

The “public charge” rule, effective February 24, 2020, is used to decide whether a person can enter the U.S or get a green card (lawful permanent residency) through a family member. The test looks at the **totality** of a person’s circumstances, including income, employment, age, health, education or skills, and receipt of certain public benefits. If an immigration official decides a person is likely to become a public charge *in the future*, the official can deny the application for a green card, temporary visas and visa extensions.

- **Lawsuits challenging the new rule are still pending and will determine if the rule is legal.**
- The public charge inadmissibility rule does not apply to all immigrants or to all public benefits.
- Receipt of public benefits alone does not make someone a public charge.
- Benefits received by family members or other household members are NOT counted.

Who Does the Public Charge Rule Apply To?

Applies To

Immigrants applying to become lawful permanent residents (“green card applicants”) through:

- family petitions
- employment petitions
- Diversity Visa lottery

People applying for:

- Tourist visas
- Other non-immigrant visas (such as student visas)
- Visa extensions or change of status

Does NOT Apply To

Green Card holders, including those applying for citizenship (unless returning from traveling abroad for more than 180 days or with certain criminal convictions)

Other groups include:

- Asylees and Refugees
- U/T visas
- VAWA self-petitioners
- Special Immigrant Juvenile Status
- Certain Parolees

U.S. Citizens

Which Public Benefits do the New Public Charge Inadmissibility Rule Apply To?

Public Benefits Included in New Public Charge Rule

HEALTHCARE: Federally-funded Medicaid (with exceptions, see across)

CASH ASSISTANCE/FOOD: TANF, SSI, state and local cash assistance programs (such as Safety Net); SNAP (food stamps)

HOUSING: Section 8 and Public Housing

Public Benefits Not Included in New Public Charge Rule

HEALTHCARE: Emergency medical assistance (including Emergency Medicaid), CHIP, Medicaid for children under 21, Medicaid for pregnant women (+60 days post-partum), State-funded Medicaid (PRUCOL), Medicaid under IDEA, Medicare, Medicare Part D Low-Income Subsidy, subsidized health insurance under the Affordable Care Act (Essential Plan), ADAP, H+H Options, NYC Care

CASH ASSISTANCE/FOOD: WIC, national school meal programs, Head Start, tax credits, disaster relief

HOUSING: Certain housing assistance, energy benefits, short term shelters for the homeless and victims of DV

This is general information, not legal advice. Immigrants who are concerned about the new public charge rule can make an appointment with LegalHealth or call the confidential LegalHealth Public Charge Line at (212) 659-6188

ANY BENEFITS RECEIVED BY FAMILY/HOUSEHOLD MEMBERS OR ACTIVE-DUTY MILITARY AND THEIR FAMILIES