

# LET'S TALK ABOUT PUBLIC CHARGE

The information provided below is not legal advice. For information about a specific case, please contact an immigration expert. To find help in your area, visit [bit.ly/immigrationhelp](https://bit.ly/immigrationhelp). To see if Public Charge affects you, please visit: <https://www.thelibreproject.org/public-charge.html>

## CORE COMMUNITY MESSAGES

**Fight fear with facts - KNOW YOUR RIGHTS.** The public charge rule was designed to be confusing, complicated, and scary on purpose. You have rights in this country no matter where you were born. The more we know about our rights, the harder it is for the Trump administration to scare us. We encourage you to learn more about your situation before making decisions that may harm you or your family.

**It's not over - we still have a chance to stop the rule.** Advocates are using every tool at their disposal to stop this rule from taking effect - including in the courtroom. San Francisco and Santa Clara County already filed a lawsuit to stop this rule and others will soon follow. We still have a chance to stop this rule from moving forward.

**This public charge inadmissibility test does not apply to every immigrant.** Exempt immigrants include: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; and certain people paroled into the U.S. Benefits received when people are in one of these statuses will not be counted against them. And lawful permanent residents (green card holders) are not subject to a public charge test when they apply for U.S. citizenship.

**Use of public benefits will not automatically make you a public charge.** Immigration officials must look at all your circumstances in determining whether you are likely to become a public charge in the future. This includes your age, health, income, assets, resources, education/skills, family you must support, and family who will support you. Positive factors, like having a job or health insurance, can be weighed against negative factors, like having used certain benefits or having a health condition. Either way, you will have a chance to show why you are not likely to rely on certain benefits in the future.

**This public charge test does not consider benefits used by family members.** Most immigrants who are applying for a green card are not eligible for the benefits listed in the rule. And benefits used by eligible family members are not counted unless the family members are also applying for a green card. Health care, nutrition, and housing programs can help you and your children remain strong, productive, and stable.

**The rule does not consider any newly listed benefits that are used before** the rule goes into effect. Benefits that were previously excluded from the public charge test (such as Medicaid and SNAP) will only be considered if they are received after the rule goes into effect. The new rule has been blocked by a nationwide preliminary injunction and will NOT go into effect, it is currently on hold. Using benefits now can help you or your family members become healthier, stronger, and more employable in the future.

**Your personal information is protected.** Federal and state laws protect the privacy of people who apply for or receive health care coverage, nutrition, economic support, or other public benefits. Applications for public programs should not ask for information about the immigration status of people applying to get benefits for another person in their family or the household. Benefit agencies may share information with other government agencies only for purposes of administering their programs, with limited exceptions. You can provide only the information necessary and should never misrepresent anything when completing public benefit applications or dealing with any government agency.



QUESTIONS? PLEASE FEEL FREE TO REACH OUT TO:  
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## BACKGROUND ON PUBLIC CHARGE

### What is public charge?

“Public charge” or the “public charge test” is used by immigration officials to decide whether a person can enter the U.S. or get a green card (Lawful Permanent Resident (LPR) status). In this test, officials look at all of a person’s circumstances, including income, employment, health, education or skills, family situation and whether a sponsor signed a contract (“affidavit of support”) promising to support the person. Officials can also look at whether a person has used specific benefit programs. The public charge test does not apply to green card holders who are applying for U.S. citizenship.

### How are public charge decisions made?

Immigration officials look at all of a person’s circumstances to determine if the person is likely to:

- › Depend on the government for cash assistance or long-term care *in the future*.
- › Use one or more of the following benefits *in the future*:
  - › CalFresh (also known as SNAP, food stamps, or EBT)
  - › Public Housing or Section 8 housing assistance ( Vouchers and Project-Based Aid)
  - › Medi-Cal (except for emergency services, children under 21 years, pregnant women, new mothers 60 days post partum, state funded Medi-Cal expansion for DACA, and undocumented children and young adults)
  - › Cash Assistance Programs ( TANF – CalWORKs)
- › Benefits **NOT** included in the Public Charge Assessment: WIC, CHIP, school lunches, food banks, shelters, benefits received by immigrant’s family members, disaster relief, emergency medical assistance, entirely state, local or tribal programs (other than cash assistance), Energy Assistance (LIHEAP), transportation vouchers, Federal Earned Income Tax, Child Tax Credit, student loans, and many more.
- › Finalized DHS changes do **NOT** apply to: Lawful Permanent Residents (Green card holders) applying for citizenship, Refugees and Asylees, VAWA self-petitioners, Survivors of domestic violence, trafficking or other serious crimes ( applicants/recipients of U or T visa), Special Immigrant Juveniles, Certain Parolees and several other categories of non-citizens.

Immigration officials consider the person’s age, health, family and financial status, education, and skills. If the immigration official determines that the person is likely to become a public charge in the future, the official can refuse to grant the person’s application to enter the U.S. or get a green card.

- › **For immigrants applying from inside the US:** On August 14, 2019, the Trump administration published a new rule that changes the definition of “public charge” to a person who is likely to use one or more of the government programs listed above. The rule also adds specific details about how immigration officials will take into account the applicant’s income, health, age, education and family status. Immigration officials cannot start using the new rule until the rule goes into effect.

- › Health, nutrition, and housing benefits used before the rule goes into effect. cannot be considered by immigration officials in a public charge test.
- › Programs used by your U.S. citizen children will not be used against you in the public charge inadmissibility test.

- › **For immigrants applying from outside the US:** In January 2018, the U.S. State Department revised its Foreign Affairs Manual (FAM) section on public charge. The FAM provides guidance to government officers at U.S. embassies and consulates who decide whether to grant a person permission to enter the U.S. The new instructions do not change the definition of public charge but allow for consideration of other factors, such as the use of public benefits by applicants, their family members and/or their sponsors. NOTE: We anticipate that public charge decisions for immigrants applying from outside the U.S. may be updated to look more like the change from DHS. **FOR MORE INFORMATION AND RESOURCES, VISIT: <https://caimmigrant.org/public-charge-and-protecting-families/>**



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