

Public Charge Policy Update

The Department of Homeland Security (DHS) posted a new draft of the “public charge” policy on September 22.

What is public charge?

Public charge is a term used by U.S. immigration officials to refer to a person who is considered primarily dependent on the government for subsistence. Determining that someone is – or is “likely... to become a public charge” – can be used to deny admission to the U.S. or to deny lawful permanent resident status.

Whom does public charge affect?

Public charge policies apply to immigrants seeking to become “green card” holders and most individuals seeking to immigrate lawfully to the U.S. Certain immigrants, including refugees and asylees, are exempt from public charge determinations under law.

How is the public charge rule applied today?

Currently, the only benefits considered in determining who is likely to become a “public charge” are:

- Cash assistance – such as Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF) and comparable state or local programs.
- Government-funded long-term institutional care.



What changes are being proposed?

Under the proposed rule, officials would consider use of additional programs as qualifying an applicant as a public charge:

- Non-emergency Medicaid
 - Limited exceptions for:
 - Medicaid benefits for treating an “emergency medical condition”
 - certain disability services related to education
 - benefits received by children of U.S. citizens who will be automatically eligible to become citizens
 - DHS asks for input on inclusion of the Children’s Health Insurance Program (CHIP), but this program is not included in the current proposed regulatory text.
- Supplemental Nutrition Assistance Program (SNAP)
- Medicare Part D Low Income Subsidy
- Housing assistance, such as public housing or Section 8 housing vouchers and rental assistance

The proposed rule would establish thresholds for use of public benefits to determine an individual to be a public charge. These thresholds would be tied to the value of the benefits received and/or total months a benefit was received.



What happens next?

Once the proposed rule is officially published in the Federal Register, the public will be able to submit comments for 60 days. After DHS carefully considers public comments received on the proposed rule, DHS plans to issue a final public charge rule that will include an effective date at least 60 days after the date the final rule is published.