

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. (*More information on the rule is on the reverse side ➤*)

Is there a new Public Charge Rule in effect? Yes, starting February 24, 2020 (except in Illinois). The new Rule was supposed to go into effect on October 15, 2019, but it was temporarily blocked because of injunctions in various lawsuits. On January 27, 2020, the Supreme Court ordered that the last injunctions be lifted pending additional steps in the litigation. On January 30, USCIS announced that the new rule will take effect February 24, 2020. ***This means that any I-485 applications postmarked on or after February 24, 2020 by an immigrant adjusting through a family member will be subject to the new Rule.***

Who is subject to the new 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), Haitian Refugee Immigration Fairness Act (HRIFA), or Liberian Refugee Immigration Fairness Act.

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 speak about how the new Rule impacts their plans to seek a green card.
- **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 under the new public charge rule? Under the new Rule receipt of the following benefits are treated negatively:

- a) Cash assistance, Supplemental Security Income (SSI);
- b) Government funded long-term institutional care;
- c) Supplemental Nutrition Assistance Program (SNAP);
- d) Federally-funded Medicaid for a very narrow group of immigrants (State-funded Medicaid, Essential Plan, NYC Care and other forms of hospital financial assistance do NOT count);
- e) New York City Housing Authority (NYCHA)/public housing or Section 8.

Will any benefits used BEFORE February 24, 2020 count against green card applicants subject to public charge? Yes. Categories (a) and (b) used BEFORE February 24, 2020 will count against green card applicants. Use of benefits in categories (c)-(e) will only count negatively (depending on the duration of use), **ON or AFTER February 24, 2020.**

Other than benefits use, what other factors put an applicant for a green card at risk of being found a public charge? Many intending immigrants who are subject to public charge are not eligible for the benefits listed above, but that does not mean that they are not at risk of a public charge finding anyway. **The characteristics that could result in a public charge finding include the following:**

<ul style="list-style-type: none">• having income less than 250% of the poverty level;• being unemployed;• being under age 18 or over age 61;	<ul style="list-style-type: none">• having a disability;• having debt or a low credit score;• having limited English proficiency.
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What should I do if a client is reluctant to obtain or maintain a benefits case because of public charge? It is very important to determine if the person is subject to public charge before deciding what to do. Reach out to one of the sources of help listed at the top of this page.

How will I know if there is any new information about public charge? We will provide updates at www.legalaidnyc.org/notice/public-charge/