

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, unless they are able to post a public charge bond.

Is there a new Public Charge Rule in effect? Yes, as of February 24, 2020, but the Rule only applies to people who are both subject to public charge (see below) and who submit applications postmarked on or after February 24, 2020, for green cards or to change/extend non-immigrant visas.

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 are seeking to re-enter the U.S. after traveling abroad either (a) for more than 180 days consecutively, or (b) with certain criminal convictions (or both); and
3. people applying to change or extend their nonimmigrant visas.

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 in a row or has certain criminal convictions, 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 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 certain criminal convictions).	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 in a row (or 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 and do NOT plan to change or extend their non-immigrant visas. (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 may impact their green card application.

- **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," to seek a lawyer.
- **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. The Helpline staff will collect information and forward it to our Public Charge team.

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, Child Health Plus, 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 applicants subject to public charge? Yes. Categories (a) and (b), above, used BEFORE February 24, 2020 will count against applicants. Benefits in categories (c)-(e) will only count negatively (depending on the duration of use) if used **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:**

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| <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.

If a client gets sick and needs to receive a test for COVID-19 or other COVID-19 related treatment, including hospital services, does this raise their risk of becoming a Public Charge? No. We are not aware of any medical care available in New York related to COVID-19 that would count against a person subject to public charge, and U.S. Citizenship and Immigration Services (USCIS) has said that COVID-19 related care will not count. Immigrant families should seek the medical care they need. Based on prior experience, however, we expect that many noncitizens will be concerned about the public charge consequences of receiving treatment even if they are not actually subject to public charge review.

How will I know if there is any new information about public charge?

We will provide updates at www.legalaidnyc.org/notice/public-charge/