NYIC

Asian American Federation

How will immigrants be impacted by the Trump administration's 2026 Public Charge Rule?

August 2026

On July 20, 2026, the Trump Administration published a Federal Rule that will restrict immigrants' ability to adjust status, enter the United States on a visa, and receive public benefits. The rule is commonly called "Public Charge," and its formal name is the "Public Charge Ground of Inadmissibility" Rule. While the rule isn't in effect yet, it's likely to impact many immigrants.

What do "Public Charge" and "Inadmissibility" mean?

"Public charge" is a legal term for individuals who rely on government assistance to survive. Since the 1880s, U.S. immigration law has had legal provisions that prohibit people who are "likely at any time to become a public charge" from legally entering the U.S., and that prohibit them from adjusting their status once here. A legal entry into the U.S. is known as an admission, and so, under the law, a likelihood of becoming a public charge is a reason to deny entry, or a "ground of inadmissibility." If the U.S. government determines that the individual is likely to become a public charge (previously defined in 1999 as someone who is "primarily dependent" on government cash assistance or government-funded long-term institutional care), that person would be ineligible for a visa or a green card.

"Public charge" was defined in federal regulations in 1999 and has been revised and undone multiple times through federal rules, including in the previous Trump administration. The longstanding definition set forth in 1999 stated that a public charge is someone who is "primarily dependent" on government cash assistance or government-funded long-term institutional care.

What is the new rule?

The new Public Charge rule makes two important changes:

- First, it removes the old criteria to identify what benefits can count under public charge. Those prior standards limited public charge to two specific public benefits—cash assistance and government-funded long-term medical care. The current Rule lists no new and specific criteria at all.
- Second, the new rule allows consideration of benefits received by family members, such as U.S. Citizen children receiving SNAP benefits.

Under the new rule, immigration officers will be directed to consider a "totality of circumstances" of an individual case. As we get closer to the effective date, more guidance will be released.

What does this mean?

The new public charge rule will be a significant shift in how the public charge test is applied. Immigration officers will be directed to consider the use of many more benefits, which may include the use of benefits by an applicant's children. Because the clear and established definitions have been rescinded but not replaced with new definitions, inconsistency in evaluating public charge will increase across cases. We expect the change to have a chilling effect on the use of public benefits by citizens and non-citizens alike, and deter families from using essential public programs.

When will the new rule go into effect?

The new public charge rule goes into effect on September 18, 2026.

Who does the new rule apply to?

- Green card applicants filing for adjustment of status on or after September 18, 2026.
- Individuals seeking admission to the United States on or after that date.
- Benefits received before September 18, 2026 should continue to be evaluated under the current 2022 rule but further guidance is forthcoming from USCIS.

What benefits will now be considered?

The rule does not specify which benefits will be considered. Instead, the new rule allows immigration officers to make public charge determinations based on "any means-tested public benefits" instead of the more narrow categories of cash assistance or government-funded institutionalized long-term care.

The following public benefits could be considered by USCIS after the new rule goes into effect:

Nutrition Programs
- Supplemental Nutrition Assistance Program (SNAP)
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Benefits under the Emergency Food Assistance Act (TEFAP)
- Child and Adult Care Food Program (CACFP)
- Food Distribution Program on Indian Reservations (FDPIR)

Health Programs
- Medicaid, Children's Health Insurance Program (CHIP), & health Insurance through the Affordable Care Act
- Home and community-based services (HCBS)

Housing Programs
- Public housing programs like Section 8
- Home Energy Assistance Program (HEAP)

Education & Other Programs
- Child Tax Credit (CTC) or other tax-related cash benefits including Earned Income Tax Credit (EITC)

A person's age; health; family status; assets, resources, and financial status; education and skills; and affidavit of support may also be taken into account when making a public charge determination.

This list is still evolving and subject to change. Additional guidance may be provided in the future.

What immigration statuses are included and excluded from public charge?

Public charge applies to individuals who are in the process of becoming LPRs (i.e., who are getting a green card) or who are immigrating to the United States. Public charge may also apply to LPRs who leave the United States for more than 180 days and then reenter.

The public charge test does not apply to individuals[1] filing for permanent residence who are:

- **Asylees**
- **Refugees**
- **Survivors of domestic violence, trafficking, or serious crimes (VAWA, T visa holders, or U visa holders)**
- **Children or young adults with SIJ (Special Immigrant Juvenile classification)**
- **Individuals who are renewing their green card**

Public charge also does not apply to U.S. citizens.

----

1. Individuals who are derivative visa holders of many of the categories below and attempting to obtain green cards for the first time should consult an immigration lawyer.

Will prior use of benefits be used to determine if someone is a public charge?

The new policy will take effect on September 18, 2026. Only benefits applied for and received after that date, as well as the continued use of benefits can be used in a public charge determination. Until then, the current Biden Administration Rule of 2022 is in effect.

Can DHS consider a child's use of benefits on a parent's application?

Yes. The new Rule allows DHS to consider the use of benefits by a "dependent"—such as a child—as well as the applicant's economic conditions during the period when the dependent was receiving the benefits

Where to go for help!

For individuals and families that are unsure if the new public charge rule will impact their ongoing cases, please contact your immigration attorney, or trusted legal contact. If you do not have an attorney, connect with trusted community organizations and legal groups.

In New York, you may call:

- **The New York City Mayor's Office of Immigrant Affairs' Immigration Legal Support Hotline at (800) 354-0365 or call 311 and say "Immigration Legal"**
- **The New York State Office for New Americans Hotline for legal assistance in your area at (800) 566-7636**