TPS, etc.)
-  If a final rule- there will be time to change enrollment- talk to an expert first

THANK YOU!!!!





THE CENTER
at Sierra Health Foundation

SAN JOAQUIN
VALLEY
HEALTH FUND

Questions and Answers



THE CENTER
at Sierra Health Foundation



Additional Resources

<https://www.shfcenter.org/sjvhealthfund>



THE CENTER
at Sierra Health Foundation

SAN JOAQUIN
VALLEY
HEALTH FUND

Thank You!