



Frequently Asked Questions – Public Charge *Last updated August 21, 2019*

None of this information constitutes legal advice. This is preliminary information and may be updated as additional information becomes available.

Background: On August 12, 2019, the U.S. Department of Homeland Security announced that it has finalized the new public charge rule. The new rule will take effect October 15, 2019; it is not retroactive. Changes include, but are not limited to, expanding the kinds of public benefits considered in the public charge test. Under the current rule, the only public benefits considered when determining who is likely to become a “public charge” are cash-assistance programs and Medicaid-funded long-term care.

The new rule expands the list of benefits to include nutrition assistance (Supplemental Nutrition Assistance Programs); housing assistance (public housing and Section 8); and non-emergency Medicaid for non-pregnant adults 21 and older.

Eligibility rules for public benefit programs in Oregon have *not* changed and many immigrants are exempt from public charge (both under the current *and* new rule). We realize this federal change may cause concern and confusion for Oregonians who use affected public benefits. We hope that this information clarifies who is affected by public charge and how to get help if needed.

What is public charge?

“Public charge” or the “public charge test” is used by immigration officials to decide whether a person can enter the United States or get Lawful Permanent Resident (LPR) status (i.e., a green card).

How are public charge decisions made?

Under the current rule, immigration officials look at all a person’s circumstances to determine if the person is likely to depend on the government for cash assistance or long-term care *in the future*.

As of October 15, 2019, under the new rule, immigration officials will also look at use of one or more of the following benefits:

- Supplemental Nutrition Assistance Program (SNAP).
- Public housing or Section 8 housing assistance.

- Non-emergency Medicaid for non-pregnant adults 21 and older (excludes new mothers for 60 days post-partum).

Immigration officials consider the person's age, health, family and financial status, education, and skills. If the immigration official determines that the person is likely to become a public charge *in the future*, the official can refuse to grant the person's application to enter the United States or get a green card.

Who is affected by public charge?

Public charge is considered *only* for people applying to:

- Enter the United States.
- Extend their visa (i.e., they are already in the United States).
- Adjust their status to become a Lawful Permanent Resident (i.e., a green card holder).
- A green card holder who leaves the United States for more than 180 consecutive days and re-enters.

Who is not affected by public charge?

- U.S. citizens — both those born in the United States and those who have naturalized.
- Immigrants with lawful permanent residency (i.e., green cards) including those applying for U.S. citizenship.
- Immigrants who are in the United States for humanitarian reasons. For example, immigrants with the following statuses are exempt from public charge:
 - Refugee.
 - Asylee (including those in the process of applying).
 - Temporary protected status.
 - Violence Against Women Act self-petitioners, with some exceptions.
 - T or U visa holders, in general.
 - Special immigrant juveniles.
 - Certain parolees, and several other categories of non-citizens.
- Active military service members and their families.

What public benefit programs offered in Oregon are affected by the current public charge rule?

- Federal, state or local cash assistance programs including Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF).
- Medicaid-funded long-term care.

What public benefit programs offered in Oregon will likely be affected by the new public charge rule?

- Non-emergency Medicaid for non-pregnant adults 21 and older.
- Supplemental Nutrition Assistance Program (SNAP).
- Federal, state or local cash assistance programs including Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF).

- Section 8 Housing Rental Assistance (housing choice vouchers).
- Project-Based Section 8 housing and subsidized housing.

Is emergency Medicaid (i.e., Citizen Alien Waived Emergent Medical, or CAWEM) included in the new rule?

No.

What other public benefit programs offered in Oregon are not impacted by the new rule?

- Oregon's Cover All Kids program.
- Most services offered by Oregon's Reproductive Health program.
- Medicaid programs available to those younger than 21 or who are pregnant (including 60 days postpartum).
- Medicaid-covered special education services funded by the Individuals with Disabilities Education Act (IDEA).
- The Children's Health Insurance Program (CHIP).
- Women, Infants and Children (WIC) supplemental nutrition program.
- Commercial health insurance premium subsidies offered through Oregon's Health Insurance Marketplace.
- School-based health services.
- Free and Reduced School Lunch program (please note that referral to this program through SNAP would be considered under the new rule).
- Older Americans Act programs.
- State-funded programs to assist older adults and people with disabilities such as the Oregon Project Independence program.
- Medicare Part D Low Income Subsidy (LIS).

What should people know about the public charge?

- Many immigrants are not affected by public charge.
 - Many are exempt, such as refugees and asylees.
 - Benefits used by family members will not be counted, unless they are also applying for a green card.
- Eligibility rules for public benefit programs such as the Oregon Health Plan have not changed.
- The new rule does not take effect until October 15, 2019, and is not retroactive.
 - It applies only to applications submitted on or after October 15, 2019.
 - Having been enrolled in any of the newly affected public benefit programs *prior to* October 15, 2019, will not be considered in the public charge test.
- Public charge looks at all a person's circumstances — not just if they have used or are likely to use public benefits — weighing various positive factors against any negative ones.
- Public charge is complicated. Every case is different. It is important to get the facts before making changes in your household.
- Help is available. Contact an immigration attorney with questions about your case and to see if public charge applies to you or your family.

- Find an immigration attorney at <https://oregonimmigrationresource.org/resources/>.
- Contact Oregon Law Center and Legal Aid's Public Benefits Hotline at [800-520-5292](tel:800-520-5292) with questions about public benefits.
- Your personal information is protected.
 - Federal and state laws protect the privacy of people who apply for and receive public benefits.
 - The State of Oregon is not allowed to share people's personal information for federal immigration purposes, with limited exceptions (e.g., a warrant signed by a judge).

Questions? Please contact the following programs:

Oregon Housing and Community Services

- Ariel Nelson, Government Relations and Communications Liaison, Ariel.Nelson@oregon.gov

Department of Human Services

- Cynthia Stinson, Legislative Relations Unit, Cynthia.J.Stinson@dhsosha.state.or.us.

Oregon Health Authority

- Jeannette Taylor, Government Relations, Jeannette.T.Taylor@state.or.us

Oregon Health Insurance Marketplace

- Chiqui Flowers, Administrator, Chiqui.I.Flowers@oregon.gov

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