



What You Need to Know About the U.S. Department of Homeland Security’s Change to the Immigration Public Charge Rule

On February 24, 2020, the federal government’s expanded public charge rule will go into effect.

Should I disenroll in any benefits because of the new Public Charge Rule?

You should not disenroll from any benefits before speaking to an immigration expert about your specific situation. Contact the New York State New Americans Hotline at 1 (800) 566-7636 for access to legal services and additional resources.

What is a “public charge”?

Public charge is a determination by the federal government for immigration purposes defined as someone who is, or is likely to become, dependent on public benefits. The public charge test is applied to immigrants who are applying for a green card or to adjust their status.

What does the New Rule do?

If an immigrant is deemed a public charge, their application for a green card and certain other immigration benefits may be denied. Previously, someone could be considered a public charge if they received certain benefits such as cash assistance. Now, the federal government has broadened what type of public benefits it will consider in determining if someone is or will be public charge. Starting February 24, 2020:

- Additional governmental programs will be considered in the public charge test, including:
- > Medicaid (unless pregnant or under 21)
- > SNAP/food stamps
- > Federal housing benefits like Section 8 & federally-assisted public housing like NYCHA, or Buffalo Municipal Housing Authority
• Establishment of income levels to test whether someone will become a public charge
• Consideration of other factors including: proficiency in English, and physical and mental health

Applicants can still make a case for themselves as to why they would not be a “public charge.”

A Public Charge Test Will Not Look At:

- The additional benefits (SNAP, Medicaid, Section 8) received before February 24, 2020.
• Benefits received by the applicant’s family – only benefits received directly by the applicant will be considered.
• Health benefits like NYS Essential Plan, Child Health Plus, Qualified Health Plans or Advanced Premium Tax Credits.

Who Will be Affected by the New Rule?

Anybody subject to a public charge test, which includes people applying for:

- Admission to the U.S. (including Legal Permanent Residents (LPRs) who seek reentry after an absence of more than 180 days);
• An immigrant or nonimmigrant visa at a consulate abroad;
• Adjustment to LPR status;
• Extension of current immigrant or non-immigrant status.

The New Rule will not apply to:

- Most lawful permanent residents (green card holders)
• VAWA self-petitioners
• Applicants/recipients of U or T visas
• Applicants for temporary protected status
• Refugees and Asylees
• Applicants for citizenship

Most people who participate in NY health programs or housing programs like Section 8 or federal public housing will not be affected by the New Rule because eligibility for those programs is restricted to citizens and limited categories of non-citizens who largely do not go through a public charge test. Please speak to an immigration expert about how a public charge test would apply to you.

What about mixed-status families in federally-subsidized housing?

The New Rule is not the same as the proposed HUD “mixed-status” rule, which only impacts housing. The proposed HUD rule would prohibit mixed-status families from living together in housing subsidized by the federal government (including Section 8 and federal public housing). The proposed HUD rule is not in effect. If it does go into effect, only those families where every member is eligible to receive those federal housing benefits may reside in the household.

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