

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 primarily 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, as of February 24, 2020. 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 injunctions blocking the rule in New York and elsewhere be lifted pending additional steps in the litigation. On January 31, USCIS announced that the new rule will take effect February 24, 2020. ***This means that any applications for green cards or to change/extend non-immigrant visas postmarked on or after February 24, 2020 are affected by the new Rule.***

Who is subject to the new Public Charge rule? The public charge rule applies 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, employer, or through the Diversity Visa lottery;
2. people who already have a green card but who have either (a) traveled abroad for more than 180 days, or (b) traveled abroad and have a criminal conviction, and are seeking to re-enter the U.S.;
3. people applying to change or extend their nonimmigrant visas are be asked whether they have or intend to use benefits for 12 out of 36-months, one part of the new public charge Rule.

Note: Anyone ***planning to*** apply for a green card; who is trying to change/extend their nonimmigrant visa; or who already 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 unless exempt (see below).

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.

Do any benefits used BEFORE February 24, 2020 count against applicants subject to public charge? Yes. Categories (a) and (b) used BEFORE February 24, 2020 count against applicants. Use of benefits in categories (c)-(e) 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 at risk of being found a public charge? Many intending immigrants and nonimmigrants 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 125% 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/