

Understanding the Federal “Public Charge Rule”

Expanded rule will go into effect on October 15, 2019

The U.S. Department of Homeland Security recently finalized a rule which will make it easier to deny an immigrant’s application to enter the United States, obtain a visa, or adjust their immigration status (e.g., receive a Green Card) on the grounds that they are likely to become a “public charge.” The rule has the potential to spread fear and confusion among immigrant communities who may wish to access public assistance. It has also prompted questions among county staff and other service providers who administer benefits. This document addresses common questions related to the rule and provides information about data privacy protections for people enrolled in public benefit programs.

What is “public charge?”

If an immigrant applies to enter the United States, obtain a visa, or adjust their immigration status, immigration officials determine whether the applicant is likely to use certain public benefits. Currently, the use of cash assistance programs (like Supplemental Security Income or Temporary Assistance for Needy Families) and publicly-funded long-term care could deem somebody a “public charge” and cause their application to be denied.

What does the rule change?

The Department of Homeland Security’s new rule expands the list of benefits that would be considered during public charge determinations. **In addition to cash assistance and publicly-funded long-term care, the following benefits would also be considered:**

- **Certain non-emergency Medical Assistance (Medicaid) benefits**
- **Supplemental Nutrition Assistance Program (SNAP) benefits**
- **Certain housing benefits** (including Section 8 Housing Choice Voucher Program assistance, Section 8 Project-Based Rental Assistance, and Public Housing)

Under the new rule, immigration officials would consider the amount of benefits that an immigrant has used, how long they used them, and other factors such as age, income, education, and health status.

When does the rule go into effect?

The rule is scheduled to take effect on October 15, 2019. However, Minnesota has joined a multi-state lawsuit which will likely delay its implementation. **It is important to know that the rule is not retroactive, therefore, the use of any Medical Assistance, SNAP, and housing benefits before October 15, 2019 will not count against an applicant.**

What if family members receive benefits?

Under the rule, **only benefits received by the individual applying for admission to the United States or a change in immigration status would be taken into account.** Benefits received by other family members, such as citizen children, are not counted against the applicant.

Which immigrants will NOT be affected by the rule?

The rule does not apply to the following immigrants:

- Lawful permanent residents who apply to become U.S. citizens or renew their Green Cards
- Refugees, asylees, immigrants from certain countries, humanitarian parolees, victims of human trafficking, certain victims of criminal activity, special immigrant juveniles, individuals applying for or renewing Temporary Protected Status (TPS), and other “humanitarian” groups
- Although non-citizens who are members of the U.S. armed forces, serve in active duty, or serve in any of the Ready Reserve components are still subject to a modified public charge determination, their use (or their family’s use) of benefits will not be considered.

Which public benefits will NOT be considered under the rule?

Healthcare:

- Medical Assistance accessed by immigrants under age 21 and pregnant women
- Certain emergency Medical Assistance benefits
- School-based Medical Assistance benefits
- Medical Assistance benefits under the Individuals with Disabilities Education Act (IDEA)
- Medical Assistance for foreign-born children of U.S. citizens with pending citizenship
- MinnesotaCare
- Advanced premium tax credits and premium tax credits (i.e., subsidies for private health plans through MNsure)¹

Nutrition:

- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Richard B. Russell National School Lunch Act, including Seamless Summer Option, Afterschool Meal Supplement, Special Milk Program, Child and Adult Care Food Program, Summer Food Service Program, and the Fresh Fruit and Vegetable Program

Childcare:

- Head Start
- Child Care Assistance Program (CCAP)

Housing:

- Low-Income Housing Tax Credits
- Low-Income Home Energy Assistance Program (LIHEAP)

¹ Advance premium tax credits and premium tax credits are not considered a public benefit under the rule. However, anyone applying for financial assistance through MNsure is first screened for Medicaid eligibility. Such eligibility screenings may need to be reported or explained to immigration officials.

- Section 515 rural housing
- Section 514/516 farm labor housing
- Use of homeless shelters
- State and Federal homelessness programs
- State housing assistance and subsidy programs
- Federal housing assistance and subsidy programs other than those listed in the definition of public benefit above

Disability Benefits:

- Social Security Disability Insurance (SSDI)

Human Rights:

- The public charge rule does not change any of the services the Minnesota Department of Human Rights provides.

Higher Education:

- Federal Pell Grant program for postsecondary students

State and federal laws protect the privacy of people who access public benefits.

Information about applicants and beneficiaries can only be used for administering benefits and cannot be shared for the enforcement of immigration laws. **State, county, and tribal workers should not share information about an individual's immigration status or use of benefits. If you receive a request to do so, please contact your supervisor.**

How can I address questions and concerns?

If someone you serve has questions about how this rule could affect immigration status or benefits, they can contact a Legal Aid office at 1-800-292-4150 from 8:30 am to 4:30 pm, Monday - Friday (www.lawhelpmn.org) or an immigration attorney.

The information in this document was compiled by the Council for Minnesotans of African Heritage, Council on Asian Pacific Minnesotans, MNsure, Minnesota Council on Latino Affairs, Minnesota Department of Education, Minnesota Department of Health, Minnesota Department of Human Rights, Minnesota Department of Human Services, Minnesota Housing Finance Agency, and Minnesota Office of Higher Education. The content of this FAQ sheet is identical to the Public Charge FAQ content distributed by any of these state agencies.