



APRIL 2021

## THE TRUMP PUBLIC CHARGE RULE IS **NO LONGER IN EFFECT!**

U.S. Citizenship and Immigration Services (USCIS) immediately stopped applying the Trump public charge rule on March 9, 2021 after courts officially brought an end to Trump's public charge rule. Now, all immigration cases involving public charge will be decided based on longstanding policy from 1999, making it safe for immigrants and their families to use health, nutrition, and housing programs for which they qualify. Health care programs, including Medi-Cal and COVID care, housing, food programs like CalFresh, and many other vital services are once again safe to use. **Get the care and help your family needs!**

### WHAT IS PUBLIC CHARGE?

Public charge, or the "public charge test," refers to an assessment or evaluation immigration officers will make as part of deciding certain immigration applications. As part of the assessment, the immigration officer will look at an applicant's age, health, income, etc. to determine whether the applicant seems likely to become primarily dependent on the government for support in the future. If the officer decides that the applicant will need to rely on government support in the future, their immigration application can be **denied** for public charge.



**Public charge is *NOT* a way for Immigration & Customs Enforcement (ICE) to find or deport people. Simply using government benefits and programs *DOES NOT* trigger immigration enforcement against your family.**

### DOES PUBLIC CHARGE APPLY TO ME? MY FAMILY?

Public charge does **NOT** apply to all immigrants. It only applies to people who are submitting certain immigration applications. If you're not submitting any immigration application right now, and don't have any plans to submit one in the near future, then public charge does NOT apply to you.

If you are submitting an immigration application, then it depends what type of application you're submitting.

**A public charge test does NOT apply if you're submitting any of these applications:**

- Application for Special Immigrant Juvenile Status (SIJS), or an application for a green card based on having SIJS
- Application for a U visa or T visa, or an application for a green card filed by someone who has a U visa or T visa
- Application for asylee or refugee status, or an application for a green card based on being an asylee or refugee
- Application for VAWA, or an application for a green card based on VAWA
- Application for DACA, whether an initial application or a renewal application
- Application for Temporary Protected Status (TPS)
- Application to renew your green card
- Application for U.S. citizenship

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If you are submitting a visa application to come to the United States from abroad, or an application for a green card through a family member who is a U.S. citizen or permanent resident (green card holder), then public charge may apply to you. In that case, public charge would only apply to you, not your family members who are not submitting immigration applications. If another family member was also applying for a green card through family, then they would also be subject to a public charge test.

If you're not sure what type of immigration application you are filing or are planning to file, talk to a trusted legal representative. **You can find free and low-cost immigration legal help at:** <https://www.bit.ly/ianimmhelp>



***Most immigrants only qualify for benefits that are safe to use, and do not count towards public charge.***

## WHAT THE PUBLIC CHARGE TEST LOOKS AT:

If you are subject to a public charge test, the immigration officer deciding your application will look at your age, health, income, education, and other factors to determine whether you appear likely to rely on certain public benefits programs (like CALWORKs) in the future. One of the main things they will focus on is whether you have a qualifying affidavit of financial support from the person who is sponsoring you, and also possibly from a joint sponsor.



**Having used public benefits in the past does not necessarily mean the immigration officer will deny you for public charge.** The officer must still consider the affidavit of support and your age, health, etc. before making a decision about whether they think you will need support from the government in the future.

As part of the public charge test, immigration officers are only allowed to consider some public benefits programs. Other programs do not count, and will not be considered as part of the public charge test. As stated above, most immigrants only qualify for benefits that are safe to use, and do not count towards public charge.

**These are the only programs that immigration officers will consider as part of the public charge test, ONLY IF received by the person who is submitting the immigration application:**

- Cash assistance for income maintenance like SSI, CalWORKs, CAPI, General Assistance
- Long term institutionalized care, like in a nursing home, paid for by Medi-Cal

If an applicant's family member is the one who actually qualifies to receive the public benefit, then it does NOT count. **For example**, Maria's child Daniel, who was born here, qualifies for SSI. Maria does not qualify for SSI. It is okay that Daniel received money through SSI; Maria can apply for a green card and Daniel's receipt of SSI will not hurt her application.

## WHAT HAPPENS IF THE IMMIGRATION OFFICER DECIDES I HAVE A PUBLIC CHARGE PROBLEM?

If the immigration officer reviewing your immigration application decides that you are likely to become a public charge in the future, **they will deny your application.** Remember that the public charge test only applies to some immigration applications. The public charge test applies if you are seeking permission to enter from outside the United States, like if you are submitting a visa application to come to the United States, or if you are applying for a green card through a U.S. citizen or permanent resident (green card holder) family member.

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## PUBLIC BENEFITS THAT ARE SAFE TO USE EVEN IF PUBLIC CHARGE APPLIES TO YOU

Many public benefits are safe to use, including:

- ✓ CHIP
- ✓ WIC
- ✓ Medi-Cal
- ✓ Free and reduced cost school meals
- ✓ CalFresh (food stamps)
- ✓ P-EBT
- ✓ Head Start
- ✓ Unemployment
- ✓ Social Security retirement
- ✓ Worker’s compensation
- ✓ Tax credits, like EITC
- ✓ COVID-19 stimulus check
- ✓ COVID-19 vaccine
- ✓ Disaster relief
- ✓ Section 8 housing and other housing programs
- ✓ Food pantries
- ✓ Federal financial aid for college
- ✓ Many more! Consult with a trusted immigration legal representative if you are wondering about a program that you don’t see in this list.

Remember that if public charge doesn’t apply to you, either because you aren’t filing any immigration applications, or because you are submitting an immigration application that doesn’t have a public charge test (like asylum or SIJS), you can safely use **ANY** public benefits for which you qualify.

## PUBLIC CHARGE AND COVID-19



Immigration officials will **NOT** consider **COVID-19 testing, treatment, or the COVID-19 vaccine as part of the public charge test**. Other use of Medi-Cal and health care does not count, either, unless to pay for long term institutionalization. COVID-19 related stimulus checks from the government, other disaster relief, and tax credits do not count for public charge. Unemployment benefits are also safe to use.

## STILL HAVE QUESTIONS?

Getting the help and care you and your family need is usually more important than public charge. Public charge will only change a family’s decision to use public benefits programs in very few cases. Get advice from a trusted immigration legal services provider before making important decisions about receiving public benefits that will affect your family’s health and well-being.



You can find free and low-cost immigration legal help near you at <https://www.bit.ly/ianimmhelp> or by using a smartphone camera to hover over the code to the left.

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