



# PUBLIC CHARGE: WHAT THE COMMUNITY NEEDS TO KNOW ABOUT PUBLIC CHARGE

## WHAT IS PUBLIC CHARGE?

Public charge is a test to determine if someone applying for permanent residence (a “green card”), or for a visa to enter the United States, seems likely to depend on public benefits in the future. If the U.S. government concludes that the applicant is likely to become a public charge, the government can deny their green card or visa application.

## WHO DOES PUBLIC CHARGE AFFECT?

Public charge only affects **people who are applying for permanent residence through a U.S. citizen or permanent resident relative petition, or who are applying for a visa to enter the United States**. No other types of immigration cases are impacted!

## WHO IS NOT AFFECTED BY PUBLIC CHARGE?

Many immigrants do not have to worry about public charge because there is no public charge test for the immigration status for which they are applying. For example, these people are not subject to a public charge test:

- **Refugees** and **asylees**
- People with a **U Visa**, **T Visa**, **VAWA**, or **SIJS**
- **DACA** and **TPS** applicants
- The majority of **permanent residents**
- **U.S. Citizens**

Also remember that **if a person is not currently applying for any immigration status, they are not affected by public charge**. The public charge test only matters when a person submits an application for an immigration benefit (and even then, only certain applications—most commonly, an application for a green card through a U.S. citizen or permanent resident family member). Most immigrants do not need to worry about public charge.

If you are ready to become a permanent resident, consult with an immigration expert. Right now, the rules are different for people who must leave the United States for their immigration interview.

### **SHOULD UNDOCUMENTED IMMIGRANTS WORRY ABOUT PUBLIC CHARGE?**

It depends. If a person is not eligible to apply for a green card through a family member, then public charge is not an issue. For many, the need for health care, food support, and housing will far outweigh a public charge concern. If a person has a family member who is a U.S. citizen or permanent resident and thinks they might be eligible to apply for a green card through that family member, the person should talk to an immigration expert.

### **I WANT TO APPLY TO BECOME A U.S. CITIZEN. WILL IT HURT MY CASE IF I USE BENEFITS?**

No! There is no public charge test for naturalization, the process to become a U.S. citizen. Permanent residents who travel outside the United States for more than 180 days on any single trip could have to pass a public charge test when they return to the United States.

### **WHAT IF MY CHILDREN OR OTHER FAMILY MEMBERS RECEIVE PUBLIC BENEFITS?**

The new rule that takes effect on February 24, 2020 only considers benefits received by the person applying for the green card or a visa. It will NOT count against you if your family members, like U.S. citizen children, are receiving benefits.

### **WHAT DOES THE NEW PUBLIC CHARGE RULE SAY?**

The new rule sets a stricter test for people applying for their green card at an immigration office in the United States to show that they are not likely to depend on public benefits in the future. An immigration officer will consider different factors, including family income, the applicant's age and health, how likely the applicant is to be employed, and receipt of certain public benefits (however, most green card applicants do not qualify to receive the benefits included in the new rule).

Different rules apply to cases processed at a U.S. embassy or consulate abroad. It is hard to know whether a person will apply for their green card in the United States, or whether they must travel outside the United States for their interview. Talk to a trusted legal service provider if you are getting ready to file an application for a green card. They will advise you where you need to file.

### **WHEN WILL THE NEW PUBLIC CHARGE RULE TAKE EFFECT?**

The new rule will take effect for applications filed **in the United States on February 24, 2020**. The new rule does not apply to applications filed before February 24. The new rule does not consider any public benefits used before February 24, 2020.

There are several lawsuits against the rule change, and different federal courts are considering whether the new rule is lawful. In the future, the rule could be stopped or changed. But for now, the rule is in effect beginning on February 24, 2020.

The rules are different for people applying for permanent residence through a relative **at a U.S. embassy or consulate abroad**. Since 2018, a variation of this stricter public charge test has already been applied to cases processed abroad. It is important to stay informed about the new public charge rule as additional changes may occur, both within the United States and abroad.

