

Public Charge Rule

Patient Guide



Disclaimer: This information is for AHS patients. The information provided in this document does not, and is not intended to, constitute legal advice; instead, the information provided in this document is for general informational purposes only. You should contact an attorney if you have any questions or concerns about the Final Public Charge Rule.

What is public charge?

“Public charge” is a concept in immigration that has been defined as a person who depends on the government for their primary subsistence/support.

U.S. Citizenship and Immigration Services (USCIS) conducts a test to assess whether a person can support themselves financially or if they are likely to become a public charge, meaning dependent on the government for support.

Public charge is one factor in a test (“totality of the circumstances test”) used by U.S. Citizenship and Immigration Services (USCIS) to determine if an applicant will be granted

- Entry into the U.S.
- Renewal to certain temporary visas or
- Lawful Permanent Resident status (“green card”)

What happens when a person is deemed a public charge?

A public charge determination can be used to reject an individual’s application to renew legal status to stay in the U.S. or to become a Lawful Permanent Resident. A person who is deemed likely to become a public charge is inadmissible to the U.S. and ineligible to renew certain visas and/or adjust status to Lawful Permanent Resident.

What’s new with public charge?

On August 14, 2019, the Department of Homeland Security (DHS) published the Final Public Charge Rule.

This new rule expands the types of public benefits that will be considered for a public charge determination.

This new rule goes into effect on Oct. 15, 2019, and will only be applied to applications and petitions postmarked (or, if applicable, submitted electronically) on or after October 15, 2019. After October 15, 2019, the use of any of the following public benefits will be considered in a public charge determination.

List of Public Benefits that Will Be Considered In Public Charge Determination:

- Cash assistance from any federal, state, local, or tribal source
- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- Supplemental Nutrition Assistance Program (SNAP, or formerly “Food Stamps”)
- Section 8 Housing Assistance under the Housing Choice Voucher Program
- Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation)
- Public Housing under section 9 the Housing Act

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- Medi-Cal (with certain exclusions, e.g., Medi-Cal benefits received by an individual under 21 years of age, a women during pregnancy and during the 60-day period beginning on the last day of the pregnancy, or for treatment of an emergency medical condition)

Who is NOT affected by the new rule?

The public charge rule does not apply to U.S. Citizens and individuals whom Congress has exempted, such as such as:

- Refugees
- Asylees
- Afghan and Iraqis with special immigrant visas
- Certain nonimmigrant trafficking and crime victims
- Individuals applying under the violence against women act
- Special immigrant juveniles
- People who have been granted a waiver of public charge of inadmissibility by DHS

There is no public charge test to renew a green card. There is no public charge test to apply for citizenship (naturalization).

Will it affect my immigration case if my children use public programs?

Public programs used by children who are United States citizens, cannot be used against an applicant or another immigrant parent in a public charge determination.

The Federal Government will only consider public benefits received directly by the person who is applying for the change in status, or if they're listed as a beneficiary.

Should I continue to receive health care services?

You should keep your doctor, or any other health and human services, appointments that are scheduled prior to the October 15, 2019 effective date. Also, if your application or petition was submitted and postmarked before October 15, 2019 you should keep your appointment. The new rule will only be applied to applications and petitions postmarked (or, if applicable, submitted electronically) on or after the effective date.

Programs like Women Infants and Children (WIC), Children Health Insurance Program (CHIP), school lunches, food bank and many others not included in the list above will not count towards a public charge determination.

Where can I get more information?

In order for you to make the best decision for you and your family's health, it is important for you to understand whether this rule applies to you. Every immigration case is different and AHS recommends that you speak with an immigration expert about your case before the rule takes effect on October 15, 2019.

IMMIGRATION RESOURCES

Resource	What's Offered	Web Address	Contact Information
Asian Pacific Islander Legal Outreach	<ul style="list-style-type: none"> • Asylum Applications • Naturalization/ • Citizenship • T & U Visa Petitions 	https://www.apilegaloutreach.org/	Oakland Office 310 8th Street, Suite 308, Oakland CA 94607 (510) 251-2846
Bay Area Legal Aid	<ul style="list-style-type: none"> • VAWA Self-Petitions • U Visa Petitions 	www.baylegal.org	Oakland (510) 663-4755 (800) 551-5554
Catholic Charities	<ul style="list-style-type: none"> • Immigration legal services 	www.cceb.org	Oakland (510) 768-3100
Immigrant Legal Resource Center	<ul style="list-style-type: none"> • Legal Assistant • Policy and Advocacy 	www.ilrc.org	San Francisco 415-255-9499
LawHelpCA.org	<ul style="list-style-type: none"> • Immigration Resources 	www.lawhelpca.org/issues/migration	List of local resources
East Bay Community Law Center	<ul style="list-style-type: none"> • Consultation • Intake • Education & Outreach 	www.ebclc.org	Berkeley 510-548-4040
East Bay Sanctuary Covenant	<ul style="list-style-type: none"> • Education & Outreach 	www.eastbaysanctuary.org	Berkeley 510-540-5296

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