What is Public Charge?

“Public Charge” is a term used by U.S. immigration officials to refer to a person who is considered likely to become primarily dependent on the government for subsistence. An immigrant who is found more likely to become a “public charge” may be denied admission to the U.S. or lawful permanent resident status.

The new rule, effective February 24, 2020 defines “public charge” as a person who is more likely than not to receive one or more designated public benefits for a total of more than 12 months within any 3 year period. This new rule will apply to applications postmarked on or after February 24, 2020. The new rule will NOT apply to currently pending applications with USCIS.

Excluded groups from the new public charge rule

Exemptions: Certain immigrants, including refugees, asylees, asylum seekers, survivors of trafficking (T visa), domestic violence (VAWA), TPS and SIJS holders, and other serious crimes (U visa) are NOT subject to the “public charge” test nor are people applying for US citizenship.

When is Public Charge Assessed?

A public charge assessment is made

- When a person applies to enter the U.S. either a US consulate or at a US port of entry after being outside of the US for more than 6 months or
- Applies to adjust status to become a lawful permanent resident (LPR)
- A public charge assessment is NOT made when a Lawful Permanent resident is applying for citizenship.

What information will be considered as a part of the new public charge rule?

Determination for public charge inadmissibility is based on assessment of all relevant factors

- Totality of the circumstances test: Officers look at applicants: Age, Health, Family status, Financial status, Education and skills and Affidavit of Support.
- Cash Assistance for income maintenance (SSI and TANF) Institutionalization for long-term care.
- Non-cash public benefits including, SNAP (otherwise known as Food Stamps), most forms of Medicaid (except emergency Medicaid), and various housing assistance including Section 8 Housing Assistance under the Housing Choice Voucher (HCV) Program and Section 8 Project- Based Rental Assistance.

Public Benefits NOT included

It will NOT look at:

<table>
<thead>
<tr>
<th>EITC (Earned Income Tax Credit)</th>
<th>School based nutrition or education programs</th>
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<td>APTC (Advanced Premium Tax Credit, or the Obamacare subsidies)</td>
<td>Emergency Medicaid (for immigrants without documentation)</td>
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<tr>
<td>WIC (Women, Infants, &amp; Children)</td>
<td>CHIP/CHP+ (Children’s Health Insurance Program)</td>
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<td>Community Health Clinic assistance</td>
<td>Energy Assistance</td>
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<td>Subsidized child care</td>
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Updated February 3, 2020
Public Charge Rule: Timeline

- March 2018 – Proposal to Office of Management and Budget
- September 2018 – Proposed rule published in Federal Register
- October 10, 2018 – 60-day opportunity for Public Comment starting when rule is published in the Federal Register
- December 2018 – August 2019 – Department of Homeland Security reviews and responds to all comments
- August 14, 2019 - Final rule on Inadmissibility on Public Charge ground published in the Federal Register
- February 24, 2020 – Final rule effective date for all applications postmarked or submitted online on or after this date.

Messaging to immigrant families

- Continue to use any benefits you are currently eligible for that help you and your family members become healthier, stronger, and thrive in the future. If the rule becomes final, it will not be retroactive, meaning the benefits you are using now will not count against you.
- The Public Charge test does not impact people who entered the United States as refugees, asylees, survivors of trafficking, domestic violence, and other serious crimes, VAWA self-petitioners, or special immigrant juveniles.
- The public charge test does not apply to lawful permanent residents who are applying for US citizenship.
- Consult with an immigration attorney or DOJ accredited representative BEFORE you travel outside the United States for 6 months or more.

Rights and Protections

- Individuals in a household can qualify for public benefits, even if some members of the household don’t qualify because of their immigration status.
- Personal information provided in a public benefit application can only be shared in ways that help run the public benefit programs – not for immigration enforcement.
- You can provide only the information necessary and should not misrepresent anything when completing public benefit applications or dealing with any government agency.

What you can do now

- If you have questions about whether you qualify for a public benefit, contact Denver Human Services or contact Denver Housing Authority to get more information.
- If you have questions about whether this new rule applies to you, contact an immigration attorney or DOJ accredited representative to speak with them about your situation.