



## **LEGALLY BRIEF**

### **The New Public Charge Rule and COVID-19**

Under the Immigration and Nationality Act (INA), an individual may be excluded or removed from the United States if they are likely to become a “public charge”. The term “public charge” describes a test used to determine whether someone is likely to depend on public benefits in the future. It is one of multiple grounds of inadmissibility. These grounds are reasons why the U.S. government can determine if someone is inadmissible or someone that they would not allow to enter the United States or obtain lawful permanent residence (a “green card”).

Public charge mainly affects people who seek lawful permanent resident (LPR) status based on a family relationship. While there is no public charge test for naturalization, permanent residents who travel outside the U.S. for more than 180 days on a single trip may have to pass a public charge test when they seek reentry to the United States.

Many immigrants do NOT have to worry about public charge because they are exempt from or are eligible for a waiver. The most common groups of people who are not affected by the public charge ground include:

- Refugees and Asylees
- People with a U Visa, T Visa, VAWA or Special Immigrant Juvenile Status (SIJS)
- DACA and TPS applicants
- Applicants for U.S. citizenship (naturalization)
- U.S. Citizens
- People who were granted a waiver of public charge inadmissibility

#### **What Government Benefits are Part of the New Public Charge Rule?**

The list of public benefits considered in the new public charge rule include: cash assistance (SSI, TANF, General Assistance); long-term institutionalized care paid for by Medicaid; federally funded Medicaid programs; food stamps (SNAP); section 8 housing assistance and project-based rental assistance; or federal public housing.

**\*\*Generally, people applying for a green card (LPR) do not use these programs because they do not qualify.\*\***

#### **What Benefit Programs Are Not Considered?**

The following common federal benefits are NOT included in the public charge rule: emergency services; school-based benefits to children; Medicaid used by children under 21 years of age; Medicaid for pregnancy and up to 60 days after; WIC; school-based nutrition services like free or reduced meals; public education; emergency and disaster relief; earned benefits, such as unemployment, social security retirement, worker’s compensation; tax credits; and benefits used by family members.

If you think you are using a benefit that could be a problem, please contact staff attorney Jocelyn Alday at [jalday@icadvinc.org](mailto:jalday@icadvinc.org) for guidance.

## **COVID-19 and the Public Charge Rule**

On March 13, 2020, the U.S. Citizenship and Immigration Services (USCIS) announced that immigrants who receive treatment for COVID-19 are exempt from the public charge rule, even if these services are provided by federally funded Medicaid. “To address the possibility that some [immigrants] impacted by COVID-19 may be hesitant to seek necessary medical treatment or preventive services, USCIS will neither consider testing, treatment, nor preventive care—including a vaccine, if one becomes available—as part of a public charge inadmissibility determination.” Furthermore, immigrants who rely on other public benefits such as food stamps, subsidized housing and supplemental income during the COVID-19 outbreak will be able to provide an explanation and supporting documentation for USCIS to consider in its public charge test.

For more information on the public charge rule, visit <https://www.uscis.gov/greencard/public-charge>.