

GOVERNMENT OF THE DISTRICT OF
COLUMBIA
Executive Office of Mayor Muriel Bowser



Office of the Deputy Mayor for Health and Human Services

Public Charge Rule Frequently Asked Questions for DC Residents

****Based on guidance from the U.S. Citizenship and Immigration Services (USCIS), the August 2019 Public Charge Rule is no longer being applied for pending applications as of March 9, 2021 or applications submitted or postmarked on or after March 9, 2021.****

Washington, DC celebrates our diversity and respects all DC residents no matter their immigration status. We are a sanctuary city because we know that our neighborhoods are safer and stronger when no one is afraid to call on our government for help, and when our police can focus on protecting and serving. One of our key values is making sure residents understand their rights and where they can go for questions or help, including about the public charge process.

The questions and answers below are designed to provide more information about the Federal Government's decision to [reverse](#) implementation of a final rule issued in August 2019 related to the public charge statutes and associated forms.

For all pending and new applications for admission or adjustment of status and applications for extension of nonimmigrant stay and change of nonimmigrant status USCIS has returned to the 1999 standards in place prior to the August 2019 change. This includes applications for new visa, visa renewals, and applications for lawful permanent residence status.

Please note: these FAQs should not be used as a substitute for legal advice. Individuals with questions about whether the public charge rule applies to them should seek the advice of an immigration attorney or reach out to the Mayor's Office of Community Affairs Immigrant Justice Legal Services (IJLS) Grantees for guidance. Their contact information can be found at <https://dc.gov/immigration-resources>.

1. What is the public charge test and to what programs does it apply?

Federal immigration officials use the public charge test for individuals seeking (i) admission or adjustment of status and (ii) extension of nonimmigrant stay and change of nonimmigrant status. This includes individuals seeking immigrant visas and for individuals seeking lawful permanent resident (LPR) ("green card" holder) status. The public charge test is intended to assess whether an individual, based on the totality of his or her circumstances, is likely to rely or depend on the U.S. government for assistance in the future. If the federal immigration authorities determine that an individual is likely to become a public charge, they may deny the individual's application for a visa or LPR status.

2. Why is the public charge test getting so much attention now?

In a final rule issued by the United States Citizenship and Immigration Services (USCIS) on August 14, 2019, the federal government changed the standards they would use to determine whether a visa or LPR applicant was likely to become a public charge. This included adding new types of public benefits to the list of what would be considered “assistance” in a public charge analysis. Additionally, under the revised standards, all applications for or receipt of public benefits would be considered negatively. The prior standard only considered being “primarily dependent on government support” as a negative factor¹. Implementation of the changes were delayed by federal court action, but ultimately the U.S. Supreme Court allowed USCIS to implement the changes for applications postmarked on or after February 24, 2020.

However, the federal government has now **reversed** position and returned to the 1999 standards in place prior to the August 2019 change. For all visa or LPR applications pending as of March 9, 2021, as well as new applications postmarked on or after that date, the federal government will apply the prior test of being “primarily dependent” on a more limited list of public benefits. Additionally, USCIS removed content related to the vacated 2019 Public Charge Final Rule from the affected USCIS forms and has posted updated versions of affected forms. For more information on the reinstated Public Charge guidelines, please see:

<https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge>

3. How long can a person use the old version of the forms?

USCIS published new versions of the affected forms on March 10, 2021. As of April 19, 2021, the agency will only accept the new forms. However, because the old forms ask for information that is no longer considered by USCIS, it is strongly encouraged that the new forms are used. For access to current and up-to-date USCIS forms please see:

<https://www.uscis.gov/forms/all-forms>

4. What are the public benefit programs that federal agencies will consider to determine whether an individual is a public charge?

Because the August 2019 rule has been removed and the 1999 guidance has been reinstated, the federal government will only consider being “primarily dependent” or receipt of the following public benefits as a negative factor:

- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- Medicaid-funded long-term care assistance
- Any federal, state, local, or tribal cash benefits for income maintenance, including the following:
 - Program on Work Employment and Responsibility (POWER),
 - Interim Disability Assistance (IDA), and
 - General Assistance for Children (GC).

