

U.S. Department of Homeland Security Proposed “Public Charge” Rule

The U.S. Department of Homeland Security (DHS) has released a draft rule entitled “Inadmissibility on Public Charge Grounds.” DHS will accept public comments on this draft rule until **December 10, 2018**.

What is Public Charge?

- Public charge is a designation that immigration officials can give to an immigrant who is seeking to change their immigration status if they determine that person is currently or likely to become reliant on public benefits.
- Designation as a public charge can be grounds for denial of one’s application.

Who Would Be Impacted by this Change?

- Non-citizens applying for lawful permanent resident (LPR) status (or “green card” holders).
- Some individuals seeking an extension or adjustment of their non-immigrant status.
- Immigrants seeking admission to the United States.
- Family-based petitioners seeking to become lawful permanent residents.

Who Would NOT Be Impacted by this Change?

- U.S. citizens.
- Current lawful permanent residents and lawful permanent residents applying for citizenship.
- Asylum-seekers, refugees, self-petitioners under the Violence Against Women Act, and survivors of trafficking.
- Other categories of non-citizens.

What is the Current Standard for Public Charge Designation?

- Receipt of cash benefits including Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF, known locally as CalWORKs), or institutionalization for long-term care.
- General Rule of Thumb: cash benefits consisting of half or more of monthly income.
- No single factor determines public charge designation.

What Does the New Rule Propose Adding?

- Some non-cash benefits: Non-emergency Medicaid, Medicare Part D, Supplemental Nutrition Assistance Program (SNAP, known locally as CalFresh), Section 8 Housing Choice Vouchers, Public Housing.
- Consideration for public charge if income is below 125% of federal poverty level (FPL--\$15,175 for household of one), regardless of benefit receipt.
- Consideration for public charge based on whether future eligible benefits could exceed 15% of FPL (\$1,821 for household of one) over 12-month span.
 - In Los Angeles County, most housing benefits would put a person over the threshold and make them subject to a public charge test.