

Public Charge FAQ (Frequently Asked Questions)



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About the Public Charge Issue

The Trump Administration is attempting to change a government policy related to the criteria that apply when a person is applying for admission to the United States or seeking a green card or “lawful permanent residency.” These criteria are designed to determine whether a person is likely to become a “public charge,” or a person who uses certain public benefits, in the future.

In particular, the proposed rule expands the list of federal benefits that the government may consider as part of this process. A person’s current or past use of certain federal benefits may prevent him or her from gaining admission or receiving a green card.



Seattle
Office of Immigrant
and Refugee Affairs

DISCLAIMER

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1. What is a “public charge?”

The federal government uses the term “public charge” as a label for an immigrant who is primarily dependent on the government to meet his or her basic needs. Under a new proposed rule, the government seeks to define a public charge as someone who receives one or more of the federal public benefits listed in the rule. (See Question 4 for more details on these benefits.)

2. When does the federal government determine if you are likely to become a public charge?

The federal government applies a public charge test when a person applies to enter the U.S. or when a person applies to become a green card holder (also known as “lawful permanent residency”), among other circumstances.

When you apply for a visa or green card, you must submit an application form. Using the information from the form and from the following interview, the government will decide if you are likely to become a “public charge.”

This specific test is NOT used when a person who already has a green card is applying to become a U.S. citizen.

3. How does the federal government decide if you are likely to become a public charge?

Under the proposed rule, the public charge decision is based on several different factors. The immigration officer conducts a “totality of circumstances” test. This test examines the applicant’s age, health, family status, assets, resources, financial status, education, and skills. In other words, the government must look at your individual circumstances as a whole to decide if you are likely to depend on public benefits in the future.

In addition, when an affidavit of support is required by law, the absence of such an affidavit conclusively establishes a person’s inadmissibility on public charge grounds. An affidavit of support is a legally enforceable contract that a person (called a “sponsor”) signs to accept financial responsibility for another person who is coming to the U.S. to live permanently.

4. Under the new proposal, what is the new criteria to be considered a public charge?

Under the proposed rule, which is not final, you may be considered a public charge if you currently use or have used any of the following programs. This determination depends on a variety of factors, including the time and duration of usage and the value of benefits received, in addition to the other factors listed above, such as health, age, and financial resources.



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Only the programs marked with a * are considered under the current form of the public charge test. The proposed rule would add the remaining programs.

1. Cash assistance programs*, including:
 - a. Temporary Assistance for Needy Families (TANF).*
 - b. Supplemental Security Income (SSI), which helps people with limited income and who have disabilities, are blind, or are age 65 or older.*
 - c. General Assistance or other local cash assistance programs.*
2. Institutionalization for long-term care.*
3. Medicaid health coverage, except for emergency medical conditions and services or benefits funded by Medicaid but provided under the Individuals with Disabilities Education Act (IDEA) and benefits provided to foreign-born children of U.S. citizen parents.
4. Supplemental Nutrition Assistance Program (SNAP), formerly called “Food Stamps”.
5. Medicare Part D low income subsidy for prescription drug costs.
6. Federal rental assistance, such as Section 8 housing vouchers and any housing funded by Project Based Section 8.
7. Certain subsidized housing through the federal government.

5. Under the new proposal, what programs are excluded from the new criteria to be considered a public charge?

Disaster relief; emergency medical assistance; entirely state, local, or tribal programs (other than cash assistance); benefits received by immigrant’s family members; or any other benefit not specifically listed in the proposed rule. Benefits not listed, such as education, child development, and employment and job training programs are also excluded. The federal government is seeking public comment on whether Children’s Health Insurance Program (CHIP) should be considered.

Any local City of Seattle program such as the Utility Discount Program and Seattle Preschool Program will not be considered.

Go here to see the many Seattle programs that you may be eligible for, regardless of your immigration status:

www.seattle.gov/affordable.

6. What if my family members use health care, nutrition, education, or other programs?

Generally, the federal government will only consider benefits received by you as the applicant, not your family members. If the new proposal goes into effect, the federal government will not consider your children’s use of non-cash benefits (such as health insurance or food stamps) in your own application for a green card or to enter the U.S. However, the number of children you have, including citizen children, may be considered as part of the public charge determination, because it affects household size.

We recommend you speak with an immigration attorney or DOJ-accredited representative about your case.

7. What if I used these benefits in the past and am no longer receiving benefits?

The public charge test is forward-looking, which means that the test is not solely based on what happened in the past. If you previously received benefits, but your situation has changed, you may be able to show that you will not need those services now or in the future (for example, if you have a new job).

If you have questions about your particular status or use of benefits, you should speak with an immigration attorney or DOJ-accredited representative.

