

# Public Charge: What You Need to Know

## Main things you need to know:

- The public charge test does not apply to all immigrants. It mainly affects people applying for Green Card status through a family visa petition.
- Immigrants subject to the public charge test and their families can safely use many benefits, including food, housing, and medical assistance.

## What is the public charge test?

The public charge test applies to some immigrants when they apply for Green Card status or for a visa to enter the U.S. Under the test, immigration officials can turn down (deny) the Green Card or visa application if it appears likely that the applicant will become dependent on certain government benefits (will become a “public charge”) in the future.

Immigration officials must look at several things in the public charge test. These include

- the applicant’s income and resources (things the applicant owns)
- the applicant’s age and health
- the applicant's education and skills
- the applicant’s family status
- the affidavit of support filed for the applicant

Officials can also consider the applicant’s past use of certain benefits.

## Does the public charge test affect all immigrants?

No. It mainly affects people applying for Green Card status through the family visa petition (I-130) process.

Many immigrants are **not** subject to the public charge test. These include:

- asylees
- refugees
- self-petitioners under the Violence Against Women Act (“VAWA”)
- U visa holders
- T visa holders
- Special Immigrants from Iraq and Afghanistan
- people applying for Deferred Action for Childhood Arrivals (DACA)
- people applying for Temporary Protected Status (TPS)

## Does the public charge test apply to Green Card holders when they apply to become naturalized U.S. citizens?

No. There is no public charge test for Green Card holders when they apply for naturalization or renew their Green Cards.

However, Green Card holders who use benefits should try to limit trips outside the U.S. to less than 6 months (in a single trip). Green Card holders who use benefits and who have taken a trip outside the U.S. of over 6 months should get legal advice before applying for U.S. citizenship.

## What benefits will immigration officials consider in the public charge test?

Immigration officials will only consider the applicant’s use of:

- **Ongoing cash assistance.** This includes TANF, State Family Assistance (SFA), Aged Blind and Disabled (ABD) benefits, or Supplemental Security Income (SSI)

AND

- **Long-term care in an institution** (like a nursing home) paid for by the government

## **I heard officials could consider other benefits. Is that no longer true?**

Under a rule that went into effect in February of 2020, immigration officials could consider other benefits, including Medicaid and federal food stamps. **That rule was vacated (stopped) by the courts. It is no longer in effect.**

## **I am applying for a Green Card through a family visa petition. Are there any benefits I can safely use?**

**Yes.** It is safe for you to use:

- **Food assistance.** This includes federal food stamps, the state Food Assistance Program, WIC, school meal programs, and pandemic EBT cards.
- **Medical assistance.** This includes Washington Apple Health, Qualified Health Plans and tax credit to help pay for them, care at sliding fee scale clinics, and Charity Care. Testing, treatment, and vaccination for COVID-19 are also safe to use. *(The only medical assistance considered in the public charge test is long-term care in an institution, like a nursing home, paid for by the government.)*
- **Housing assistance.** This includes section 8, public housing, and rental assistance.

Immigration officials will not consider your use of any of these benefits when you apply for your Green Card.

## **I got a cash payment through the COVID-19 Immigrant Relief Fund. Will this hurt my case?**

No. Immigration officials will not consider your use of one-time emergency cash payments, such as the COVID-19 Immigrant Relief Fund in Washington State. Immigration officials will only consider use of ongoing cash assistance. Ongoing cash assistance includes SSI, TANF, SFA, and ABD. (See above.)

## **I get unemployment benefits. Will this hurt my case?**

No. Unemployment is based on your work history. It is not considered “cash assistance.” It is not counted in the public charge test.

## **Are COVID-19 stimulus payments counted in the public charge test?**

No.

## **Will immigration officials consider benefits my family members use?**

**Generally no.** Immigration officials will not consider your family members' use of medical, food, or housing assistance. Your family members can use these programs without fear.

Immigration officials can consider cash assistance that your family members use **if it is your family's only source of income**. If you have a family member getting ongoing cash assistance (for example, if you have a child who gets SSI), you should try to make sure your family has other income, such as income from a parent's job.

## **I'm afraid to use benefits. The rules keep changing.**

The rules probably won't change again soon. The government would have to go through a formal process to change the rules again. It would have to give notice to the community before any changes could take effect.



## Get Legal Help

### Contact Northwest Justice Project:

**Outside King County:** Call the CLEAR Hotline at 1-888-201-1014 weekdays from 9:15 a.m. - 12:15 p.m.

**In King County:** Call 2-1-1 for referral to a legal services provider weekdays from 8:00 am – 6:00 pm.

**Persons 60 and Over** can call CLEAR\*Sr at 1-888-387-7111 (statewide).

**Deaf, hard of hearing or speech impaired callers** can call CLEAR or 211 (or toll-free 1-877-211-9274) using a relay service of your choice.

Apply online with [CLEAR\\*Online](https://nwjustice.org/get-legal-help) - [nwjustice.org/get-legal-help](https://nwjustice.org/get-legal-help).

CLEAR and 211 will provide a free interpreter.

### Contact Northwest Immigrant Rights Project:

**Seattle Office** - serving Island, King, San Juan, Skagit, Snohomish, and Whatcom counties: 206.587.4009 or 1-800.445.5771

**Tacoma & South Unit (TSU)** – serving Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skagit, Skamania, Thurston, and Wahkiakum counties: 206.816.3893 or [TSUintake@nwirp.org](mailto:TSUintake@nwirp.org)

**Granger Office** - serving Adams, Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Yakima, Walla Walla, and Whitman counties: 509.854.2100 or 888.756.3641

**Wenatchee Office** - serving Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens counties: 509.570.0054 or 866.271.2084

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