WHAT I NEED TO KNOW ABOUT THE NEW PUBLIC CHARGE RULE

The Trump Administration recently expanded what is known as the “public charge test” or “public charge” that applies to some immigrants seeking a green card in the United States. This fact sheet includes an overview of the rule and some important information we know as of February 2020. If you think this rule applies to you, it is important to speak with an immigration attorney if you have questions about how your situation might be affected by the new rule.

WHO IS AFFECTED?

Only some immigrants are affected by the public charge rule. The test applies 1) when an individual applies for admission to the U.S.; or 2) when a person applies for lawful permanent resident status (a green card).

This new rule does NOT apply to:

- refugees, asylees, and people applying for asylum;
- survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders);
- VAWA self-petitioners;
- special immigrant juveniles;
- certain people paroled into the United States; and
- people who applied for a green card before February 24, 2020.

This new rule may apply to:

- immigrants applying for a green card on or after February 24, 2020, who are not in an exempt category such as those listed above.

WHAT IS CONSIDERED IN THE PUBLIC CHARGE DECISION?

Officials will take into account a variety of factors in deciding whether or not you are likely to be a public charge in the future. These include:

- age,
- health,
- income,
- financial assets,
- education and skills,
- the makeup of your family, and
- whether or not you use certain public benefits programs for 12 months in a 36-month period.
WHAT PUBLIC ASSISTANCE PROGRAMS ARE CONSIDERED?
Under the previous rule, those individuals primarily dependent on cash assistance for income maintenance are considered likely to become a public charge. Those programs are:

- Supplemental Security Income (SSI),
- Temporary Assistance for Needy Families (TANF), and
- comparable state or local programs such as General Assistance.

Also considered under the previous rule is government-funded long-term institutionalized care (such as a nursing home).

Beginning on February 24, 2020, the new rule will consider **the use of any of the above benefits as well as the following new programs for 12 months in a 36-month period:**

- Supplemental Nutrition Assistance Program (SNAP);
- Medicaid (except for emergency Medicaid, coverage for children under 21 years old, pregnant women, and coverage for 60 days after delivering a baby); and
- Public Housing, Section 8 housing vouchers, and Project-Based Section 8.

If you receive 2 of these programs in a single month, that will count as 2 months total. For example, if you receive SNAP and Medicaid in March, that will count as two months of benefits toward your total. If you receive SNAP, Medicaid, and a Section 8 housing voucher in May and June, that is a total of six months of benefits toward your total. This is NOT retroactive, so the newly added programs must be used after February 24, 2020, to count toward this total.

****Benefits used by U.S. citizen children or other family members not applying for a green card do NOT count against your public charge decision.****

There are many other programs that might help you meet your basic needs that are not included in this rule. School food programs, food pantries, WIC, child care subsidies, “Obamacare” (ACA Insurance Marketplace subsidies), scholarships, hospital free care, shelters, and other programs not listed here are NOT a part of the public charge test and will NOT affect your green card application.

WHAT SHOULD I DO IF I THINK THIS RULE APPLIES TO ME?
Everyone needs to make the best decision for themselves and their families. If you are receiving help through one of the public benefits programs in the public charge rule, you may decide to stop using them before you reach 12 months of benefits or you may decide you need to keep using them to stay healthy and safe. Talk to an immigration attorney to help make the best decision for your situation.

For more information about public charge, contact the Immigrant Legal Advocacy Project at www.ilapmaine.org or 207-699-4416. For more information about public assistance programs, contact Maine Equal Justice at mejp.org or 866-626-7059.

*The information provided above is based on the Protecting Immigrant Families Campaign’s analysis of the final public charge rule on inadmissibility and is not legal advice.*