

Frequently Asked Questions

Changes to Immigration Policies related to Public Benefits

What is Public Charge?

Public charge is a term used within immigration law to denote someone who is, or is likely to become, primarily reliant upon government benefits and assistance programs for survival. **The test is used in applications for lawful permanent residency (green cards) or admission to the United States – including diversity visa applications and applications to renew, change or extend visas.** It is **not** used in processing applications for U.S. citizenship or naturalization. Depending on the “totality of circumstances” of the individual, a public charge determination could result in a denied immigration application, denied re-entry into the U.S. or deportation from the country.

What changes are being made to the Public Charge test?

The Department of Homeland Security has significantly broadened how the “public charge” test is conducted for immigrants seeking to obtain legal status. Currently, the test only considers the use of public assistance as evidence that someone is likely to become a public charge if they received **cash assistance or long-term institutionalized medical care at the government’s expense.** The public charge test has historically excluded most non-cash benefits.

The Trump Administration’s changes expand which public benefits the federal government could consider when making a public charge determination. Under the rule, applying for, being certified for or participating in specified federal assistance programs – such as federal nutrition assistance, health care and public housing programs – could be weighed by immigration officials when making a public charge determination.

Currently, judges in federal courts blocked the rule. No changes have taken effect.

If it is allowed to take effect in the future, the rule would add the following benefits:

- Medicaid [except for emergency Medicaid services, Medicaid received by pregnant people – including through 60 days postpartum and Medicaid for children under age 21];
- Supplemental Nutrition Assistance Program (SNAP);
- Section 8 Housing Choice Vouchers;
- Section 8 Project-Based Rental Assistance; and
- Public Housing.

What benefits are already included?

The following benefits are already included in the public charge test and will remain:

- Federal, state, local or tribal cash assistance for income maintenance;
- Temporary Assistance for Needy Families (TANF);
- Supplemental Security Income (SSI).

What benefits are not included?

Any benefits not specifically listed in the rule will continue to be excluded from the public charge test. These include, but are not limited to:

- Children's Health Insurance Program (CHIP);
- Supplemental Nutrition Program for Women, Infants and Children (WIC);
- Child care and development;
- Disaster relief;
- Earned Income Tax Credit (EITC);
- Emergency medical assistance;
- Employment and job-training;
- Federal student financial aid;
- Food banks;
- Head Start;
- Low-Income Home Energy Assistance Program (LIHEAP);
- Medicare Part D Low-Income Subsidy;
- National School Breakfast and Lunch Programs;
- Pell Grants;
- Benefits received by immigrant's family members; and
- **Any other benefit not specifically listed in the rule.**

Who do these changes apply to?

These changes apply to people **who are seeking lawful permanent residency (green cards) or admission to the United States – including diversity visa immigrants and applications to renew, change or extend visas in the United States.** It does not apply to lawful permanent residents who are applying for U.S. citizenship or naturalization.

It also does not apply to people who are refugees and asylees, Amerasian immigrants, Afghan and Iraqi Special Immigrant Visa Holders, Cuban/Haitian Entrants, humanitarian parolees, victims of human trafficking (T-Visa), victims of criminal activity (U-Visa), Special Immigrant Juveniles or VAWA (Violence Against Women Act) self-petitioners.

Does it count benefits used by children or other family members?

No. Under the final rule, the public charge test does **not** count the use of benefits by a person's family members against their application for a green card, lawful permanent residency or admission to the United States. It only considers the applicant's own use of assistance.

When do these changes take effect?

Currently, the rule is blocked in court and **no changes have taken effect**. However, it remains in active litigation and may take effect in the future. As a result of the court rulings, we do not know the date it may take effect.

It is important to remember that the rule would not apply retroactively to benefits applied for or accepted prior to the effective date, and it would not apply to applications for an adjustment of status pending or postmarked before the effective date. Individuals and families who may be affected by the changes are strongly encouraged to monitor developments.

Where can I read more about the final rule?

The full text of the final rule is available at <https://www.federalregister.gov/documents/2019/08/14/2019-17142/inadmissibility-on-public-charge-grounds>. For more information about how this rule impacts individuals and families, you may want to visit the Protecting Immigrant Families campaign: <https://protectingimmigrantfamilies.org/>.

What resources are available?

If anyone has questions about how receiving public benefits will affect their immigration status, they should speak to an immigration attorney. Resources may be available through one of these organizations: <https://www.governor.wa.gov/issues/issues/safe-communities/immigration-and-refugee-resources>.

Additionally, they may contact one of the following organizations for help:

- CLEAR Hotline: 1-888-201-1014
- Northwest Immigrant Rights Project (NWIRP):
 - NWIRP Seattle Office: 206-587-4009
 - NWIRP Yakima Valley (Granger) Office: 509-854-2100
 - NWIRP Wenatchee Office: 509-570-0054