### **DOES PUBLIC CHARGE AFFECT MY ELIGIBILITY FOR CERTAIN PUBLIC BENEFITS?**

No! Public charge does NOT impact whether you are eligible for health and other public benefits programs. If you qualify for certain public benefits, you are still eligible.

### **ARE ALL PUBLIC BENEFITS PART OF THE NEW PUBLIC CHARGE RULE?**

No! **Many public benefits and programs are not part of the public charge test in the new rule.** For example, use of WIC, Medicaid for pregnant women (including up to 60 days after a pregnancy), emergency Medicaid and Medicaid use by children under 21 (note: in California, use of Medi-Cal for children and young adults up to age 26 is not part of the new rule), Head Start, free and reduced cost school lunches, and many other benefits are not part of the public charge test and will not impact your immigration case. Many states and counties have health care and other non-cash public programs that are not part of the new rule either.

### **WHAT PUBLIC BENEFITS ARE PART OF THE NEW PUBLIC CHARGE RULE?**

The public charge test ONLY considers use of federally-funded Medicaid (with exceptions for emergency, pregnancy, and use by children, as mentioned above); federally-funded Food Stamps (called SNAP); federal public housing, Section 8 housing assistance and project-based rental assistance; federal, state, and local cash assistance; long-term institutionalized care paid for by the federal government; **and no other programs.**

### **I AM CURRENTLY USING FOOD STAMPS (CALFRESH in CALIFORNIA) OR MEDICAID (MEDI-CAL IN CALIFORNIA). WILL IT HURT MY IMMIGRATION CASE?**

No! The public charge test in the new rule does not consider receipt of Food Stamps (SNAP) or Medicaid before February 24, 2020, because these programs are newly added to the list. Public housing was also newly added on February 24, 2020. If you think you are using a benefit that could be a problem, check with a legal expert. People applying for a green card generally do NOT use these federal programs because they are not eligible for them.

### **I ALREADY FILED MY GREEN CARD APPLICATION WITH U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS). DOES THE NEW PUBLIC CHARGE RULE APPLY TO ME?**

No! The new rule does not apply to cases filed with USCIS before February 24, 2020. Remember that different public charge rules apply if your green card interview will be at a U.S. embassy or consulate abroad. The rules for people filing abroad went into effect in 2018.

## IF I USE ONE OR MORE OF THE PUBLIC BENEFITS IN THE NEW PUBLIC CHARGE RULE ON OR AFTER FEBRUARY 24, 2020, WILL MY GREEN CARD OR VISA APPLICATION BE DENIED?

First, if you are applying for a green card and think you receive a benefit that might be a problem, talk to a trusted legal services organization. Most people applying for green cards cannot use the federal benefits in the new rule because they are not eligible for them.

Even so, an immigration officer cannot deny your green card or visa application solely because you are receiving one or more of the public benefits in the rule on or after February 24, 2020. Officers must evaluate many factors when they are considering whether you are likely to depend on public benefits in the future, including your family's income and other resources, your age and health condition, and your education and likelihood of being employed. **Receipt of one or more of the benefits included in the new rule is just one part of the public charge test.**

### I HAVE QUESTIONS...WHAT SHOULD I DO?

**Consult an immigration expert** to discuss your individual case before making important decisions about the well-being of your family. Visit <https://www.cdss.ca.gov/benefits-services/more-services/immigration-services/immigration-services-contractors> or <https://www.immigrationadvocates.org/nonprofit/legaldirectory/> to find a free or low-cost trusted immigration legal services provider in your area. If you need to talk to a legal services organization about your eligibility for public benefits, visit <https://www.lawhelp.org/>.

You can also review <http://keepyourbenefitsCA.org>, a resource developed by the California Protecting Immigrant Families campaign that is available in English, Spanish, and Chinese, to see how public benefits use could affect your immigration options. A similar tool, also developed by the California Protecting Immigrant Families campaign, is available via text message. Text one of the following to 650-376-8006 depending on your language preference:

- “benefit” (English)
- “libre” (Spanish)
- “福利” (Chinese)
- “lợi ích” (Vietnamese)