



PUBLIC CHARGE UPDATE

Frequently Asked Questions

On February 2, 2021, President Biden issued an Executive Order (EO), '[Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans](#),' which directs the Secretary of State, the Attorney General, the Secretary of Homeland Security and the heads of other relevant agencies to review all agency actions related to implementation of the public charge ground of inadmissibility and deportability. The Executive Order requires the Secretary of State, the Attorney General and the Secretary of Homeland Security to submit a report of their recommendations to the President within 60 days after its execution.

This EO is an essential step toward the elimination of the Trump Administration's restrictive Public Charge policies, but agency action is required to reverse them. **The public charge regulations published by the [Department of Homeland Security \(DHS\)](#) currently remain in effect.**

[Public Charge & Immigrant Eligibility for Public Programs during the COVID-19 Pandemic](#)

The link above in green provides a general overview of some of the federal public programs available to support individuals and families during the COVID-19 crisis.

How will the new Public Charge Rule affect me?

Public Charge regulations published by the Department of Homeland Security went into effect [February 24, 2020](#) in all 50 states, including Illinois. Additionally, green card applicants subject to the rule will be required to complete I-944 forms which are very detailed and burdensome on the applicant and includes asking about exempted programs.

What is a Public Charge?

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.

What Public Benefits will count toward the definition of Public Charge when the new rule is implemented?

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 of time [on or after February 24, 2020](#) 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, including 60 days post-partum services*)
- Supplemental Nutrition Assistance Program (*SNAP or Food Stamps*)
- Housing Assistance: Public Housing or Section 8 Housing Vouchers and Rental Assistance

Use of cash assistance programs or institutionalization for long term care covered by Medicaid before February 24, 2020, [will be](#) considered in public charge determination.

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 or Disaster Relief
- Children's Health Insurance Program (*CHIP*)
- Government subsidized student and mortgage Loans
- Head Start
- Energy Assistance (*LIHEAP*)



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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.

What else should I keep in mind?

- The state of Illinois is currently appealing the Supreme Court’s decisions to allow the rule to take effect during a statewide injunction.
- Newly named benefits used prior to the rule taking affect will not be considered.

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 lawsuits to prevent the changes from going into effect nationally, but the Supreme Court ruled that the policy could be implemented while the courts consider the case, **including in Illinois**. 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?

There are individuals and organizations that can provide help and legal advice. Please visit:
<https://www.immigrationadvocates.org/nonprofit/legaldirectory>

FROM HUNGRY TO HOPEFUL – We Believe A Healthy Community Starts With Food

If you, a family member or friend are in need of nutrition assistance you can visit www.chicagosfoodbank.org/find-food/.

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