

Frequently Asked Questions: Changes to the Public Charge Rule and Public Benefits

This information is current and accurate as of August 11, 2021.

1. What is public charge?

Public charge is a term used in immigration law to describe someone who is likely to rely on government benefits for support.

“Public charge” is a test used by US Citizenship and Immigration Services (USCIS) to decide who they will allow into the United States, who can renew certain temporary visas, and who can get Lawful Permanent Residency (LPR)—also known as a green card. **NOTE: Public charge does not apply to LPRs petitioning to become naturalized U.S. citizens.**

2. When does the federal government use the public charge test?

Public charge applies to a limited number of legal immigration statuses, see question #10, and only at specific points on the immigration pathway.

Generally, the public charge test is applied when someone:

- Applies to enter the U.S.
- Applies to adjust their immigration status to become a LPR
- Is a LPR and is reentering the country after leaving the U.S. for more than six consecutive months

3. Has the public charge rule changed?

In 2019, under the Trump Administration, the federal government expanded the list of programs that may be considered under the public charge test. However, in 2021, the Department of Homeland Security (DHS) **rescinded** the public charge rule implemented in 2019.

NOTE: As of August 2021, the Biden Administration is looking at updates to the public charge rule that would reduce immigrants’ fear of accessing public benefits in the future. The Office of Policy will closely monitor and provide updates as appropriate.

4. What does this mean for immigrants?

- Immigrants can safely use the health, nutrition, and housing programs that they and their family qualify for.
- Immigrants’ use of a Medi-Cal, CalFresh, public housing, or Section 8 voucher rental assistance will **NO LONGER** be considered when applying for LPR status or entry into the United States.
- Immigrants’ medical treatment or preventive services for COVID-19, including vaccines, will **NOT** be considered for public charge purposes.

5. Which programs will continue to be considered in the public charge test?

If you apply for LPR or entry into the country, the **only programs** considered under the public charge test are:

- Cash assistance programs, such as CalWORKs, General Assistance (GA), and Supplemental Security Income (SSI)
- Institutional long-term care paid for by Medi-Cal

Use of these benefits alone will not lead to an automatic determination that you are likely to become a public charge. It is just one factor of several considered when making a determination.

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- 6. I heard that if I receive CalFresh, it could be harder for me to obtain my LPR. Is that true?**
No. CalFresh benefits are not considered in the public charge test.
- 7. I heard that if I receive Medi-Cal, it could be harder for me to obtain my LPR. Is that true?**
No. Medi-Cal benefits are not considered in the public charge test.
- 8. I heard that if I live in public housing or receive a housing voucher or other rental assistance, it could be harder for me to obtain my LPR. Is that true?**
No. Living in public housing, receiving a housing voucher, or other rental assistance is not considered in the public charge test.
- 9. What if I do not receive any benefits but my children do. Will their use of benefits impact my application for LPR?**
No. Benefits received on behalf of children will not impact an individual's application for LPR.

10. Does the final public charge rule apply to all immigrants?

No, the following is a list of categories that are exempt:

- Naturalized U.S. Citizens
- Lawful Permanent Residents
- Refugees and Asylees
- Special Immigrant Juvenile Status
- U-Visa and T-Visa Holders
- Violence Against Women Act (VAWA) Self-Petitioners
- Deferred Action Childhood Arrivals (DACA)
- Temporary Protected Status (TPS)
- Afghan and Iraqi Special Immigrants
- Individuals granted relief under:
 - CAA
 - NACARA
 - HRIFA

Each immigration case is unique. The Social Services Agency (SSA) continues to encourage clients and members of the public to contact the Bay Area Legal Aid FREE Legal Advice Line at 1 (800) 551-5554, if they have questions about how the use of public benefits may impact their immigration status. Support is available in all languages.

- 11. Is the public charge test used if an individual applies for naturalization (citizenship)?**
No. The public charge rule does not apply to applications for naturalization (citizenship).
- 12. I have questions about my immigration status and whether to apply for public benefits. Who should I talk to about my questions?**
The Social Services Agency encourages individuals and families to seek advice from reputable non-profit immigration service providers including but not limited to the following referrals:
- Asian Pacific Islander Legal Outreach (510) 251-2846
 - Bay Area Legal Aid 1 (800) 551-5554 or (510) 250-5270
 - Catholic Charities of the East Bay (510) 768-3100
 - Centro Legal De La Raza (510) 437-1554
 - East Bay Community Law Center (510) 548-4040

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- International Institute of the East Bay (510) 451-2846 x 301

13. Has eligibility for public benefits changed?

No. The rules for California's public benefits and services have not changed. Eligibility requirements remain the same for individuals and families. The Social Services Agency will continue to process all applications and renewals and provide benefits to eligible individuals and families just as they did prior to the new public charge rule.

14. What does this mean to individuals and families who are currently receiving public benefits and have pending immigration cases? What should they do?

Each immigration case has a unique set of circumstances, no two cases are the same. Individuals and families should be referred to speak with a reputable immigration attorney. **At no time should the Social Services Agency staff provide any legal guidance to individuals and families.**

15. Individuals and families are concerned about the privacy of their information. How is the information they provide used by the Social Services Agency?

The Social Services Agency uses the information provided only to see if individuals and families are eligible for benefits. The federal government does not have access to the Agency's systems for immigration enforcement action. The Social Services Agency may need to verify the information provided on a public benefit application with the federal government, but only to confirm eligibility to receive services. The Agency does not share any information about household members who are not applying for benefits, just the information provided about a financial sponsor.

16. Will discontinuing benefits remove case information from the CA Department of Social Services computer systems?

No. State and local computer systems keep a record of all cases, so the Social Services Agency will continue to have the information on file.

17. Where can individuals find additional information on public charge?

- [California Department of Social Services](#)
- [County Welfare Directors Association of California](#)
- [National Immigration Law Center](#)
- [CA Immigrant Policy Center](#)

18. Will information on the public charge rule continue to be shared?

Yes. Visit the Agency's Immigrant Relations website for updated [immigration resources](#). View the [Public Service Announcement on public charge](#) for additional information.