



**KNOW YOUR RIGHTS**

# **PUBLIC CHARGE**

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## KNOW YOUR RIGHTS

# WHAT IS PUBLIC CHARGE?

- The “public charge” inadmissibility test has been part of federal immigration law for over a hundred years. It is designed to identify people who may depend on the government as their main source of support in the future.
  - If an immigration or consular official determines that someone is likely to become a “public charge,” the government can deny that person’s application for admission to the United States or an application for lawful permanent resident status (LPR status, also called a “green card”).

USCIS. *Public charge*, 2021

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CHARGE**

# WHO DOES THIS IMPACT?

The “public charge inadmissibility test” affects people applying for admission to the country or for lawful permanent resident (LPR) status.’

- It does not apply to humanitarian immigrants including refugees; asylees; survivors of domestic violence, trafficking and other serious crimes; special immigrant juveniles; and certain individuals paroled into the U.S

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## **WHO DOES THIS IMPACT?**

- Undocumented  Legal Permanent Resident ✓
- Undocumented  Humanitarian Visa Holder ✗
- Legal Permanent Resident  Citizen ✗

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# PUBLIC CHARGE TODAY



- In early March 2021, USCIS 2019 public charge rule was vacated, after the Biden Administration informed the Supreme Court that it will no longer defend the public charge rule issued by the Department of Homeland Security (DHS) under the Trump administration.

On March 15, USCIS also posted a notice declaring that it stopped applying the 2019 public charge rule to all pending applications and petitions on March 9th, and advising applicants that they no longer need to provide information or evidence that is solely related to the 2019 public charge rule

These changes, which implement USCIS' reinstatement of the 1999 field guidance, went into effect on March 9, 2021.

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# PUBLIC CHARGE TODAY

- What is the definition of a public charge under the 1999 Field Guidance?
  - Under the Guidance, a public charge is a person who is or has become (for deportation purposes) or who is likely to become (for admission/adjustment purposes) “primarily dependent on the government for subsistence, as demonstrated by either
    - (i) the receipt of public cash assistance for income maintenance or
    - (ii) institutionalization for long-term care at government expense.”



# WHAT ARE THE BENEFITS OF PUBLIC CHARGE?

- What public benefits are considered under the 1999 Field Guidance?
  - Programs that provide 'cash assistance for income maintenance'
    - Supplemental Security Income (SSI)
    - Temporary Assistance for Needy Families (TANF) cash assistance
    - State and local cash assistance programs that provide benefits for income maintenance (often called "General Assistance" programs)
  - Programs supporting immigrants who are institutionalized for long-term care (ex: nursing home or mental health institution). Medicaid is considered only if it is used to pay for long-term care.
- Most immigrants who are subject to public charge are not eligible for the benefits that count under the test, and many benefits are not considered in the public charge assessment.

# WHAT ARE THE BENEFITS OF PUBLIC CHARGE?

State and local programs that are similar to the federal programs listed above should also be excluded from consideration for public charge purposes.

- Note that states may adopt different names for the same or similar publicly funded programs.
  - In California, for example, Medicaid is called “Medi-Cal” and CHIP is called “Healthy Families.” It is the underlying nature of the program, not the name adopted in a particular state, that determines whether or not it should be considered for public charge purposes.

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# WHAT ARE THE BENEFITS OF PUBLIC CHARGE?

Past or current receipt of such cash benefits does not automatically determine you as a public charge.

- Rather, the use of these benefits are taken into account under the totality of your circumstances and situation.

Further, an alien need not repay benefits already received or withdraw from a benefit program in order to be eligible for admission or adjustment of status.



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# WHAT ARE THE BENEFITS OF PUBLIC CHARGE?

It is not possible to list all the supplemental non-cash benefits or special purpose cash benefits that an alien may receive that should not be considered for public charge purposes, but common examples include:

1. Medicaid and other health insurance and health services (including public assistance for immunizations and for testing and treatment of symptoms of communicable diseases; use of health clinics, short-term rehabilitation services, and emergency medical services)
2. Children's Health Insurance Program (CHIP);
3. Nutrition programs, including Food Stamps, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the National School Lunch and School Breakfast Program, and other supplementary and emergency food assistance programs;
4. Housing benefits;



# WHAT ARE THE BENEFITS OF PUBLIC CHARGE?

5. Childcare services;
6. Energy assistance, such as the Low Income Home Energy Assistance Program (LIHEAP);
7. Emergency disaster relief;
8. Foster care and adoption assistance;
9. Educational assistance, including benefits under the Head Start Act and aid for elementary, secondary, or higher education;
10. Job training programs; and
11. In-kind, community-based programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short term shelter).

## PUBLIC CHARGE

# IMPORTANT TAKEAWAYS

Most immigrants who are subject to public charge are not eligible for the benefits that count under the test, and many benefits are not considered in the public charge assessment.

Past or current receipt of such cash benefits does not automatically determine you as a public charge. Rather, the use of these benefits are taken into account under the totality of your circumstances and situation.



# QUESTIONS?

Contact Chicago Appleseed:

[ChicagoAppleseed.org](http://ChicagoAppleseed.org)

Where can you find more information?

Some resources:

- Enlace
  - Legal Clinic
  - Clinic Hours every Tuesday 3-5 pm
    - Ph: 773-893-0798





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YOU!**

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