



Office of the Deputy Mayor for Health and Human Services

## Public Charge Frequently Asked Questions for DC Residents

*Washington, DC celebrates our diversity and respects all DC residents no matter their immigration status. We are a sanctuary city because we know that our neighborhoods are safer and stronger when no one is afraid to call on our government for help, and when our police can focus on protecting and serving. One of our key values is making sure residents understand their rights and where they can go for questions or help, including about the public charge process. The below are designed to address concerns regarding the new proposed public charge rule issued by the Federal government in October 2018.*

### 1. What is the public charge test?

Public charge is a term used in immigration law to refer to a person who is primarily dependent on the government for support.<sup>1</sup> A proposed new rule from the U.S. Department of Homeland Security would broaden the definition of who is to be considered a public charge, and redefines a public charge test that is used to determine whether an immigrant will be able to support themselves while in the country. Federal immigration officials currently use the public charge test as part of the evaluation for applications to enter the U.S. (a “visa”) or an application for lawful permanent resident (LPR) status (“green card” holder). Under the test, applicants must show that, based on all their circumstances, they are not likely to rely or depend on the government *in the future*.

### 2. Why is the public charge test getting so much attention now?

In October 2018, the federal government issued a proposed rule to expand the number of public programs that would be considered under the public charge test. The proposed rule also expands who is impacted by the public charge test to include individuals who file applications to renew a visa or change visa status. Proposed rules do not have an effect until finalized, and as such, the rule proposed in October 2018 is not yet in effect.

### 3. As the October 2018 draft proposed rule has not been finalized and is not yet in effect, what benefit programs do federal agencies currently review to determine whether an individual is a “public charge?”

Cash assistance, such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), any local cash assistance programs, including the Program on Work Employment and Responsibility (POWER), Interim Disability Assistance (IDA),

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<sup>1</sup> “Public Charge.” National Immigration Law Center. <https://www.nilc.org/issues/economic-support/pubcharge/>



and General Assistance for Children (GC); and government funded long-term care (e.g., Medicaid) are currently considered for public charge.

**4. If and when the proposed rule is finalized, what additional programs would be considered as part of the public charge test?**

The proposed rule's changes to the public charge test have not yet been finalized and are not yet in effect. Under the proposed rule, the public charge test would be expanded to include:

- Non-emergency Medicaid;
- Supplemental Nutrition Assistance Program (SNAP) (also known as Food Stamps);
- Medicare Part D Low Income Subsidy (for prescription drugs); and
- Housing assistance, such as public housing or Section 8 housing vouchers and rental assistance.

Receiving these benefits does not mean that someone would definitely be considered a public charge, but it does mean that the benefits could count against them. The proposed public charge test includes all of a person's circumstances, both positive and negative factors, including the individual's age; health; family status; assets, resources, and financial status; and education and skills, but receiving these benefits would count as a substantial negative factor under the proposed rule.

While DHS may make additional changes in the final rule, under the proposed rule's changes to the public charge test, receipt of the following benefits would not be considered:

- Private insurance plans purchased through DC Health Link or tax credits received for such coverage;
- Free and Reduced School Meals;
- Emergency Medicaid coverage;
- The Children's Health Insurance Program (CHIP);
- Locally-funded non-cash benefits, such as the DC Healthcare Alliance and Immigrant Children's Programs; or
- Non-governmental services or aid.

**5. I am a Lawful Permanent Resident (I have a green card). Will receiving benefits affect my application for citizenship?**

No. The public charge test does not apply to individuals who are already Lawful Permanent Residents and nothing in the proposed rule changes this. It will not be applied if an LPR applies for citizenship.

**6. Does this public charge test impact everyone?**

No. If you are a refugee; asylee; survivor of trafficking, domestic violence, or other serious crimes; or are enlisted in the U.S. Armed Forces (active or reserve) you are not subject to the public charge test.



Individuals with questions about whether these exceptions may apply should seek the advice of an immigration attorney. You can also reach out to the Mayor's Office of Community Affairs Immigrant Justice Legal Services (IJLS) Grantees. Their contact information can be found at <https://dc.gov/immigration-resources>.

**7. If my children use public program benefits, will I be considered a public charge?**

No. The public charge test only looks at benefits received by the person who is applying and not benefits their family members received.

**8. Is there any chance that I can be deported for using public programs now?**

Yes, but it is very rare and will only occur if (1) you were using cash assistance or long-term care within the first five years after immigration, (2) you or your sponsor were asked to pay for services used, and (3) you or your sponsor refused to pay.

**9. What should someone do if they are worried about becoming a public charge?**

Individuals with additional questions about being considered a public charge should seek the advice of an immigration attorney. You can also reach out to the Mayor's Office of Community Affairs Immigrant Justice Legal Services (IJLS) Grantees. Their contact information can be found at <https://dc.gov/immigration-resources>.

**10. Can I sponsor my family members if I use public programs?**

While you can still petition to bring your family members to the U.S., if you are using public programs, you may not be able to file an "affidavit of support" to show that you can financially support them.

**11. I am undocumented. If I apply for Medicaid, SNAP, or other programs for my children, can staff report me to immigration enforcement?**

No. The information you share when you apply for public programs cannot be used for immigration enforcement purposes. If you apply for your child, you will only be required to provide information about your child's immigration status. If you are undocumented and applying on behalf of a child, you should not provide any information about your own immigration status.

