



A NUTRITION ADVOCATE'S GUIDE TO PUBLIC CHARGE

On January 27, 2020, the U.S. Supreme Court set aside the preliminary injunction from New York that prevented the Department of Homeland Security (DHS) public charge rule from taking effect nationwide. This means that the public charge rule will go into effect on February 24, 2020, while litigation continues.

In the meantime, we need to begin educating immigrant families immediately, so they continue to access the nutrition services they need. The following is a guide for nutrition advocates to use when speaking to clients about the rule change.

What is Public Charge & Who Does it Affect?

“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 (LPR) status).

The use of public benefits alone will not make someone a public charge. In this test, officials must look at all of a person’s circumstances, including income, age, health, employment, education, skills, family situation, sponsorship, and use of public benefits, to determine if the person is likely to use one or more of the following benefits ***in the future***:

- TANF cash assistance
 - Supplemental Security Income (SSI)
 - Any other Federal, State or local cash benefit programs
 - Supplemental Nutrition Assistance Program (also known as SNAP or food stamps)
 - Federal Public Housing or Section 8 housing assistance
 - Medicaid including Medicaid used by individuals institutionalized for long-term care
- Medicaid used for emergency services, or by children under 21, pregnant women, and new mothers (for 60 days after birth) WILL NOT be considered.**

Positive factors, like having a job or health insurance, can be weighed against negative factors, like having used certain benefits or having a health condition. If the immigration official determines that the person is likely to become a public charge *in the future*, the official can refuse to grant the person’s application to enter the U.S. or get a green card.

Benefits that were previously excluded from the public charge test (such as Medicaid and SNAP) will only be considered if they are received after February 24, 2020.

In addition, the new rule applies only to people whose green card application was filed (postmarked or submitted electronically) on or after February 24, 2020. Applications dated before February 24, 2020 will be subject to the old public charge test which only considers the use of cash assistance (like TANF and SSI) and long-term care in an institution paid for by programs like Medicaid.

The public charge test does not consider benefits used by family members.

Most immigrants who are applying for a green card are not eligible for the benefits listed in the rule. And benefits used by eligible family members are not counted unless the family members are also applying for a green card. If an immigrant’s family members are eligible for and receiving public benefits, they do not need to disenroll.

The public charge inadmissibility test does not apply to every immigrant.

Exempt immigrants include: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; and certain people paroled into the U.S. Benefits received when people are in one of these statuses will not be counted against them.

Lawful permanent residents (green card holders) are not subject to a public charge test when they apply for U.S. citizenship. Green card holders who are receiving SNAP do not need to disenroll.

SNAP Recipients & Public Charge

People who are currently on SNAP do not need to disenroll. Currently, refugees, asylees, and Lawful Permanent Residents (LPRs) are among the only non-citizen individuals who are eligible to enroll in SNAP. **These groups of individuals will NOT be subject to the public charge determination.*** If you or a family member are currently receiving SNAP, you are likely to be unaffected by the change to the public charge test, and thus you do not need to disenroll from SNAP.

*The primary exception is a Lawful Permanent Resident who decides to leave the country for more than six months at a time after February 24, 2020. Immigration attorneys are advising people in this category not to leave the country before consulting with an attorney.

Nutrition Services NOT Included in Public Charge

Services that are not listed above will not be counted in the new public charge test.

This includes:

- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Children's Health Insurance Program (CHIP)
- National School Lunch Program (NSLP)
- School Breakfast Program (SBP)
- Child and Adult Care Food Program (CACFP)
- Summer Food Service Program (SFSP)
- The Emergency Food Assistance Program (TEFAP)
- And any private charity such as food banks, shelters, and many more

Regardless of immigration status, these programs are safe for any eligible person to access.

Every family is different. **If an immigrant has questions about their specific situation, they should consult an immigration attorney who is familiar with this issue.** For free or low cost options, visit: <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>



For more information, contact **Jamie Olson** at **281.794.8629** or jolson@feedingtexas.org