

# PUBLIC CHARGE

September 13, 2020



## 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 or “LPR” status).

### APPLIES:

When you apply for a green card through a family or employment-based petition whether in the U.S. or at a consulate or embassy abroad.

### DOES NOT APPLY TO PEOPLE IN MANY STATUSES INCLUDING THE FOLLOWING:

- Refugees
- Asylees
- Survivors of domestic violence (VAWA)
- Victims of offenses/crimes (U Visa)
- SIJS (Special Immigrant Juvenile Status)

**PUBLIC CHARGE DOES NOT AFFECT US CITIZENS OR CURRENT GREEN CARD HOLDERS WHEN APPLYING FOR CITIZENSHIP**

## WHAT HAPPENED?

On **February 24, 2020**, a new “public charge” rule went into effect, allowing the government to change how it decides who can get a visa or a green card. To determine if someone will become a public charge, immigration officials will now look more closely at factors like health, age, household size, income, skills (including English language skills), and past use of an expanded list of public benefits (beyond cash assistance programs), including:

- Supplemental Nutrition Assistance Program (SNAP, “EBT” or “Food Stamps”)
- Federal Public Housing and Section 8 assistance
- Federally Funded Medicaid (except for emergency services, children under 21 years, pregnant women, and new mothers)

Services that are not listed above will not be counted in the new public charge test. This includes WIC, CHP, hospitals/clinics, school lunches, food pantries, shelters, and many more - these programs will not impact the public charge analysis and are safe for everyone to get if you are eligible. Receipt of benefits on behalf of children will not be counted against the individual in the new public charge test. Even if someone has not used these benefits, they could still be considered a public charge because of other factors mentioned above.

# ***WHAT IS THE LATEST FROM THE FEDERAL COURTS?***

**Make the Road New York**, along with partners and allies filed lawsuits against the use of these news rules in the U.S. and abroad. On January 27, 2020, the US Supreme Court allowed the new public charge rule to go forward for cases in the United States while the courts review the rules. The Second Circuit Court of Appeals is currently considering whether the public charge rule is lawful. In late July 2020, the court put a temporary pause of the public charge rule nationwide because of the impact of **COVID-19** crisis but on September 11, 2020, the pause was ended by the appellate court.

In our second case, the judge issued an injunction preventing the public charge rule from being applied to applications for visas made abroad!

We will continue to challenge this administration and its awful policies every step of the way!

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## ***WHAT SHOULD I DO?***

- Do not disenroll your child from benefits like health insurance.
- Visit Make the Road New York or talk with a trusted community organization for advice before you stop receiving any benefits.
- If you have already or are planning to submit a family-based petition for a green card, please speak to your attorney or to a trusted immigration legal services provider.

**VISIT: [MAKETHEROADNY.ORG](https://www.maketheroadny.org) OR CALL 866-365-2724 EXT 123**

Thank you!