5. Enrollment in which programs *will not* be considered negatively as part of public charge determination?

All other public benefits not listed in Question 4 ***will not*** be considered public benefits in a

¹ “Public Charge.” National Immigration Law Center. <https://www.nilc.org/issues/economic-support/pubcharge/>.

public charge determination. This includes:

- Medicaid benefits (not including long term care services and supports)
- Children’s Health Insurance Program (CHIP) benefits
- Locally-funded health coverage:
 - DC Healthcare Alliance Program
 - DC Immigrant Children’s Program
- Private health insurance, including:
 - Plans purchased through DC Health Link
 - Tax credits/subsidies received for such coverage
- Nutrition benefits:
 - Supplemental Nutritional Assistance Program (SNAP)
 - Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
 - Free and Reduced School Meals (School Breakfast & Lunch Program)
 - Public schools and programs offered through schools, such as after school (Out-of-School Time) programs and Summer Food Service
 - Disaster Supplemental Nutrition Assistance
- Housing programs:
 - Subsidized public housing
 - Section 8 Housing Assistance under the Housing Choice Voucher Program
 - Section 8 Project-Based Rental Assistance
- Head Start
- Healthy Start
- Pell Grants
- Social Security Disability Insurance
- Non-governmental non-cash services or aid, such as homeless shelters and food pantries
- DC Health clinics for sexually transmitted diseases and immunization clinics
- DC Health HIV/AIDS Housing and Supportive Services and AIDS Drug Assistance Program
- The Department of Behavioral Health’s Access HelpLine, available at 1(888)7WE-HELP/1-888-793-4357
- DC DMV Limited Purpose Driver License
- Language Access Services
- Emergency disaster relief
- Foster care and adoption assistance
- Job training programs
- Energy assistance such as the Low-Income Home Energy Assistance Program (LIHEAP).

6. I am a Lawful Permanent Resident (LPR) and have a green card. Will benefits I receive while in LPR status affect my application for citizenship?

The public charge test generally does not apply to individuals who are already LPRs, and nothing in the final rule changes this. However, there are some exceptions related to criminal activity, extended absences outside the country (longer than 180 days), or abandonment of LPR status where the public charge test would apply.

7. Does this public charge law impact everyone who wants to immigrate to the United States?

No. The following individuals are not subject to public charge determinations:

- Refugees, asylees, and individuals under Temporary Protective Status;

- Survivors of trafficking, domestic violence, or other serious crimes;
- Certain individuals who were victims of crimes or assisted the government in prosecuting a crime;
- Individuals who apply for special Immigrant Juvenile Status (SIJS) and those who are applying for adjustment of status base on SIJS.
- Certain international adoptees and children acquiring U.S. citizenship;
- Specific Afghan and Iraqi interpreters or nationals employed by or on behalf of the U.S. Government;
- Certain Cuban and Haitian entrants applying for adjustment of status;
- Certain Nicaraguan nationals and other Central American nationals applying for adjustment of status;
- Certain nationals of Vietnam, Cambodia, Korea, Thailand and Laos applying for adjustment of status;
- Non-immigrants seeking to attain or retain visas associated with International Organizations, Diplomatic Missions (embassies), or North Atlantic Treaty Organization (NATO); and
- Anyone else who successfully applies for and receives a waiver from the U.S. Department of Homeland Security.

8. If one of my family members is primarily dependent on a public benefit, will I be considered a public charge?

No. Public charge test only looks at the benefits received by the individual who is applying and does not take into account any benefits received by the individual's children or other family members.

9. Is there any chance that I can be deported for using public benefit programs now?

Yes, but it is very rare and will only occur if: (1) you were using cash assistance or Medicaid-funded long-term care within the first five years after immigration, (2) you or your sponsor were asked to pay for services used, and (3) you or your sponsor refused to pay.

10. What should individuals do if they are worried about becoming a public charge or about how the final rule affects their family?

Individuals with additional questions about being considered a public charge should seek the advice of an immigration attorney. You can also reach out to the Mayor's Office of Community Affairs Immigrant Justice Legal Services (IJLS) grantees. Their contact information can be found at <https://dc.gov/immigration-resources>.

11. Can I sponsor my family members if I use public programs?

While you can still petition to bring your family members to the U.S., if you are using public programs, you may not be able to file an "affidavit of support" to show that you can financially support them. If you have additional questions, you should seek the advice of an immigration attorney. You can also reach out to the Mayor's Office of Community Affairs Immigrant Justice Legal Services (IJLS) grantees. Their contact information can be found at <https://dc.gov/immigration-resources>.

12. I am undocumented. If I apply for public benefit programs for others in my household, including my children, can staff report me to immigration enforcement?

Under current law, information you share when you apply for public programs is not shared with the U.S. Citizenship and Immigration Services (USCIS) for immigration enforcement purposes; however, under federal law, for some programs the DC Government may be required to report denials due to immigration status to USCIS. If you apply for your child, you will only be required to provide information about your child's immigration status. If you are undocumented and applying on behalf of a child, you should not provide any information about your own immigration status. However, future rules may be imposed for LPR or visa changes that require states to share applications, determinations or receipt of benefits with the U.S. Department of Homeland Security.