

Public Charge

Frequently Asked Questions

What is Public Charge?

Public charge is a test to determine if someone applying for a green card through a relative, or a visa to enter the U.S., is likely to depend on certain public benefits in the future.

When does the new public charge rule go into effect?

The new rule went into effect on February 24, 2020. Applications already pending or submitted to USCIS before February 24, 2020 will be decided based on old criteria in effect before the new rule. Newly included benefits received before February 24, 2020 will NOT be considered in the public charge determination.

Important

Each individual's immigration situation is different. Please talk to a trusted legal services provider before making any decisions about your enrollment in public benefits programs, or before deciding to apply for immigration relief.

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Does the new rule apply to me?

Many immigrants are NOT subject to public charge, including those who have DACA or are applying for renewal, Special Immigrant Juvenile Status (SIJS), U visa, T visa, asylum, refugee status, TPS, and others. People who already have green cards are generally not subject to the new public charge rule when they renew their green cards or apply for U.S. citizenship. The new public charge rule primarily applies to people applying for a green card based on a family petition.

Which benefits are NOT considered?

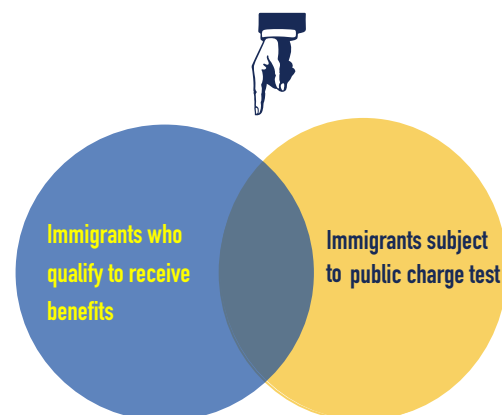
- Educational grants, scholarships, and loans
- State-funded Medi-Cal (including the January 2020 "Young Adult Expansion") Benefits received by dependents (i.e., benefits that parents have applied for on behalf of the child, and are in the child's name)
- School-based health and nutrition services
- Public education, including Head Start
- WIC (Special Supplemental Nutrition for Women Infants and Children)
- Tax credits, including the Earned Income Tax Credit and Child Tax Credit
- Advance premium tax credits under the Affordable Care Act
- Emergency and disaster relief
- Any other state and local non-cash benefits that are not federally funded

check with your benefits provider or an immigration attorney. Note: Covered California is considered private insurance, which is actually a positive factor in the totality of circumstances test explained below.

Which benefits ARE considered?

- Federally-matched Medi-Cal (exceptions: minors under 21, pregnant women, emergency Medi-Cal)
- CalFresh (SNAP, food stamps)
- HUD public housing
- Section 8 housing
- Federal, state, local or tribal cash assistance for income maintenance (SSI, TANF)

Impacted Group



Is it true that the majority of immigrants are not subject to this rule change?

Yes. Most immigrants who are on the path to a green card do not even qualify for the public benefits included in the test, or if they do, then they are typically in an immigrant category that is not subject to public charge.

Does the public charge test consider other factors?

Yes. The public charge test also looks at a person's education and skills, age, health, household size, financial resources, employment history, and other factors. 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. Use of public benefits is just one part of the overall assessment, which is referred to as the "totality of circumstances."