



Public Charge Rule Changes Frequently Asked Questions (FAQ) for Community Members

This is intended as general information, not legal advice.

The Department of Homeland Security released changes to the **public charge** rule, which go into effect on **February 24, 2020**. The new rule affects legal immigrants who do not have “green cards.” It does **not** affect all immigrants.

IMPORTANT NOTE: Please do not dis-enroll from Medicaid and SNAP because immigrants who are on these programs either are not subject to public charge or receive state-only funded benefits, which do not get counted against them in the public charge test.

Therefore, please do not dis-enroll from these programs without first discussing with a qualified attorney/ approved representative. You can find a listing of them across the country on this website: <https://www.immigrationlawhelp.org>

1. What is public charge?

When an immigrant applies for a “green card” (also called lawful permanent residence or LPR) or a visa to enter the US, the individual must pass a “public charge” test. The test looks at whether the person is (1) likely to use certain public benefits programs in the future, (2) whether the person has used certain programs, (3) the person’s circumstances, including age, income, health, education or skills (including English language skills), and their sponsor’s affidavit of support.

2. When does the new rule go into effect?

The public charge rule goes into effect on **February 24, 2020**, which means all applications submitted on that date or after will be subject to the new rule.

3. What are the new programs that will be considered for public charge?

For decades, benefits listed under public charge have been limited to cash assistance – such as Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI) – and government-paid long-term care. Under the new rule, the following benefits will now be considered.

- **Federal-funded Medicaid** (known as Medi-Cal in California), *except these programs:*
 - *State-only funded Medicaid* (state-only funded programs are not considered in the public charge test)*
 - *Emergency Medicaid/Medi-Cal*
 - *Benefits received by people under the age of 21*
 - *Benefits received by women during and 60 days after pregnancy*
 - *School-based services for recipients under secondary education age*
 - *Services funded by Medicaid but provided by the Disabilities Education Act*
- **Supplemental Nutrition Assistance Program*** (SNAP, “EBT” or “Food Stamps”; known as CalFresh in California)
- **Federal Public Housing and Section 8 assistance**

** Non-cash programs that state and local government administers are not considered for public charge, including state-only funded Medicaid and SNAP.*

4. Are there other factors that are considered for public charge?

Yes, the rule requires a full assessment of many factors to determine whether an immigrant will become a public charge in the future. These factors include: age, income, health, education or skills (including English language skills), use of specified public benefits, having insurance, and the sponsor’s affidavit of support.

5. Should I get off of Medicaid, SNAP and other public benefits programs now?

Not all immigrants are subject to public charge. You should first check to make sure that this public charge rule applies to you. See #6. If you are subject to the public charge test, please speak with a qualified attorney/ approved representative. You can find a listing of them across the country on this website: <https://www.immigrationlawhelp.org>

Please note that **NOT** all public benefits programs are included in the public charge test. It is important for you to continue to use vital programs, such as the ones below, to maintain your family's well-being:

- **Health:** Medicaid (for Children and Pregnant Women and state-only funded Medicaid); Medicare; Disability
- **Nutritional Support:** WIC; School Breakfast and Lunch
- **Children Services:** Head Start, Child Care; Public Education
- **Employment Services:** Unemployment; Worker's Compensation; and Federal & State Retirement
- **Non-cash programs** that state and local governments administer

6. Does this rule impact everyone?

No. Some groups are **not** subject to public charge. They include the following:

- U.S. citizens
- Most legal permanent residents (see #9)
- Refugees and asylees
- Special Immigrant Juvenile Status
- U nonimmigrant status
- VAWA self-petitioners
- T nonimmigrant status
- DACA
- TPS (Temporary Protected Status)
- Others (Amerasians; Afghan and Iraqi military translators; certain Cuban and Haitian adjustment applicants; certain Nicaraguans and Central Americans under NACARA; Registry applicants; Soviet and Southeast Asian Lautenberg parolees)

7. I am a lawful permanent resident (LPR) (that is, I have a green card); can I still apply for citizenship after the new public charge law, even if I use public benefits programs?

Yes. There is no question or consideration for using public programs if you are an LPR applying for citizenship.

8. Is there any chance that I can be deported for using public programs?

There is no change to the deportation standards in the new rule, other than the expansion of programs to Medicaid, SNAP, and Housing Assistance programs in addition to cash assistance and long-term care. However, the federal government is considering making some changes to the rule. But for now, nothing has changed.

9. I am a lawful permanent resident (LPR); do I have to worry about public charge when I'm coming back from traveling outside the US?

As before, LPRs are advised **NOT** to travel outside of the US for more than 180 days. If you have been outside the US for more than 180 days, you can be treated as a new entrant and may be subject to the public charge test. *If you are an LPR, do not travel outside the US for more than 180 days at a time.*

10. Can I sponsor my family members if I use public benefits programs?

It depends. The law for sponsorship has not changed. You can still petition to bring your family members to the US. However, if you are using public benefits programs, you may not be able to file an "affidavit of support" to show that you can financially support them. You may have to find someone else to file the affidavit of support. Please consult with an attorney trained on public charge to review your case.

11. I am undocumented. If I apply for Medicaid, SNAP or other programs for my children, can they report me to immigration enforcement?

No. There are laws that state that information you share when you apply for public benefits programs cannot be used for immigration enforcement purposes. The new public charge rule does not change this. Furthermore, if you apply for your child, you will only be required to provide information about your child's immigration status. If you are undocumented and applying on behalf of a child, you should not provide any information about your own immigration status. You may say, "I am not applying for health insurance (or Food Stamps) for myself."

For more information, you can access the Public Charge Assessment Tool to better understand if an immigration status may be affected by benefits and when to seek legal advice. The tool is available in English at KeepYourBenefitsCA.org or in Spanish at TusBeneficiosPublicos.org. This tool is also available via text by texting “Benefits” (for English), “Libre” (for Spanish), “福利” (Chinese) or “lợi ích” (Vietnamese) to **(650)376-8006**.