8. Does public charge apply to all immigrants?

No! The public charge test is not applied to green card holders in their applications to become U.S. Citizens. Also, certain humanitarian immigrants are either exempt from the public charge test or can qualify for a public charge waiver. This includes:

- Refugees
- Asylees (immigrants who are applying for or were granted asylum)
- People applying for a green card under the Violence Against Women Act (VAWA)
- People who have or are applying for U visas or T visas
- Children seeking Special Immigrant Juvenile Status

If you fall under any of these categories, you can use ANY benefits for which you are eligible. This includes cash aid, health care, food programs, and other non-cash programs.



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9. What if I already have a green card and am receiving benefits?

Under the proposed rule, you cannot lose your green card just because you, your child, or other family members lawfully use benefits. And, you cannot be denied U.S. citizenship for lawfully receiving benefits.

10. What if I am a U.S. citizen and am receiving benefits?

Public charge does not apply to U.S. citizens. If you are a U.S. citizen receiving benefits, you should continue receiving the benefits for which you are eligible.

11. Should I stop the benefits we are receiving now?

NO! If you or your family are getting benefits to go to the doctor, pay for food, or pay rent, you do not need to stop your benefits based on the proposed rule. The proposed rule is NOT yet final. It will not be in effect for months. The proposed rule will not be applied retroactively, which means the government will not consider a person’s use of a newly-added benefit prior to the effective date of the rule.

However, for benefits that are already part of the public charge determination, such as TANF, SSI, and long-term institutionalization, the government will consider usage prior to the effective date of the rule. Speak to an immigration attorney or DOJ-accredited representative with specific questions.

12. What if I receive a benefit that’s not listed?

Only the benefits listed in the proposed rule (see Question 4) may be considered. Benefits not listed, such as education, child development, free and reduced school lunch, and employment and job training programs, are not part of the public charge test.

Any local city program such as the Utility Discount Program and Seattle Preschool Program will not be considered.

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www.seattle.gov/affordable.

13. Can I be deported as a public charge?

Under current law, in extremely rare circumstances, a person who has become a public charge could be deported. These rules are very narrow and have almost never been applied. This new proposal does not interpret or expand the criteria for removal or deportability.

14. What are Trump’s other proposed changes in the new proposal?

Aside from the new criteria listed in Question 4, the new proposal would also:

Apply a similar test to:

1. requests to extend a non-immigrant visa, (for example, to stay longer in the U.S. with your visitor’s visa), and
2. requests to change your non-immigrant status, (for example, a change from a student visa to an employment visa).

Clarify when an immigrant seeking adjustment of status will be permitted to post a bond. Under the proposed rule, an immigrant who is deemed inadmissible on public charge grounds may be able to post a public charge bond of at least \$10,000.

15. What about that children receiving health coverage?

Children who are applying for a green card could be subject to the proposed new rules. And if they are receiving Medicaid, this could be weighed in the public charge test, along with their age, income, and other factors. The government has asked for input on whether to include the Children’s Health Insurance Program (CHIP) in the final rule change, but this program is not included in the current regulatory text. Children who are U.S. citizens are not subject to a public charge test.

16. How will the new proposal affect individuals with disabilities?

Under the proposed rule, a person’s health is one of many factors the government would consider in determining whether a person is likely to become a public charge. This includes physical or mental health conditions that could limit a person’s ability to work, attend school, or care for herself.



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However, the proposed rule also states that changes will not apply to benefits (other than cash assistance or long-term care) that you received before the rule is final.

We recommend you speak with an immigration attorney or DOJ-accredited representative about your case.

17. I have my green card and need to renew it soon. Can the government deny my renewal application because I am receiving Medicaid, food stamps, and/or housing assistance?

No! The public charge test does not apply when you renew a green card. The renewal application cannot be denied based on your use of programs you are eligible for.

18. Can naturalized U.S. citizens lose their citizenship if they use programs like Medicaid or SNAP/Food Stamps?

No! U.S. citizens cannot lose their citizenship based on their lawful use of public benefits.

19. When could the new proposal be approved and start?

We do not know for sure. The federal government must follow a long process before the proposed rule becomes final and active, including a 60-day public comment period. Before the policy becomes final, the government must both give the public a chance to give their opinions, and consider and respond to the comments received.

20. What else can I do?

You can tell the federal government what you think about this policy. This proposed rule is not yet in effect. You have until Monday, December 10 to share your opinions and stories about the new proposal by submitting your input as a “public comment” to a publication called the “Federal Register.” You can only submit comments in English. You do not need to be a U.S. citizen to submit a comment. The proposed rule will not become final until after the government has considered all of the comments. The City of Seattle is opposed to this proposed rule and will be submitting a public comment. Advocates across the country have a goal of sending 100,000 public comments to the Federal Register.

To submit your own comment, we recommend using this Cities for Action public comment page, which streamlines the public comment process: www.citiesforaction.us/publiccharge.