

— DEFINING 'PUBLIC CHARGE' —

Inadmissibility for Immigration

CURRENT PRACTICE VS PROPOSED RULE



TAKE ACTION! SUBMIT A PUBLIC COMMENT

The Information that follows is on a **Proposed Rule**. You can **Take Action** to oppose the rule change by Submitting a Public Comment by December 10th, 2018 here:

<https://www.regulations.gov/document?D=USCIS-2010-0012-0001>



CURRENT PRACTICE

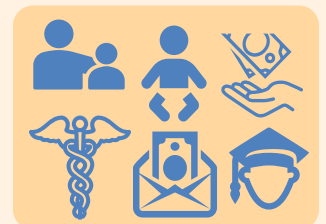
“Public Charge” means a person who is not self-sufficient, and may become primarily dependent on the government to meet their daily needs.

A denial of admission to the U.S., or denial of a green card, based on public charge is determined by the **consideration of all relevant factors**.

Factors Required by Law to be considered in a public charge determination include age, family status, assets, health, resources, financial status, education, and skills.

Two Kinds of Public Benefits are currently factored into a determination:

- **Cash Benefits: SSI, CalWORKs, or General Assistance**
- **Long-Term Care at Government Expense**



SOME IMMIGRANTS ARE EXEMPT

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Public Charge determinations are not considered for those who are exempt

- Refugees
- Asylees
- T-Visa Applicants
- Those applying for or holding U-Visas
- Self-Petitioners under VAWA
- Those applying or re-registering for Temporary Protected Status (TPS)
- Afghan and Iraqi Special Immigrants
- Special Immigrant Juveniles
- Individuals granted relief under:
 - Cuban Adjustment Act (CAA)
 - Nicaraguan and Central American Relief Act (NACARA)
 - Haitian Refugee Immigration Fairness Act (HRIFA)

Additional categories of immigrants are exempt. The proposed rule maintains these exemptions. This is a partial list for informational purposes only.

WHEN IS THIS DETERMINED?

Current Practice

- Applicant for permission to enter the U.S.
- Applicant for an adjustment of status to Lawful Permanent Resident [LPR] or "green card"



Proposed Rule

- Applicant for permission to enter the U.S.
- Applicant for an adjustment of status to Lawful Permanent Resident [LPR] or "green card"
- Applicant for extension of non-immigrant visa
- Applicant to change category of non-immigrant visa

PROPOSED: DEFINE FACTORS IN RELATION TO EMPLOYMENT



AGE: Are you the prime age for employment? (ages 18-61)



FAMILY STATUS: Are you a child or dependent, or do you have children or dependents? Having children or dependents may make you more likely to be a "public charge."



FINANCIAL STATUS: Have you requested or received any public benefits? Have you received any immigration fee waivers, and is your credit history strong? Do you have the financial means to pay for medical costs?



HEALTH: Do you have a health condition that could impact your ability to work? Do you have a disability that may lead to the use of public benefit programs?



ASSETS & RESOURCES: Do you have income of at least 125% Federal Poverty Level (FPL) [\$31,375 for a family of four]? This factor carries the most weight of all factors, and can help your application if you have financial assets.



EDUCATION & SKILLS: Do you have specialized skills or education in your field of work? Are you proficient in English?



PROPOSED: EXPAND PUBLIC BENEFITS CONSIDERATION

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"Primarily dependent on the Government," is proposed to be expanded to include the application for, use, or likely use, of **one or more publicly funded social benefit** programs. The proposed rule includes the following programs:

HEALTH

Subsidized Health Insurance:

Medicaid/Medi-Cal

CHIP/Medi-Cal (DHS is requesting comments about including CHIP)

Medicare Part D Low Income Subsidy



FOOD

SNAP/CalFresh



HOUSING

Section 8 Voucher Rental Assistance

Section 8 Project-Based Rental Assistance

Public Housing



NOT COUNTED

Public Education, Unemployment, Worker's Compensation, Medicare, Disaster Relief: Benefits that are connected to employment, education, or are available to the community as a whole are not considered



PROPOSED: WEIGHTED FACTORS

HEAVILY NEGATIVE

- Lack of Employability
- Receipt or Use of One or More Public Benefits within the Last 3 years
- Lack of Financial Means to Pay for Medical Costs

HEAVILY POSITIVE

Significant Income (greater than 250% Federal Poverty Level), Assets, and Resources



IMPACT OF PROPOSED RULE

Families who use common benefits for which they were eligible - such as health care, nutrition support, or housing assistance - **could have their receipt of benefits factored against them in an application for admission to the U.S. or a green card.** Families may be less likely to seek or accept support to keep their families healthy, nourished, and active in the community.

DHS notes in the proposed rule that poverty rates will likely increase for some families and children, and that there will likely be worsening public health outcomes, increased use of emergency and uncompensated care, and reduced productivity and educational attainment. These community consequences are not worth making life more difficult for immigrant families.

