



The 2026 Public Charge Rule: What Immigrant Communities and Advocates Need to Know

–September 2026–

A [new federal rule](#) governing “public charge” takes effect **September 18, 2026**. The public charge rule is used during the green card application process to determine whether a person is likely to become primarily dependent on the government for support. Under the new Public Charge rule, the types of benefits that can be considered for a public charge determination will be expanded and immigration officers will have broad new power to deny green cards to applicants who use certain public benefits like SNAP, Medicaid, housing assistance, or post-secondary education financial aid.

Based on the impacts of a similar and more limited rule implemented in 2019, we anticipate confusion, inconsistency, and a chilling effect that may discourage immigrants and even U.S. citizens from accessing various public benefits programs that they are entitled to, as well as discourage immigrants from applying for green cards for which they are eligible. As expected, [lawsuits](#) challenging the legality of the new Public Charge Rule have already been filed, but the rule will go into effect as these lawsuits proceed.

What does “Public Charge” mean?

“Public Charge” is a legal term for individuals who rely on government assistance to survive. If the U.S. government, through a public charge test, determines that an individual is likely to become a public charge, that person would be ineligible for a green card. The longstanding definition of public charge set forth in 1999 is someone who is “primarily dependent” on government cash assistance or government-funded long-term institutional care.

What is the new Public Charge Rule?

The new Public Charge Rule makes two important changes:

- **It changes which benefits count toward a public charge determination:** It removes the Biden-era criteria for identifying which benefits can count, and which ones do not count, in a public charge determination.



The current regulation opens the door to any means-tested public benefit and defines “a means-tested public benefit” as one based on income or assets falling below a certain threshold and provided by a government agency or with government funds. Earned benefits like Social Security, Medicare, or Unemployment Insurance are not considered means-tested public benefits.

Prior standards limited public charge to two specific public benefits: cash assistance (e.g. Supplemental Security Income, or Safety Net Assistance) and government-funded long-term institutional care (e.g. nursing home care if paid for by Medicaid).

- **It gives immigration officers making decisions about a green card application wide discretion to determine who is a public charge:**
The new Public Charge Rule instructs officers to assess individuals by “the totality of circumstances,”¹ which may include public benefits received by children or relatives for whom an individual is legally obligated to support.

What does this mean?

The new Public Charge Rule will be a radical shift in which benefits an applicant or family member uses are considered toward a public charge determination. It also gives individual immigration officers much broader discretion to make a public charge determination. We expect the change to have a chilling effect on the use of public benefits by citizens and non-citizens alike, and to deter families from using essential public programs. We also expect that individuals who are eligible for green cards may be discouraged from applying.

Which benefits will now be considered?

The new Public Charge Rule does not specify which benefits will be considered. Instead, the new Public Charge Rule allows immigration officers to make public charge determinations based on the receipt of (or mere application or certification for) *any*

¹ All information and evidence in the record that is relevant to assessing an alien’s likelihood at any time of becoming a public charge. May include means-tested public benefits, Affidavit of Support, medical information, dependant’s usage of means-tested public benefits.



means-tested public benefits instead of just the two narrow categories of cash assistance or government-funded long-term institutional care.

The following public benefits could be considered by USCIS after the new Public Charge Rule goes into effect:

- **Nutrition Programs**
 - Supplemental Nutrition Assistance Program (SNAP)
 - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
 - Benefits under the Emergency Food Assistance Act (TEFAP)
 - Child and Adult Care Food Program (CACFP)
 - Food Distribution Program on Indian Reservations (FDPIR)
- **Health Programs**
 - Medicaid, Children's Health Insurance Program (CHIP), Essential Plan, and health insurance through the Affordable Care Act
 - Home and community-based services (HCBS)
- **Housing Programs**
 - Public housing programs like Section 8
 - Home Energy Assistance Program (HEAP)
- **Education & Other Programs**
 - Head Start or Early Intervention
 - Post-secondary education financial aid
 - Child Tax Credit (CTC) or other tax-related cash benefits including Earned Income Tax Credit (EITC)

Which immigration statuses are exempt from the new Public Charge Rule?

The new Public Charge Rule only applies to individuals who are in the process of becoming LPRs (i.e., who are getting a green card). Public Charge may also apply to certain LPRs who leave the United States and then reenter, including those who were abroad for more than 180 days.



The new Public Charge Rule does not apply to individuals² filing for green cards who are applying on the basis of being:

- Asylees
- Refugees
- Survivors of domestic violence, trafficking, or serious crimes (VAWA, T visa holders, or U visa holders)
- Children or young adults with SIJ (Special Immigrant Juvenile classification)
- U.S. Citizens and LPRs who are renewing their greencard
- A full list of immigrant categories that are exempt and subject to the new Public Charge Rule is [available here](#)

Will prior use of benefits be used to determine if someone is a public charge?

Generally, no. Benefits used before September 18, 2026, will not be considered under the new Public Charge Rule. However, the continued use of benefits covered under the new Public Charge Rule after September 18, 2026, will be considered. Additionally, the continued use of cash assistance and long-term institutional care at government expense, as well as any other means-tested public benefits, or the authorization or certification for benefits, even if not actually received, can be used in a public charge determination. Applicants filing prior to September 18, 2026, will be subject to the previous Biden-era rule and only the use of cash assistance and long-term institutional care at government expense will be considered.

Can DHS consider a dependent's use of benefits on an individual's application?

Yes. The new Public Charge Rule allows DHS to consider the use of benefits by a "dependent", such as a citizen or noncitizen child, or other members of an individual's household, as well as the applicant's economic conditions during the period when the dependent was receiving the benefits. Additionally, if an applicant is using an Affidavit of Support, an immigration officer can take into consideration whether the individual providing support is receiving means-tested public benefits.

Individuals may still be able to apply for public benefits and a green card

² Individuals who are derivative visa holders of many of the categories below and attempting to obtain green cards for the first time should consult an immigration lawyer.



Public benefit eligibility is separate from the public charge rule, which is an immigration rule that only applies when individuals are applying for green cards. Many immigrants who use benefits are exempt from the public charge rule. Even green card applicants who are determined to be a public charge are not automatically denied a green card.

Immigrants and their families are able to apply for the benefits for which they are eligible while taking the new Public Charge Rule into account. In addition, individuals should not avoid applying for a green card simply because they or a family member receives benefits.

Consider consulting the resources provided below and contact an immigration attorney or qualified legal services provider for guidance on your individual case.

Where to go for help

For individuals and families who are unsure if the new Public Charge Rule will impact their ongoing cases, please contact your immigration attorney, or trusted legal contact. If you do not have an attorney, connect with trusted community organizations and legal groups.

In New York, you may call, or visit:

- The [New York City Mayor's Office of Immigrant Affairs' Immigration Legal Support Hotline](#) at (800) 354-0365
- The [New York State Office for New Americans Hotline](#) for legal assistance in your area at (800) 566-7636
- This [database](#) of low cost service providers
- You can also call 311 and say "Immigration Legal" to get connected to free, safe and confidential immigration legal assistance in your preferred language