

## WHAT I NEED TO KNOW ABOUT THE NEW PUBLIC CHARGE RULE

The Trump Administration recently expanded what is known as the “public charge test” or “public charge” that applies to some immigrants seeking a green card in the United States. This fact sheet includes an overview of the rule and some important information we know as of September 2019. If you think this rule applies to you, it is important to speak with an immigration attorney if you have questions about how your situation might be affected by the new rule. You can find more legal information at [ilapmaine.org](http://ilapmaine.org).

### WHO IS AFFECTED?

Only some immigrants are affected by the public charge rule.

**This new rule does NOT apply to:**

- refugees, asylees, and people applying for asylum;
- survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders) and VAWA self-petitioners;
- special immigrant juveniles;
- certain people paroled into the United States;
- U.S. citizens and most lawful permanent residents; and
- people who applied for a green card before October 15, 2019.

**This new rule may apply to:**

- immigrants applying for a green card from inside the U.S. on or after October 15, 2019 who are not in an exempt category such as those listed above.

Immigrants who are applying for a green card from outside the U.S. are subject to different rules and should talk with an immigration attorney about their unique situation.

### WHAT IS CONSIDERED IN THE PUBLIC CHARGE DECISION?

Officials will take into account a variety of factors in deciding whether or not you are likely to be a public charge in the future. These include:

- age,
- health,
- income,
- financial assets,
- education and skills,
- the makeup of your family, and
- whether or not you use certain public benefits programs for 12 months in a 36-month period.

## WHAT PUBLIC ASSISTANCE PROGRAMS ARE CONSIDERED?

Under the current rule, those individuals primarily dependent on cash assistance for income maintenance are considered likely to become a public charge. Those programs are:

- Supplemental Security Income (SSI),
- Temporary Assistance for Needy Families (TANF), and
- comparable state or local programs such as General Assistance.

Also considered under the current rule is government-funded long-term institutionalized care (such as a nursing home).

Beginning on October 15, 2019 the new rule **will also apply a heavily negative weight to the use of the following new programs for 12 months in a 36-month period:**

- Supplemental Nutrition Assistance Program (SNAP);
- Medicaid (**except** for emergency Medicaid, coverage for children under 21 years old, pregnant women, and coverage for 60 days after delivering a baby); and
- Public Housing, Section 8 housing vouchers, and Project-Based Section 8.

If you receive 2 of these programs in a single month, that will count as 2 months total. For example, if you receive SNAP and Medicaid in January, that will count as two months of benefits toward your total. If you receive SNAP, Medicaid, and a Section 8 housing voucher in May and June, that is a total of six months of benefits toward your total. This is NOT retroactive, so the programs must be used after October 15, 2019 to count toward this total.

**\*\*\*\*Benefits used by U.S. citizen children or other family members not applying for a green card do NOT count against your public charge decision.\*\*\*\***

**There are many other programs that might help you meet your basic needs that are not included in this rule.** School food programs, food pantries, WIC, child care subsidies, “Obamacare” (ACA Insurance Marketplace subsidies), scholarships, hospital free care, shelters, and other programs not listed here are NOT a part of the public charge test and will NOT affect your green card application.

## WHAT SHOULD I DO IF I THINK THIS RULE APPLIES TO ME?

Everyone needs to make the best decision for themselves and their families. If you are receiving help through one of the public benefits programs in the public charge rule, you may decide to stop using them before you reach 12 months of benefits or you may decide you need to keep using them to stay healthy and safe. Talk to an immigration attorney to help make the best decision for your situation.

**\*\*Remember: the new rule does NOT go into effect until October 15, 2019. Due to court challenges, it could even be delayed further. If the public charge rule may affect you and you are using public benefits for health care, food, or housing, you do NOT need to stop using them until after October 15, 2019.\*\***

For more legal information, contact Immigrant Legal Advocacy Project (ILAP) at [ilapmaine.org](http://ilapmaine.org) or [207-780-1593](tel:207-780-1593).

For more information about public assistance programs, contact Maine Equal Justice at [mejp.org](http://mejp.org) or [866-626-7059](tel:866-626-7059).