

The information provided below is based on the Protect Immigrant Families Campaign's analysis of the final public charge rule on inadmissibility and is not legal advice. For information about a specific case, please contact an immigration attorney. You can find more legal information at ilapmaine.org. For more information about public benefit programs, visit mej.org.

CORE COMMUNITY MESSAGES

Fight fear with facts - KNOW YOUR RIGHTS. The public charge rule was designed to be confusing, complicated, and scary on purpose. You have rights in this country no matter where you were born. The more we know about our rights, the harder it is for the Trump administration to scare us. We encourage you to learn more about your situation before making decisions that may harm you or your family. You can talk to an immigration lawyer and learn more about what help is available for your family.

It's not over - we still have a chance to stop the rule. Legal experts are fighting this rule in the courts. There are several lawsuits moving forward, and Maine is a part of one. We still have a chance to stop this rule from moving forward. Follow organizations like the Maine Immigrants' Rights Coalition, ILAP, and Maine Equal Justice for updates.

****This public charge inadmissibility test does not apply to every immigrant.**** Exempt immigrants include: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; and certain people paroled into the United States. Benefits received when people are in one of these statuses will not be counted against them. **Lawful permanent residents (green card holders) are not subject to a public charge test when they apply for U.S. citizenship. Children and family members who are U.S. citizens can use benefits without affecting a public charge decision.**

Use of public benefits will not automatically make you a public charge. Immigration officials must look at all your circumstances in determining whether you are likely to become a public charge in the future. This includes your age, health, income, assets, resources, education/skills, family you must support, and family who will support you. Positive factors, like having a job or health insurance, can be weighed against negative factors, like having used certain benefits or having a health condition. Either way, you will have a chance to show why you are not likely to rely on certain benefits in the future.

This public charge test does not consider benefits used by family members. Most immigrants who are applying for a green card are not eligible for the benefits listed in the rule. And benefits used by eligible family members are not counted unless the family members are also applying for a green card. Health care, nutrition, and housing programs can help you and your children remain strong, productive, and stable. Talk to an immigration attorney to help decide how this rule affects your situation.

The rule does not consider any newly listed benefits that are used before October 15, 2019. Benefits that were previously excluded from the public charge test (such as Medicaid and SNAP) will only be considered if they are received after October 15, 2019. The new rule applies only to people whose green card application was filed (postmarked or submitted electronically) on or after October 15, 2019. Remember that using benefits now can help you or your family members become healthier, stronger, and more employable in the future.

Your personal information is protected. Federal and state laws protect the privacy of people who apply for or receive health care coverage, nutrition, economic support, or other public benefits. Benefit agencies may share information with other government agencies only for purposes of administering their programs, with limited exceptions. You can provide only the information necessary and should never misrepresent anything when completing public benefit applications or dealing with any government agency.

Background on Public Charge

What is public charge?

“Public charge” or the “public charge test” is used by immigration officials to decide whether a person can enter the U.S. or get a green card (Lawful Permanent Resident (LPR) status). In this test, officials look at all of a person’s circumstances, including income, employment, health, education or skills, family situation and whether a sponsor signed a contract (“affidavit of support”) promising to support the person. Officials can also look at whether a person has used specific benefit programs. **The public charge test does not apply to green card holders who are applying for U.S. citizenship.**

How are public charge decisions made?

Immigration officials look at all of a person’s circumstances to determine if the person is likely to:

- Depend on the government for cash assistance or long-term care *in the future*.
- Use one or more of the following benefits *in the future*:
 - Supplemental Nutrition Assistance Program (also known as SNAP, food stamps, or EBT)
 - Public Housing or Section 8 housing assistance
 - Medicaid (except for emergency services, children under 21, pregnant women, and new mothers (for 60 days))

There are many programs that are NOT considered in the public charge decision. These include free food programs at schools, staying at a shelter, free care at a hospital, using “Obamacare” (the ACA Insurance Marketplace), WIC, scholarship programs and many other programs. If you aren’t sure if a program is included, you can reach out to Maine Equal Justice at mejp.org or 1-866-626-7059.

Immigration officials consider the person’s age, health, family and financial status, education, and skills. If the immigration official determines that the person is likely to become a public charge *in the future*, the official can refuse to grant the person’s application to enter the U.S. or get a green card.

- **For immigrants applying from inside the US:** On August 14, 2019, the Trump administration published a new rule that changes the definition of “public charge” to a person who is likely to use one or more of the government programs listed above. The rule also adds specific details about how immigration officials will take into account the applicant’s income, health, age, education and family status. Immigration officials cannot start using the new rule until October 15, 2019.
 - Health, nutrition, and housing benefits included in the new rule and used before October 15, 2019 cannot be considered by immigration officials in a public charge test.
 - Programs used by your U.S. citizen children will not be used against you in the public charge inadmissibility test.
- **For immigrants applying from outside the US:** In January 2018, the U.S. State Department revised its Foreign Affairs Manual (FAM) section on public charge. The FAM provides guidance to government officers at U.S. embassies and consulates who decide whether to grant a person permission to enter the U.S. The new instructions do not change the definition of public charge but allow for consideration of other factors, such as the use of public benefits by applicants, their family members and/or their sponsors. **NOTE:** We anticipate that public charge decisions for immigrants applying from outside the U.S. may be updated to look more like the change from DHS.

CONTACT ILAP OR MAINE EQUAL JUSTICE FOR MORE INFORMATION
ilapmaine.org • mejp.org