

PUBLIC CHARGE

*What You Need to Know
About Food Resources*

This fact sheet contains general information but is not legal advice. This information addresses recent rule changes that govern application for lawful permanent resident status for persons already in the United States. If you have questions that are specific to your individual or family situation, please contact an immigration attorney (ImmigrationLawHelp.org).

You may have heard in the news and in your community about changes the government has made to the “public charge” rule. If you or members of your family are receiving food assistance, we want you to know the facts about “public charge” so you can make decisions that are best for you.

What is public charge?

“Public charge” is a term in immigration law that means a person is dependent on the government to meet his or her basic needs. The U.S. government determines whether a person is likely to become a public charge when:

- A person applies to enter the U.S.
- When a person applies to become a green card holder (Lawful Permanent Resident). To apply for a visa or green card, you must fill out an application and have an interview. The government decides if you are likely to become a “public charge” through these processes.

If you already have your green card, the public charge test does not apply to you, but you MAY have a problem if you leave the U.S. for more than 6 months. If you are applying for or have already obtained your U.S. citizenship, the public charge test does not apply to you.

Who is currently considered a public charge?

There is a lot of confusion and misinformation being spread about government benefits you or your family can receive. The government recently finalized an expanded public charge rule to include the use of food stamps and other benefits in the public charge test. The implementation date for the new public charge rule is set for October 15, 2019. However, this may be delayed or blocked due to legal challenges to this rule change. Under the new rule, an immigration official may consider an individual applying to become a lawful permanent resident as likely to become a public charge if that individual (not family members or dependents) receives support through:

- Cash Assistance (SSI, TANF, and comparable state and local programs)
- Government-funded long-term institutional care (i.e. care in a nursing home)
- Medicaid (with exceptions for emergency services, children under 21, pregnant women, and new mothers for 60 days after pregnancy)
- SNAP (also known as food stamps)
- Public Housing Assistance (including Section 8 housing vouchers and Section 8 Project Based rental assistance).

The use of public benefits alone will not make you a public charge. The government may also consider other things such as age, health, family status, financial status, education, skills and an affidavit of support from a sponsor. When deciding if a person is likely to become dependent on the government to meet his or her basic needs, the government must look at a person’s whole situation.

For more information and resources, visit hungerfreecolorado.org/publiccharge

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NUTRITION ASSISTANCE AND PUBLIC CHARGE

Which food and nutrition programs does this proposal affect?

The only nutrition assistance program the new rule includes as part of a public charge test is food stamps (SNAP).

What do I need to know about food stamps and public charge?

1. This rule only considers the applicant's use of food stamps when the government considers if he or she is likely to become a public charge. *The use of benefits by family members or dependents does not count against you, the applicant.* For example, if your children receive food stamps, their use of benefits will not impact your ability to get a green card.
2. *Many individuals are not subject to the public charge test.* You are not subject to a public charge determination when you apply to become a citizen. Additionally, if you entered the U.S. as a refugee, were granted asylum or a visa for victims of trafficking, domestic violence, or other serious crimes, the public charge test does not apply to your application for lawful permanent resident status.
3. *The rule is not retroactive.* This means that benefits – other than cash or long-term institutional care through the government – received before October 15th, 2019 will not be considered for public charge. Additionally, the new rule applies only to people whose green card application is filed on or after October 15, 2019.
4. *Most immigrants who legally qualify for food stamps are not subject to the public charge test,* because the Food Stamp Program already has very strict rules about who can receive benefits.

If you aren't sure whether or not the public charge test applies to you, we recommend that you seek advice from an attorney that understands the new changes to the policy. If you are not subject to the public charge test, we highly recommend that you continue to use the food stamp benefits that you and your family are eligible for.

• Who could receive food stamps and then be subject to a public charge test?

- Lawful Permanent Residents (green card holders) who leave the U.S. for more than 6 months and attempt to reenter the country.
- Some people granted parole, withholding of removal, and other special cases who may have a pathway to permanent status that includes a public charge test.

How do I get food stamps for only the eligible members of my family?

U.S. citizens, legal permanent residents under the age of 18 or with residency for five years or more, and some other classes of immigrants like refugees and asylees, may be able to receive food stamps. When applying for food stamps, you only have to give information about your eligible family members' citizenship or immigration status. You do not have to give immigration status information about yourself or others in the household who are not applying for benefits. You can just say, "I am not applying for benefits for myself/that person."

To apply, visit your county's Department of Human Services or call Hunger Free Colorado's statewide Food Resource Hotline for assistance at 855-855-4626.

Will using other food resources hurt my immigration status?

No! We want to make it very clear that food resources other than food stamps are NOT considered as part of this new public charge policy. Programs like WIC, Free and Reduced-Price Lunch, school breakfasts, meal sites, commodity foods, and food pantries are not considered in the public charge test. In fact, using these programs supports health and economic security, and can help your family be less likely to depend on government assistance in the future.

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