



September 2022

# PUBLIC CHARGE GUIDE

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UPDATE: The Federal Government has issued a final public charge rule, which limits its application and removes barriers to accessing public benefits for most immigrants. The final rule is effective December 23, 2022.



This guide provides current information regarding federal changes to “public charge” determinations and the use of public benefits. The final rule limits federal immigration officials’ ability to consider receipt of public benefits in granting individuals entry into the United States or when they apply to become lawful permanent residents (also known as green card holders).

The federal government published the final rule on September 9, 2022. **The final rule takes effect on December 23, 2022.** Please visit the [US Citizenship & Immigration Services \(USCIS\)](#) website for updated information. For questions regarding this final rule and public charge more generally, a list of nonprofit organizations qualified to assist individuals is available on the [California Department of Social Services website](#).

## **IMMIGRANTS CAN NOW ACCESS HEALTH CARE, FOOD AND HOUSING SUPPORT, AND MANY MORE PUBLIC BENEFITS WITHOUT FEAR OF IMMIGRATION CONSEQUENCES.**

### **1. Most public benefits are excluded from consideration.**

The final public charge rule only allows the federal government to consider prior or current receipt of the following public benefits in its public charge review:

1. Supplemental Security Income (SSI);
2. Cash assistance for income maintenance under Temporary Assistance for Needy Families (TANF, called CalWORKs in California);
3. State, Tribal, territorial, or local cash benefit programs for income maintenance (often called “General Assistance”); or
4. Long-term institutionalized care at government expense. (for example, in a skilled nursing home).

### **2. Most immigrants DO NOT have to worry about public charge at all.**

Public Charge does not apply to everyone. Lawful permanent residents (green card holders) and many other immigrants are exempted from public charge. Exempt immigrant groups include, but are not limited to, refugees, asylees, Special Immigrant Visa holders, those applying for or re-registering for Temporary Protected Status, special immigration juveniles, T and U nonimmigrants (victims of human trafficking and certain other crimes), and self-petitioners under the Violence Against Women Act, as well as certain, Cuban and Haitian entrants. Under the final rule, certain individuals eligible for federal refugee resettlement benefits, including some recent Afghan and Ukrainian parolees, will still be subject to public charge, but won’t have the resettlement benefits they received considered.

### **3. Public benefits used by family members are NOT considered.**

Under the final rule, when the federal government reviews use of public benefits as part of its public charge determination, it will only consider those received by the person applying for the adjustment of status, either as a direct applicant or listed beneficiary of the benefit. This means that your family members accessing public programs will not be considered as part of your public charge determination. For example, the federal government would not consider cash assistance received by a U.S. citizen child, if the parent is seeking a green card through a family-based petition.



## **UNDERSTANDING THE NEW “PUBLIC CHARGE” POLICY.**

Under longstanding federal policy, the federal government may deny a noncitizen entry into the United States, or an adjustment to lawful permanent resident status (a green card), if he or she is determined likely to become a “public charge” (defined as someone who is primarily dependent on the government for subsistence) based on the totality of the individual’s circumstances. This determination includes several factors in addition to the receipt of public benefits, such as income, age, health, family status, education and skills, financial status, assets, and, when applicable, a supporting document from a sponsor (referred to as an affidavit of support).

The final public charge rule limits the types of public benefits considered, easing the barriers for lower-income immigrants to obtain green cards. DHS must consider other factors such as education, income, and an affidavit of support or posting a bond with the federal government. Therefore, an immigrant’s use of long-term institutional care at government expense or cash assistance for income maintenance will not automatically result in a determination that the applicant is likely to become a public charge.

### **Healthcare, food, and many other public benefits are NOT considered for purposes of public charge.**

The final rule clarifies that use of most public benefits programs will NOT be considered:

- CalFresh or SNAP
- School meals
- Medi-Cal or Medicaid (except in the case of long-term institutionalized care (also known as skilled nursing home care))
- Covered California subsidies
- Medicare
- Immunizations or testing/treatment for communicable diseases such as COVID-19
- In-Home Supportive Services Program
- Federal Public Housing and Section 8 assistance
- California’s Women, Infant & Children’s WIC Program
- Disaster assistance, pandemic assistance, utility assistance, childcare assistance
- Child Tax Credit (CTC) or Earned Income Tax Credit (EITC)

### **The new policy does NOT change eligibility rules for public benefits programs.**

The new policy does not change whether individuals can apply for and receive public benefits. To learn more about what public benefits you may be eligible for visit [your local services agency](#) or go to [BenefitsCal](#).

### **EVERY FAMILY IS DIFFERENT, REACH OUT FOR QUALIFIED LEGAL ADVICE.**

It is important for concerned individuals and families to know their rights and empower themselves with accurate information to understand whether the rule affects them or not. If you have questions, an immigration or public benefits attorney can give you advice based on the specific facts of your individual situation. If you or others have questions about a specific case, we encourage you to reach out to a qualified professional for legal advice.

**[A list of nonprofit organizations qualified to assist individuals is available on the California Department of Social Services website.](#)**



Get more information on the  
**Immigrant Guide website.**