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Local Commissioners Memorandum

Section 1

Table with 2 columns: Field (Transmittal, To, Issuing Division/Office, Date, Subject, Contact Person(s)) and Value (21-LCM-13; 21-OCFS-LCM-26, Social Services District Commissioners, Employment and Income Support Programs/Office of Temporary and Disability Assistance, September 20, 2021, Public Charge Policy Update – Final Rule No Longer in Effect, NYS OTDA TA Bureau: (518) 474-9344 or otda.sm.cees.tabureau@otda.ny.gov)

Section 2

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to (1) remind social services districts (districts) that on March 9, 2021, the United States (U.S.) Department of Homeland Security (DHS) vacated the August 2019 "Inadmissibility on Public Charge Grounds" final rule ("final rule") and (2) direct districts to remove any New York State Office for New Americans (ONA) Public Charge posters that are still displayed in district reception and lobby areas where applications for Public Assistance (PA) and Supplemental Nutrition Assistance Program (SNAP) are accepted.

II. Background

19-LCM-09-T and GIS Message 20 TA/DC011 informed districts of the final rule, which changed how DHS determined if certain non-citizens are considered a public charge by permitting the receipt of federally funded Medicaid (MA) and SNAP to be considered for public charge purposes.

Furthermore, 19-LCM-09-T introduced the ONA Public Charge poster, which was developed to provide all individuals who may have been impacted by the final rule with information about how to contact ONA to learn more about public charge and obtaining low-cost, immigration-specific legal services.

### III. Program Implications

On June 1, 2021, the New York State Office of Temporary and Disability Assistance (OTDA) issued [GIS Message 21 TA/DC033](#), to notify districts that as of March 9, 2021, the final rule is no longer in effect. As a result, districts must remove all postings of the ONA Public Charge poster that are displayed in district office locations as soon as possible. For an example of the ONA Public Charge poster, please see [19-LCM-09-T Attachment 1](#).

Additionally, because the final rule is no longer in effect, the 1999 interim field guidance on the public charge inadmissibility provision (i.e., the policy that was in place before the final rule) is now in effect. For some non-citizens, their receipt of PA or Supplemental Security Income (SSI) may be considered when evaluating whether they are likely to become a public charge, which may make them ineligible for admission to the U.S. or prevent them from adjusting their immigration status/becoming a lawful permanent resident (LPR). The receipt of MA (except for long-term institutionalization at the government's expense) and SNAP by non-citizens are no longer being considered as part of the public charge inadmissibility determination.

There is no change to the eligibility criteria, application, or case closing processes associated with PA, SNAP, and/or MA. Any individual who contacts their district office seeking to submit an application for benefits, withdraw an application, or to disenroll from benefits by closing their case must be permitted to do so.

Districts are reminded that, in accordance with [19-LCM-09-T](#), workers must not offer advice, recommendations, or opinions about how an individual's receipt of benefits might impact a public charge determination. Individuals with questions specific to public charge, including but not limited to how the receipt of benefits might affect the individual's immigration application or status, should be directed to contact their immigration attorney and/or referred to the ONA Hotline at: 1-800-566-7636.

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### Issued By:

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**Title:** Executive Deputy Commissioner

**Division/Office:** Office of Temporary and Disability Assistance

**/s/ Lisa Gharthey Ogundimu**

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