



“Public Charge” and Benefit Programs

What is a “Public Charge”?

The term “public charge” is used by federal immigration officials to refer to an individual who is likely to become primarily dependent upon government-funded public benefits for subsistence. If the federal government determines that an immigrant is a “public charge,” immigration officials may deny their green card or visa application.

In a “public charge” test, a person’s age, income, health, education, career and English language skills are all considered. In addition, their sponsor’s affidavit of support and the individual’s use of public benefits are reviewed to determine whether the immigrant is a “public charge.” No single factor will make an individual a “public charge.”

Who will get a “public charge” test?

Individuals who apply for a green card (lawful permanent residence) or a visa to enter the U.S., or green card holders who leave the U.S. for more than 180 days, are subject to a “public charge” test. “Public charge” tests are **NOT** used for citizenship applications.

Who will NOT get a “public charge” test?

- Most lawful permanent residents (green card holders)
- VAWA self-petitioners (survivors of domestic violence)
- Certain applicants/recipients of U or T visas
- Applicants for Temporary Protected Status (TPS)
- Refugees and Asylees
- Special Immigrant Juveniles (SIJS)
- Applicants for U.S. citizenship
- Some other immigrants

What is the “New Rule” or “Final Rule” on “Public Charge?”

In 2019, the federal government increased the amount of public benefit programs considered in a “public charge” test in their “New Rule” or “Final Rule” on “public charge.” These changes went into effect on February 24, 2020.

These benefits are considered in a “public charge” test **ONLY** if they were used after February 24, 2020

- SNAP (food stamps)
- Federal Medicaid (**NOT** New York State Medicaid, the Essential Plan, Emergency Medicaid, H+H Options, Child Health Plus, or Medicaid for pregnant individuals and children under 21)
- Section 8 and public housing

A “public charge” test will look at use of these benefit programs before and after February 24, 2020

- Federal, state, local, or tribal cash assistance (TANF, SSI, general assistance)
- Institutionalized long-term health care (nursing homes) funded by any level of government

The benefits listed in this flyer are the only benefits considered in a “public charge” test. Use of any of these benefits does not automatically make someone a “public charge.” A family member’s use of benefits will not be considered in an individual’s “public charge” test.

What should I do?

If you are wondering if you should stop using public benefits, you should first consult an immigration attorney. For information and legal referrals call:

The New York State New Americans Hotline

1-800-566-7636

All calls are free and confidential. Assistance available in 200+ languages, Monday through Friday, 9 a.m. to 8 p.m. (except holidays)

newamericans.ny.gov

Update as of 03/13/20: USCIS has announced that immigrants can seek testing, treatment, and prevention of COVID-19 without fearing immigration consequences due to public charge. Asking for and maintaining records of treatment is strongly recommended.