

Frequently Asked Questions

Proposed Changes to Public Charge Test for Immigrants

What is Public Charge?

Public charge is a term used within immigration law to denote someone who is, or is likely to become, primarily reliant upon government benefits and assistance programs for survival. **The test is used in applications for lawful permanent residency (green cards) or admission to the United States – including diversity visa applications and applications to renew, change or extend visas.** It is **not** used in processing applications for U.S. citizenship or naturalization. Depending on the “totality of circumstances” of the individual, a public charge determination could result in a denied immigration application, denied re-entry into the U.S., or deportation from the country.

What changes are being made to the Public Charge test?

The Department of Homeland Security has proposed to significantly broaden how the “public charge” test is conducted for immigrants seeking to obtain legal status. Currently, the test only considers the use of public assistance as evidence that someone is likely to become a public charge if they received cash assistance or long-term institutionalized medical care at the government’s expense. The public charge test has historically excluded most non-cash benefits.

The proposed changes would expand which public benefits the federal government could consider when making a public charge determination. Under the proposed regulation, participation in specified federal assistance programs – such as federal nutrition assistance, health care and public housing programs – could be weighed by immigration officials when making a public charge determination.

*If finalized as written, the rule would **add** the following benefits:*

- Medicaid;
- Medicare Part D Low-Income Subsidy;
- Supplemental Nutrition Assistance Program (SNAP);
- Section 8 Housing Choice Vouchers;
- Section 8 Project-Based Rental Assistance; and
- Public Housing.

What benefits are already included?

The following benefits are already included in the public charge test and would remain:

- Federal, state, local or tribal cash assistance for income maintenance;
- Temporary Assistance for Needy Families (TANF);
- Supplemental Security Income (SSI); and
- Institutionalization for long-term care at government expense.

What benefits are not included?

Any benefits not specifically listed in the rule would continue to be **excluded** from the public charge test. These include, but are not limited to:

- Child care and development;
- Children’s Health Insurance Program (CHIP);
- Disaster relief;
- Earned Income Tax Credit (EITC);
- Emergency medical assistance;
- Employment and job training;
- Federal student financial aid;
- Food banks;
- Head Start;
- Low-Income Home Energy Assistance Program (LIHEAP);
- National School Breakfast and Lunch Programs;
- Pell Grants;
- Supplemental Nutrition Program for Women, Infants and Children (WIC);
- Benefits received by immigrant’s family members; and
- **Any other benefit not specifically listed in the rule.**

Who do these changes apply to?

These proposed changes would apply to people who are who are applying for lawful permanent residency (green cards) or admission to the United States – including diversity visa immigrants and applications to renew, change or extend visas in the United States. It would not apply to lawful permanent residents who are applying for U.S. citizenship or naturalization.

It would also not apply to people who are refugees and asylees, Amerasian immigrants, Afghan and Iraqi Special Immigrant Visa Holders, Cuban/Haitian Entrants, humanitarian parolees, victims of human trafficking (T-Visa), victims of criminal activity (U-Visa), Special Immigrant Juveniles or VAWA (Violence Against Women Act) self-petitioners.

Does it count benefits used by children or other family members?

No. Under the proposed changes, the public charge test would **not** count the use of benefits by a person’s family members against their application for a green card, lawful permanent residency or admission to the United States. It would only consider the applicant’s own use of assistance.

When do these proposed changes take effect?

At this time, **NO changes to the federal rules have gone into effect.** The federal government has not yet finalized the changes or announced when they would become effective. Currently, we anticipate they will be effective sometime early in 2019. We will be closely monitoring this.

How can I make a public comment?

The federal government is currently collecting public comments on this proposal. The public comment period is open until Dec. 10, 2018. Comments can be made:

- Online at: <http://www.Regulations.gov>
- By mail to: Samantha Deshommès, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Ave. NW, Washington, DC 20529-2140

More information on submitting comments is available here: <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds>.

Where can I read more about the proposed rule?

The full text of the proposed rule is available here: <https://www.gpo.gov/fdsys/pkg/FR-2018-10-10/pdf/2018-21106.pdf>. For more information about how this rule impacts individuals and families, you may want to visit the Protecting Immigrant Families campaign: <https://protectingimmigrantfamilies.org/>.

What resources are available?

If anyone has questions about how receiving public benefits will affect their immigration status, they should speak to an immigration attorney. Resources may be available through one of these organizations: <https://www.governor.wa.gov/issues/issues/safe-communities/immigration-and-refugee-resources>. Additionally, they may contact one of the following organizations for help:

- CLEAR Hotline: 1-888-201-1014
- Northwest Immigrant Rights Project (NWIRP):
 - NWIRP Seattle Office: 206-587-4009
 - NWIRP Yakima Valley (Granger) Office: 509-854-2100
 - NWIRP Wenatchee Office: 509-570-0054