



2019 Final Public Charge Rule FAQ

This information is for educational purposes only and is not intended to be or replace legal advice. If you think that you or your family may be impacted by the public charge rule, we encourage you to talk to an attorney.

What is Public Charge? Public charge is a decision made by immigration officials about whether an immigrant is likely to become primarily dependent on the government.

Does the 2019 Public Charge rule change eligibility to receive benefits? No. This does not affect or change eligibility for benefits.

When is it used? It is used when an individual applies for a visa, Legal Permanent Resident status (i.e., a green card) or a change in status (i.e. someone with a nonimmigrant visa seeking to extend their stay or change their status to a different nonimmigrant status). It is also used for Legal Permanent Residents (green card holders) who leave the United States for 180 days or more.

What happens if someone is determined to be a Public Charge? If someone is determined to be a public charge, their application to enter the U.S or adjust their status (i.e. visa to green card) is likely to be denied.

Is Public Charge new? No. Public charge determinations have been used since 1882. The current public charge rule has been the same since 1999.

What are the changes to the 2019 Public Charge rule? There are several important changes:

Definition of a Public Charge: Changes definition from “a person likely to become primarily dependent on government support in the future” to “a person who receives one or more public benefits for more than an aggregate of 12 months within any 36-month period.” Each benefit counts toward the 12-month calculation.

Public Benefits: Expands the public benefits factored into a public charge determination beyond federal, state and local cash assistance and institutionalization for long-term care paid for by the federal government.

Additional Factors: In addition to public benefits, immigration officials will also look at the applicant’s work history, medical conditions, age, income and assets, education level, family size and English proficiency.

What public benefits are included in the 2019 Public Charge rule?

- Any federal, state, local or tribal cash assistance for income maintenance;
- Supplemental Security Income (SSI);
- Temporary Assistance for Needy Families (TANF);
- Supplemental Nutrition Assistance Program (SNAP);
- Medicaid for non-pregnant adults over the age of 21;
- Section 8 Housing Assistance under the Housing Choice Voucher Program;
- Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation); and
- Federally-subsidized public housing.

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More information and resources are available for immigrants at www.fairfaxcounty.gov/topics/immigrants-fairfax-county

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Does Public Charge apply to all immigrants? No. It is not used in the naturalization process, through which Lawful Permanent Residents (i.e., green card holders) apply to become U.S. citizens. It does not affect applications for U.S. citizenship or green card renewal unless the green card holder leaves the U.S. for 180 days or more.

Immigrants exempt from public charge include refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; and certain people paroled into the U.S. Benefits received when people are in one of these statuses will not be counted against them. Active duty servicemembers, including those in the Ready Reserve of the U.S. Armed Forces, and their spouses and children are also exempt.

Are benefits received by other household members, including children, counted? No. The public charge determination only considers benefits in which the applicant is the direct recipient or listed beneficiary. For example, if the children receive benefits, it will not count against the parents.

What benefits are not included in the 2019 Public Charge rule? The following is a list of other benefits and programs that are not factored into public charge. This list is not exhaustive—only the benefits listed in the “What Public Benefits Are Included in the 2019 Public Charge Rule?” section are included in the 2019 public charge rule.

- Emergency Medicaid
- Services or benefits funded by Medicaid but provided under the Individuals with Disabilities Education Act
- School-based services or benefits provided to individuals who are at or below the oldest age eligible for secondary education as determined under state or local law (age 20 in Virginia)
- Medicaid benefits received by an individual under 21 years of age
- Medicaid benefits received by a woman during pregnancy and during the 60-day period beginning on the last day of the pregnancy.
- Women, Infant and Children Program (WIC)
- FAMIS/FAMIS Plus

In addition, programs like disaster relief, free and reduced school lunch programs, student and mortgage loans, energy assistance, unemployment insurance and Head Start are not included.

When does the 2019 Public Charge rule take effect? October 15, 2019. The rule does not consider health, nutrition and housing benefits that are used before October 15, 2019. It also does not apply to immigration applications filed before October 15, 2019.

Numerous lawsuits have been filed against the final rule. The court system will review these cases in early October. Court rulings may impact or delay the implementation of this rule.

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