



The New Federal Public Charge Rules – Some Key Things to Know

The federal Department of Homeland Security and Department of State have issued new rules, effective as of February 24, 2020, that change immigration policy around “public charge.” The new rules make it harder for some immigrants to come to the U.S. or get green cards if the government finds that they are likely to use certain public benefits like, Medicaid, Section 8 housing subsidies, and SNAP (food stamps). This document provides an overview of some key parts of the rules, but does not cover all the details and does not provide individual legal advice.

IMPORTANT TO KNOW

- The new rules only apply to SOME immigrants and SOME benefits
- The new rules DO NOT APPLY to COVID-19 testing, treatment, or preventive care
- Many health care and other public benefits, services, and programs DO NOT COUNT for public charge
- Most immigrants subject to public charge are not eligible for the benefits that count under the rules
- Getting public benefits does NOT automatically make someone a public charge
- The new rules are NOT retroactive, so benefits – other than cash assistance and government-paid long-term care – used before February 24, 2020 DO NOT COUNT for public charge

What is “public charge”?

Public charge is a long-standing concept in U.S. immigration law that allows consideration of whether a person is likely to be primarily dependent on government-provided benefits in making an immigration status decision.

What public benefits does the government consider in deciding public charge?

Only certain benefits “count” in determining public charge. These benefits are listed [here](#) and include:

- Cash assistance: Supplemental Security Income (SSI), Temporary Assistance to Needy Families (TANF), state or local cash assistance (e.g., EAEDC in Massachusetts)
- Most non-emergency Medicaid (Medicaid is called MassHealth in Massachusetts)
- Supplemental Nutrition Assistance Program (SNAP, also called food stamps)
- Some housing benefits: Section 8 (project-based and Housing Choice Voucher Program), public housing

What public benefits and services do NOT count for public charge?

Many public benefits, services, and programs will not be considered for public charge, including the following (note that this is not a complete list):

- ✓ Emergency Medicaid (MassHealth Limited in Massachusetts); Medicaid benefits for pregnant women (and up to 60 days after giving birth); Medicaid for children under age 21
- ✓ Services funded by state and local health departments, such as HIV or STI or hepatitis testing; vaccinations; TB testing and treatment; etc.
- ✓ Medication assistance programs like the HIV Drug Assistance Program (HDAP), TB Drug Assistance Program (TBDAP), and Pre-Exposure Prophylaxis Drug Assistance Program (PrEPDAP)
- ✓ Ryan White Program services for people living with HIV
- ✓ Medical care from emergency rooms and community health centers
- ✓ Children's Health Insurance Program (CHIP) benefits
- ✓ Housing subsidies through the Housing Opportunities for Persons with AIDS (HOPWA) program
- ✓ Food and nutrition programs like WIC, school lunch, food banks/food pantries, Community Servings, Meals on Wheels
- ✓ Child care assistance or Head Start
- ✓ Energy assistance

Do the public charge rules apply to all immigrants?

No. The rules apply primarily to people seeking visas to come to the U.S. or applying for a green card through family-based petitions. Public charge does NOT apply to:

- Lawful Permanent Residents (green card holders) applying for citizenship (unless leaving the U.S. for more than 180 days and then seeking to reenter)
- Refugees
- Asylees
- Survivors of domestic violence/trafficking/serious crimes (T or U visa applicants/holders)
- Violence Against Women Act (VAWA) self-petitioners
- Special immigrant juveniles
- Active military service members/reservists and their families
- Certain people paroled into the U.S.

Does getting Medicaid/MassHealth, SNAP, or Section 8 automatically make someone a public charge?

No. Public charge is a “totality of the circumstances” determination, so the government will look at a range of factors and circumstances in a person’s life when deciding whether to consider someone a public charge. These factors include income, age, health, and education/skills, among others. No single factor, including getting public benefits, automatically triggers a determination of public charge.

What if an immigrant’s family members use public benefits?

Only benefits used by the individual immigrant would be considered – *not* benefits used by family members. For example, if an immigrant mother applied for and used Medicaid for her U.S. citizen child, that would not count against the mother.

If an immigrant applies for public benefits, will ICE know about it?

Federal and state laws protect the privacy of people applying for and using government programs – the new rules do not change that. Information held by health centers, clinics, hospitals, and schools is protected from Immigration and Customs Enforcement (ICE).

FOR MORE INFORMATION

The [Protecting Immigrant Families](#) campaign has a lot of excellent resources, available in a number of languages, about public charge and other important issues that immigrant families may face, including these:

- ✓ [Immigrant Eligibility for Public Programs During COVID-19](#)
- ✓ [Know Your Rights!](#)
- ✓ [Public Charge: Does This Apply to Me?](#)
- ✓ [You Have Rights: Protect Your Health](#)

Immigration law is complex, and immigrants should seek legal advice when making benefits-related decisions for themselves and their families. The Immigration Advocates Network operates the [National Immigration Legal Services Directory](#) to help find free or low-cost immigration services.