



PUBLIC CHARGE TEST

Frequently Asked Questions

Public Charge is defined as a person who is “likely to become primarily dependent on the government for subsistence.” The Public Charge test is used to assess whether a person is likely to rely on public benefits if they are awarded Lawful Permanent Resident (LPR) status. An individual who uses certain public benefit programs may be denied residency as a result.

The Department of Homeland Security (DHS) is making dramatic changes to the Public Charge test. These changes go into effect on October 15, 2019. This document answers questions about how the Public Charge test could affect you and your family, including which public benefits may affect your immigration status and which public benefits you can continue to use without consequence.

What public benefits are currently included in the Public Charge test?

Under current policy, only two types of public benefits are considered:

- Cash Assistance for income maintenance (SSI, TANF, and General Assistance).
- Institutionalization for Long-Term Care at Government Expense through Medicaid.

What Public Benefits will count toward the definition of Public Charge starting October 15?

Under the new policy, a person who receives one or more of the following public benefits for more than 12 months within any 36-month period may be considered a Public Charge (*receipt of two different benefit programs in one month counts as two months; benefits do not need to be received for 12 consecutive months to count toward the Public Charge test*).

- Cash Assistance under SSI, TANF, or similar state, local or tribal programs
- Medicaid (does not include emergency services, coverage of children under 21 or pregnant women)
- Supplemental Nutrition Assistance Program (SNAP or Food Stamps)
- Housing Assistance: Public Housing or Section 8 Housing Vouchers and Rental Assistance

What public benefits and services can I continue to use without impacting my immigration status?

- Food banks and food pantries
- Homeless Shelter access and soup kitchens
- Meals through the School Lunch and School Breakfast Program
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Summer feeding programs, like the Summer Food Service Program (SFSP)
- After school snack and supper programs, like Child and Adult Care Food Program (CACFP)
- Emergency medical care
- Children’s Health Insurance Program (CHIP)
- Student Loans

How could my family be affected?

DHS will only consider public benefits received directly by the “legal immigrant” for his/her own benefit or where they are listed as a beneficiary of the public benefit. Benefits used by family members will **not** be counted toward a person’s public charge test.

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What else should I keep in mind?

- The rule is not in effect yet.
- It will only apply to applications submitted on or after October 15, 2019
- Newly named benefits used prior to October 15 will not be considered.
- Institutionalization for Long-Term Care at Government Expense will be considered until October 15, 2019.

When might a Public Charge assessment be made?

- When a person applies to enter the U.S.
- When a person applies to adjust status to become a Lawful Permanent Resident (LPR) – someone applying for a green card
- When a person seeks an extension of stay (extending their visa)
- When a person seeks to change visa types (e.g. from student to employment visa)
- When a green card holder leaves the U.S. for more than 180 consecutive days (6 months) and reenters.

Who is exempt from the Public Charge test?

- Lawful Permanent Residents applying for U.S. Citizenship/Naturalization
- Undocumented immigrants (because they are not eligible for public benefits)
- Refugees and asylees
- Survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders)
- VAWA (Violence Against Women Act) self-petitioners
- Special Immigrant juveniles: abused or abandoned child immigrants eligible for long-term foster care.
- A person renewing their green card
- A person renewing their DACA
- A person applying for Temporary Protected Status (TPS)

Benefits received when people are in one of these statuses will not be counted against them. If you already have or are in the process of applying for one of these immigration statuses, you can continue to use any government program that you qualify for without fear of repercussions.

Are there any efforts to prevent these changes to the Public Charge Test?

Some organizations are filing a lawsuit to try to prevent the changes from going into effect. Legislation has been introduced in Congress to stop the changes as well. However, these efforts may not be successful, and individuals should prepare as though the rule change is going into effect.

Where can I get help?

It is important to fight fear with facts and understand the rights you have. There are a few people and organizations that can provide you with the help and legal advice you need. Please visit:

<https://www.immigrationadvocates.org/nonprofit/legaldirectory>

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