

PUBLIC CHARGE: DOES THIS APPLY TO ME?

UPDATED JANUARY 2020

MAKE THE RIGHT CHOICE FOR YOU AND YOUR FAMILY



Public charge does not apply to all immigrants. Every family is different, and the programs that help your family might not be part of new changes to the policy. **There are lots of people and organizations that can help you.** An immigration attorney familiar with this issue can give you advice based on your specific situation. Local non-profits may also be able to provide help and legal advice.

WHAT IS PUBLIC CHARGE?

Some people who apply for a green card (lawful permanent residence) or a visa to enter the U.S. must pass a “public charge” test – which looks at whether the person is likely to use certain government services in the future. In making this determination, immigration officials review all of a person’s circumstances, including their age, income, health, education or skills (including English language skills), and their sponsor’s affidavit of support or contract. They can also consider whether a person has used certain public programs.

DHS’ new public charge test considers:

- Supplemental Nutrition Assistance Program (SNAP, “EBT” or “Food Stamps”)
- Federal Public Housing and Section 8 assistance
- Medicaid (except for emergency services, children under 21 years, pregnant women, and new mothers)
- Cash assistance programs (like SSI, TANF, General Assistance)

Most people who are subject to the new rule are not eligible for the above listed benefits. Services that are not listed above will not be counted in the public charge test for decisions made inside the U.S.. This includes WIC, CHIP, school lunches, food banks, shelters, state or local health care programs, and many more.

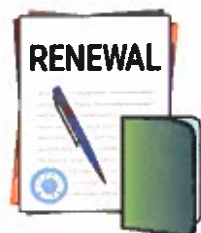
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Are you and your family members U.S. Citizens?

Public charge does NOT apply to you. You should continue to enroll in programs you are eligible for.



Do you and your family members already have green cards?

Public charge and any changes under new rules rule WILL NOT affect you when you renew your green card or apply to become a U.S. Citizen. However, if you plan to leave the country for more than 6 months, it is a good idea to talk with an immigration attorney.



Are you applying for or have one of the following statuses?

TPS, U or T Visa, Asylum or Refugee status, or Special Immigrant Juvenile Status? The public charge test does NOT apply to all immigrants, including the categories listed here. If you already have or are in the process of applying for one of these immigration statuses, you can continue to use any government programs that you qualify for.



Does your family plan to apply for a green card or visa from inside the United States?

The public charge test may apply to you. For those with adjustment interviews in the U.S., only the use of the public programs listed on first page will be considered in the public charge test. Your income, age, health, education, skills, family situation, and sponsor's affidavit of support will also be considered.



Does your family plan to apply for a green card or visa from outside the United States?

U.S. consular offices abroad use different rules in making this decision. You should talk with an expert for advice on your case before making any decisions. For free or low-cost options in your area, go to:

<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>



November 2019

10 Facts About Access to Health Insurance for Immigrants and Their Families

OVERVIEW

Changes in immigration policy have created fear among immigrants and their families, causing eligible people to go without access to health care and other important supports. The Affordable Care Act's marketplace open enrollment period presents a great opportunity to fight back and make sure immigrants and their families understand what recent threats mean for them as they seek health coverage.

KEY FACTS

- 1** **The Trump Administration's ongoing efforts to restrict immigration is increasing fear and confusion among immigrants and their families.** According to reports, enrolment is declining among immigrants and their families who are eligible for health insurance affordability programs (including Medicaid, the Children's Health Insurance Program (CHIP), and ACA marketplace coverage with tax credits/subsidies). Last year, one in seven adults in immigrant families reported avoiding public benefits out of fear. Nearly half of community health centers report that, during the past year, immigrant patients declined to enroll themselves in Medicaid. And nearly 40 percent of health centers report parents have declined coverage for their children. With one in four children living with an immigrant parent, the damaging consequences affect millions of people in immigrant families and their communities.
- 2** **Immigrants' eligibility for health insurance affordability programs has not changed. Many immigrants are eligible to enroll in Medicaid, CHIP, and subsidized health insurance plans through the ACA marketplace.** Most lawfully present immigrants with low and moderate incomes qualify for health insurance affordability programs, such as tax credits, that help offset premium costs for ACA marketplace plans, Medicaid, or CHIP. For more information on eligibility rules, check out this fact sheet.
- 3** **Open enrollment for ACA marketplace coverage is happening NOW!** For 2020 coverage, the open enrollment (OE) period for HealthCare.gov runs from November 1 through December 15. Several state-run marketplaces have announced they will hold longer OE periods this year. Once the OE period ends, individuals and families will not be able to enroll in marketplace health plans until the next OE period (unless they qualify for a special enrollment period). Individuals can apply for Medicaid and CHIP all year long.
- 4** **The Trump Administration wants immigrants and their families to be afraid of enrolling in health coverage.** In addition to pushing for a physical border wall, the Trump Administration has pursued a wide range of policy changes to create an "Invisible Wall" that makes it harder for immigrants with low and moderate incomes to navigate the immigration system. It also prevents or deters them from accessing basic needs programs. These efforts are part of Trump's government-wide assault designed to send immigrant families one message: you are not welcome in the United States.

