



Fact Sheet: Public Charge

(Current as of March 18, 2021)

On March 9, 2021, the [Biden administration announced](#) that it would not defend the Trump administration's "public charge" rule change. Following this announcement, the [Department of Homeland Security \(DHS\) announced](#) that the Department of Justice (DOJ) would no longer defend the 2019 public charge final rule.

What is public charge?

Public charge is a test for immigrants coming to the United States and for some immigrants in the United States who are applying for a green card for the first time. It is a test to see if they will need public benefits in the future.

"Public charge" dates back at least to the Immigration Act of 1882. In 1996, the term was defined as someone who is "primarily dependent" on government assistance, meaning it supplies more than half their income.

What do the March 9, 2021 announcements mean for public charge?

As of March 9, 2021, the [1999 public charge rule](#) (the policy in place before the 2019 public charge rule change) is now again in effect. The 2019 expansions of the "public charge" rule are no longer in effect.

Form I-944, Declaration of Self Sufficiency, is no longer required and should not be submitted when filing Form I-485 (for green card).

(For a detailed list of benefits, please refer to the table below.)

What is the current public charge test?

The "public charge" test is applied to individuals entering the United States by obtaining a visa at a U.S. consular office abroad; when someone inside the United States applies to adjust status to become a lawful permanent resident (green card holder); or when a green card holder leaves the United States for more than 180 consecutive days (6 months) and re-enters.

The petitioner (the person applying for their family member to immigrate to the United States) is required to file an Affidavit of Support (Form I-864), a legally enforceable contract, to show that their family member will not depend on government benefits for their future financial support. The Affidavit of Support is in place until the immigrating family member becomes a United States citizen or is credited with 40 quarters of work (usually 10 years).

Who is impacted by the public charge test?

The public charge test is given to individuals:

- Entering the United States by obtaining a visa at a United States Embassy or Consulate abroad;
- When someone inside the United States applies to adjust status to become a lawful permanent resident (green card holder); or
- When a green card holder leaves the United States for more than 180 consecutive days (6 months) and re-enters.

Who is not impacted by the public charge test?

The public charge test **does not apply** to:

- U.S. citizens,
- Lawful permanent residents (green card holders) applying for citizenship;
- Refugees and asylees adjusting status;
- VAWA self-petitioners,
- U and T visa applicants,
- Special immigrant juveniles, and
- Certain other groups of non-citizens.

Though some immigrants fall under the exempt category, they may not pass the public charge test when they apply for relatives to reunite with them in the future. Please consult an immigration attorney to determine if you may be impacted.

Get Help: The Immigrant Law Center of Minnesota (ILCM) provides free immigration legal services to low-income immigrants in a variety of immigration matters. For more information about how we can assist you, please visit our website at www.ilcm.org or call us at (651) 641-1011.

Benefits included in Public Charge test	Benefits excluded
<ul style="list-style-type: none"> • Minnesota Family Investment Program (MFIP) • Supplemental Security Income (SSI) • General Assistance • Medical Assistance for long-term care 	<p>The following benefits are <u>not included and will not be counted:</u></p> <ul style="list-style-type: none"> • Emergency Medical Assistance • Disaster Relief • School lunch or school breakfast programs • Foster Care and adoption • MinnesotaCare • Head Start • Entirely state, local or tribal-funded programs (other than cash assistance) • Earned Income Tax Credit or Child Tax Credit • Subsidized Health Insurance Under the Affordable Care Act • Special Supplemental Nutrition Program for Women, Infants and Children (WIC) • Child Health Insurance Program (CHIP or SCHIP) • Energy Assistance • Unemployment • Student loans and state and federal scholarships • Non-cash TANF benefits • Advance premium tax credits under the Affordable Care Act • Transportation vouchers or non-cash transportation services • Benefits received by immigrant’s family members • Benefits received by active duty service members, military reservists and their spouses and children