

## Common Questions About Public Charge Rule Changes and Where To Get Help

**What is Public Charge?** “Public Charge” is a legal term used in immigration law. It is part of a screening process used by U.S. immigration officials when someone is applying for lawful permanent residence (LPR/“green card” status). If someone is considered a public charge, then they won’t be able to get a green card.

**Wasn’t the law governing Public Charge supposed to change on October 15, 2019?** The government has proposed a new Rule, and that Rule was supposed to go into effect on October 15, 2019. Numerous parties filed lawsuits to stop the Rule. On October 11, 2019, several courts ordered the Rule stayed, which means that it will **NOT** go into effect for now. *This means that green card applications filed on or after October 15, 2019 will continue to be governed by the current rules, not the new Rule.*

**Who is subject to the Public Charge rule?** Public charge applies only to the following groups:

1. people in the U.S. who are in the process of applying for green card status through a family member (often a parent, child or spouse);
2. people who are sponsored by a small business owned by their family members;
3. people who already have a green card but who:
  - a. have traveled abroad for more than 180 days or
  - b. have traveled abroad and have a criminal conviction, and are seeking to re-enter the U.S.

In addition, anyone *planning to* apply for a green card through a family member or a small business (owned by family), or who has a green card and is *planning to travel abroad* for more than 180 days or has a criminal conviction should learn about public charge.

**Does public charge apply to all immigrants?** No. People in the categories listed below **DO NOT** need to worry about being denied a green card because of public charge:

Who Does NOT Have To Worry About Being Denied a Green Card Due To Public Charge?	
People who are not applying for a green card:	People who may be applying for a green card, but are exempt from being screened for public charge:
U.S. citizens, or people applying to become a citizen through naturalization.	Refugees, asylees, and people seeking cancellation of removal.
People who already have their green card (including people who have conditional status) (unless traveling abroad for more than 180 days or with a criminal conviction).	Special Immigrant Juveniles (SIJ); Special Immigrant Visa Holders (Afghan or Iraqi nationals who helped the U.S.).
LPRs traveling abroad for <i>fewer than</i> 180 days (and who have no criminal convictions)	VAWA, U, and T Visa applicants and holders.
People with a non-immigrant visa, or who lack any status, and do NOT plan to apply for a green card in the next 36 months. (Consult a lawyer if you are unsure whether you would be eligible to apply for a green card.)	Persons eligible to adjust under the Cuban Adjustment Act (CAA), Nicaraguan Adjustment & Central American Relief Act (NACARA), or Haitian Refugee Immigration Fairness Act (HRIFA)

**What should I do if a client is subject to public charge?** It is important that they speak to a lawyer because the rules are complicated (see more information below). **We do not advise taking action without speaking to a lawyer first.**

- **Call an immigration lawyer:** If your client already has an immigration lawyer and they are planning to apply for a green card, they should call their lawyer and tell them they need to apply as soon as they are able given that the rules could still change.
- **Get a lawyer:** If your client doesn't have an immigration lawyer, they can call ActionNYC at 800-354-0365, between 9am-5pm, M-F, or call 311 and say "ActionNYC."
- **Question about how public charge applies to your client?** Call The Legal Aid Society's Immigration Helpline at 844-955-3425, between 9am-5pm, M-F.

**Which benefits are treated negatively in the public charge rule currently?**

Currently, receipt of the following benefits are treated negatively:

- a) Cash assistance, SSI, and government funded long-term institutional care;

If the new Rule goes into effect the following, additional benefits will also be treated negatively:

- b) SNAP;
- c) Federally-funded Medicaid for a very narrow group of immigrants; also, State-funded Medicaid and Essential Plan do NOT count;
- d) NYCHA/public housing or Section 8.

Note: If the public charge Rule changes, benefits in categories (b)-(d) used BEFORE the Rule changes will NOT count against green card applicants.

**How else will the public charge Rule change IF it goes into effect?** If the Rule goes into effect, certain factors put an applicant for a green card at risk of public charge: having income less than 125% of the poverty level; being unemployed; being under age 18 or over age 61; having a disability; having debt or a low credit score; or having limited English proficiency.

**How will I know if the new public charge Rule is going into effect?**

We will provide updates at [www.legalaidnyc.org/notice/public-charge/](http://www.legalaidnyc.org/notice/public-charge/)