



# Public Charge

## What Is Public Charge?

Public Charge is a term used in immigration law to describe an individual who is dependent on the government. When determining if a person is likely to become a public charge, the Immigration and Nationality Act (INA) requires the government to consider a variety of factors, including the person's age, health, resources, family size, and education and skills. The statute does not include an official formula for weighing the various factors; rather, the Federal official has significant discretion in deciding whether to approve or deny an application.

## What does the final Public Charge rule do?

The final rule changes the definition of public charge from a person dependent on the government for financial and material support to "a person who uses or receives one or more specified public benefits for at least 12 months in a 36 month period." The Administration indicated that if a person uses more than one of the listed public benefits a month, then each benefit would count for a separate month (i.e. if a person is using both Medi-Cal and SNAP in one month, then it would count for two months).

The rule also creates new standards and definitions around the factors considered in the assessment of Public Charge and clarifies that receipt of or application for benefits on behalf of someone else does not constitute receipt of benefits.

## Who is subject to the Public Charge Assessment?

When an individual who is not exempt applies to enter the country or applies for legal permanent resident (LPR) status (i.e. green card) they will be subject to the Public Charge test. Once a person becomes an LPR, they will not be assessed for public charge when they apply to become a citizen. However, it is important to note that if somebody with LPR status leaves the country for more than 180 consecutive days (6 months), they will be assessed for public charge when they re-enter the country. *Please be aware that the Public Charge rule will not affect a majority of health center patients.* However, the chilling effect that arises from misunderstanding the final rule and its implications could lead many to cease accessing public benefit programs.

Many individuals residing in the U.S., including DACA recipients and people with TPS, would not be impacted by changes made to the public charge rule, as they generally are not eligible to apply for LPR status. However, these individuals may experience a change in circumstances, such as marrying a citizen, that would make them eligible for a green card, and therefore subject to the public charge rule.

Public charge does not apply to: Refugees, asylees, survivors of domestic violence, and victims of trafficking or other serious crimes, special immigrant juveniles, temporary protected status (TPS), and certain other groups.

## What public benefit programs are included in the final rule?

The public benefits in the rule include Medicaid (exemptions listed below), SNAP – which in California is referred to as CalFresh, Section 8 vouchers & project-based public housing, and cash assistance programs like CAPI, SSI and TANF. Please be aware that being enrolled in these programs, even if the recipient hasn't used the services, can be seen as a heavily weighted negative factor in the public charge assessment.

The following exemptions apply to the receipt of Medicaid benefits:

- Services received for an emergency medical condition
- Health benefits received by a person under 21 years of age
- Health benefits received by a woman during pregnancy and for 60 days after
- Benefits received by active duty or Ready Reserve members of the armed forces and their spouses and minor children
- Benefits received while a person was exempt from public charge

## Looking for more Resources?

\*\*Please visit [CPCA's Immigration Resource page](#) for more resources

New Public Charge Modules have been added to the CPCA Public Charge webpage including impact to food access, farmworkers, and media advocacy. You can find them [HERE](#).

[PIF resources](#): Core community messages for discussing public charge ([HERE](#)), PIF Resource on getting help you need ([HERE](#))

## Frequently Asked Questions

1. Does the final public charge rule include the health centers sliding fee scale as a factor to be considered?  
A: No. the rule does not mention the sliding fee scale so it will not be part of the public charge assessment.
2. Is WIC and/ or CHIP included in the final public charge rule?  
A: No neither CHIP nor WIC are included in the final rule. Unless a public benefit program is explicitly listed in the rule, you can assume it's an excluded benefit. This includes School-based nutrition services, Public education, including Head Start, ACA tax credits, EITC, and Medicare Part D subsidies.
3. Is Family PACT included in the final rule?  
A: Any optional benefit provided by a state for which they seek federal reimbursement under their Medicaid program will be included (programs like MyHealthLA and Medi-Cal expansion are excluded since they don't receive federal funding). Family PACT is part of the CA Medicaid program under a State Plan Amendment, thus it is included.
4. Is the Ryan White program or Title X included in the public charge rule?  
No. These programs are not explicitly mentioned in the rule, thus they are not included.
5. Does the rule include exclusions for the SNAP program similar to the Medicaid exclusions for children?  
A: No, there are no exclusions listed for SNAP, thus it can be included as a negative factor in the public charge assessment for children who are enrolled in the program.
6. When an individual is required to renew their green card will they be subjected to the public charge test?  
A: No. when a person renews their green card, they are not renewing their status they are renewing their ID (similar to a driver's license or state ID). However, if a person with LPR status (same as green card) leaves the country for more than 180 consecutive days (6 months), they will be assessed for public charge when they re-enter the country.
7. Are Advance Premium Tax Credits received under the ACA included in the rule?  
A: Receiving APCs is not a negative factor. However, it is a positively weighted factor to have private insurance, and ACA plans are considered private insurance only if you do not receive APTC.
8. Does this affect LPRs (green card holders) already here or individuals applying for citizenship?  
A: No, LPRs are not affected by this rule, unless they leave the country for 180 consecutive dates. Also, the public charge assessment is NOT conducted when a persons with LPR status seek to naturalize (become a citizen).
9. Would the use of benefits by family members impact the applicant when undergoing the public charge test?  
A: No. Only the use of benefits by the applicant will be assessed, except that child-only cash assistance may be attributed to parents if it is the household's primary source of support. So parents can continue to enroll their children into services without fear that it will impact their application.
10. When will the rule be implemented? How far back will the look-back be?  
The effective date of the rule is 60 days after release - October 15, 2019. The public charge test will assess the use of benefits in the 36 months prior to the green card application, however the use of benefits added by the rule will not be considered unless those benefits are used after the October 15<sup>th</sup> effective date.
11. What is the definition of public charge?  
A: Under the DHS rule, the definition is "a person who uses or receives one or more specified public benefits for at least 12 months in a 36 month period." If a person receives two benefits in one month it counts as 2 months of benefits. It is important to note that simply being enrolled in a program can count as 'use.'
12. Do you have any advice about what kind of information we should be providing to patients in our health center?  
A: We encourage you to create a resource corner where patients can obtain information. You can access updated factsheets and materials from CPCA's Immigration Resource page ([CPCA.org/immigration](http://CPCA.org/immigration)). We also encourage your staff to attend a training to better understand the rule and how to speak to patients. CPCA will be hosting trainings throughout the state, please keep an eye out for more information.