

UNDERSTANDING PUBLIC CHARGE



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WHAT IS PUBLIC CHARGE?

Public charge is a test used by immigration officials to determine who can become legal permanent resident. Historically, an applicant for residency is deemed a public charge if they are likely to depend on cash assistance (TANF, SSI, and other state cash assistance) or institutional long-term care to support themselves.

It is important to note that Public Charge rule is not retroactive.

Who is subject to the public charge test?

- Applicants adjusting their status to become a Lawful Permanent Resident (LPR) within the U.S.
- Individuals applying to be a Lawful Permanent Resident (LPR) outside of the U.S.
- Green Card holders seeking readmission after leaving the country for more than six months (180 days)
- Visa applicants

The public charge test **does not apply** to refugees, asylum seekers, T or U visa holders, VAWA petitioners, special juvenile immigrants, or parolees.

What is the new public charge rule?

The new public charge policy broadens the type of benefits considered.

In addition to:

- Cash assistance
- Institutional long-term care



The new public charge now includes:

- Supplemental Nutrition Assistance Program (SNAP, food stamps)
- Section 8 housing assistance
- Medicaid – Short-term rehabilitative care

To make this determination, immigration officials weigh an applicant's total circumstances, including health, family status, affidavit of support, financial status, assets, age, and education.

Which benefits are exempt from the public charge test?

- Women, Infants, and Children (WIC)
- Medicare Part D Low-Income Subsidy (Prescriptions)
- Medicaid – Emergency services, pregnant women, new mothers (60 days), & children under 21
- Disaster relief
- Children's Health Insurance Program (CHIP)
- Head Start
- National School Breakfast & Lunch Program
- Energy Assistance (LIHEAP)
- Federal Earned Income Tax Credit & Child Tax Credit
- Use of food banks & shelters

When will the new rule go into effect?

February 24, 2020

If families have additional concerns, please seek legal counsel.

Timeline

AUGUST 14, 2019

Final rule published in the Federal Register

AUGUST 14 - OCTOBER 15, 2019

(60 DAY PERIOD) Legal action is being put forward to stop the rule. You also have time to speak to an attorney about your situation.

EFFECTIVE DATE:

February 24, 2020

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Screening Tool Questions

Do you have a status listed below?

- Refugee or Asylum Seeker
- Special immigrant juvenile (SIJ)
- U visa or T visa holder or applicant (victims of crimes and trafficking survivors)
- Violence Against Women Act (VAWA) self-petitioner
- Person eligible to adjust under the Relief under Cuban Adjustment Act (CAA), the Nicaraguan and Central American Relief Act (NACARA), or the Haitian Refugee Immigration Fairness Act (HRIFA)
- Special immigrant visa holder (i.e. Afghan and Iraqi employees of U.S. armed forces)

YES

You are exempt from the Public Charge test.

NO

Next question.

I or someone in my family will have to use a U.S. consulate outside the U.S. (consular processing) to:

- Apply for a green card
- Sponsor or co-sponsor an immigrant to get their green card
- Apply for entry to the U.S.

YES

Speak with an immigration attorney.

NO

Next question.

I don't have a green card but I or someone in my household gets one or more of the following benefits:

- Supplemental Nutrition Assistance Program (SNAP)
- Long-term institutionalized care, which pays for assisted living or a nursing home
- TANF cash benefits or SSI
- Someone in my household gets TANF and SSI cash benefits, and it's the only income for the household
- Federal public housing (Section 8 Housing Choice Voucher Program or Section 8 Project-Based Rental Assistance Program)
- Medicaid (UNLESS it is related to children under 21, pregnant women, new mothers for 60 days, and emergency services)

YES

Speak with an immigration attorney.

NO

Next question.



I am a parent applying for benefits on behalf of my children who are citizens.

YES

You are exempt from the Public Charge test.

NO

Next question.

I have a green card and plan to travel outside the U.S. consecutively for more than 6 months.

YES

Speak with an immigration attorney.

NO

Next question.

My situation is not listed above or I'm unsure of my situation.

YES

Speak with an immigration attorney.

NO

End.

Public charge is a test used by immigration officials to determine who can become legal permanent resident. Historically, an applicant for residency is deemed a public charge if they are likely to depend on cash assistance or institutional long-term care to support themselves.