

The New Public Charge Rule – What You Need to Know

Main things you should know:

- The public charge test does not apply to all immigrants. It mainly affects people who are applying for Green Card status through a family visa petition (I-130).
- Immigrants subject to the public charge test and their families can still use a number of benefits without problems.
- You can do things to help yourself in the public charge test. These include improving your job skills and increasing your household income if possible.

What has changed?

On February 24, 2020, the government started using a new public charge rule to decide certain applications for green card status. The new rule applies to applications filed inside the U.S. with U.S. Citizenship and Immigration Services (USCIS) and with U.S. consulates outside the U.S.

The new rule changes the public charge test by:

- Changing the definition of “public charge.”
- Expanding the types of benefits that immigration officials can consider in the public charge test.
- Providing new guidance about the factors immigration officers must look at.

Overall, the rule makes it harder for immigrants with limited and moderate incomes to get green card status.

There are a number of legal challenges to the new rule. The courts may stop USCIS from using all or part of the rule in the future. Here is what you need to know for now.

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 categories of immigrants are not subject to the public charge test. These include:

- asylees
- refugees
- self-petitioners under the Violence Against Women Act (“VAWA”)
- U and T visa holders, and
- Special Immigrants from Iraq and Afghanistan.

What benefits will immigration officials consider under the new rule?

Under the new rule, immigration officials will consider the following benefits used by the immigrant **on or after** February 24, 2020:

- cash assistance
- non-emergency Medicaid (except for Medicaid used by children under 21 and pregnant women)
- the federal food stamp program (also called “SNAP”)
- some subsidized housing programs, including section 8 and public housing

Are there benefits immigration officials won't consider?

Yes! Immigration officials will **not** consider the use of any programs other than those listed above. Many benefits are still safe to use. These include:

- any entirely state or locally funded programs (except for cash assistance), including the state Food Assistance Program
- emergency Medicaid
- Qualified Health Plans purchased on Healthplanfinder
- Washington Apple Health for children under 21 and pregnant women

Will immigration officials consider benefits used by an immigrant's family members?

No. Under the new rule, immigration officials will **not** consider a family member's use of benefits.

Is the use of benefits the only thing immigration officials consider in the public charge test?

No. Under the law, they must also look at several other factors. These include the immigrant's:

- income (money from work or other sources) and resources (things the immigrant owns)
- health
- education and skills
- family status (including the number of family members in the home)
- the affidavit of support filed on the immigrant's behalf

The new rule also requires immigration officials to consider other factors. These include serious health conditions, the immigrant's English skills, and the immigrant's age.

The new rule favors immigrants with higher household incomes. It disfavors immigrants with household incomes closer to, at, or under the Federal Poverty Level.

❖ In 2020, the poverty level for a family of four is \$26,200.

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 when they renew their Green Cards. However, Green Card holders who receive 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.

Where to get legal advice:

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 211 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.

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

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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