- 5** **You can fight back by ensuring that immigrants know their rights and can make the best decisions for themselves and their families.** Health care access helps families thrive. It's essential that families make decisions based on facts, not on fear. We've created a [fact sheet](#) on immigrants' rights when accessing health care services and enrolling in health insurance affordability programs, along with a [guide](#) that answers questions about "public charge." If you are someone who helps immigrants and their families enroll in health coverage, we recommend checking out these webinars on [immigrant eligibility](#) and [working with immigrants](#). Every family's situation is different. In some cases, it may be best to seek [immigration legal assistance in your area](#).
- 6** **Courts have blocked the Trump Administration from using rules that could penalize immigrants with low and moderate incomes for using Medicaid.** In October 2019, multiple federal courts blocked President Trump's "public charge" rule from going into effect. The rule would be a radical change to immigration policy, making it difficult for people who are not already wealthy to become lawful permanent residents. With the rule blocked, Medicaid receipt will **not** count against individuals who have immigration applications processed in the United States. As long as the court orders remain in effect, only the use of cash assistance (e.g. TANF, SSI, or state general assistance funds) and long-term institutional care funded by the federal government can be considered in the public charge test. Even if the rule moves forward in the future, receipt of CHIP or ACA marketplace tax credits/subsidies will not be considered.
- 7** **Immigrants who do not qualify for health insurance affordability programs for themselves can still apply for their children and other family members who are eligible.** During the application process, the person completing the application will state which household members are applying for coverage. People not applying ("non-applicants") may need to include information such as their income and plans for tax filing, but they are not required to provide information about their immigration or citizenship status.
- 8** **Applying for health insurance will not put undocumented family members at risk.** Federal and state laws protect the privacy of people who apply for or receive health care coverage or other public benefits. Under these rules, Medicaid, CHIP and marketplace agencies may share information with other government agencies only for purposes of administering their programs, with limited exceptions such as when there is a court order. The [HealthCare.gov](#) website says that information provided by applicants will **not** be used for immigration enforcement purposes.
- 9** **The president's health insurance requirement does not apply to all immigrants.** Separately from the "public charge" rules, the president recently issued an [order on health insurance](#) that would restrict entry visas to the United States by people who are uninsured and cannot pay the costs of their health care. Under the order, subsidized ACA plans are not an acceptable form of coverage. However, this order does **not** apply to immigrants already in the United States who will not have immigration applications processed abroad. People who are eligible to enroll in subsidized coverage through the health care marketplace—like [HealthCare.gov](#)—should not avoid enrollment based on fear of this new policy.
- 10** **A nationwide network of advocates are united to protect and defend access to health care and other social services programs for immigrants and their families.** The [Protecting Immigrant Families \(PIF\) Campaign](#) has fought back against multiple threats the Administration created to increase fear and avoidance of health and other social services programs. PIF organized a massive effort to delay and derail the proposed public charge rule. We won't stop fighting to ensure immigrant families can access health care without fear. And it's a fight that, together, we can win. Join [hundreds of organizations](#) working to protect immigrant families and advance our shared vision for a just future. Find out how you can [get involved](#).



SHOULD I KEEP MY KIDS ENROLLED IN HEALTH AND NUTRITION PROGRAMS?

UPDATED JANUARY 2020



Programs like Medicaid, CHIP, Marketplace Coverage (“Obamacare”), School Breakfast & Lunch, WIC and SNAP (“food stamps”) help your children lead healthier and stronger lives. You may have questions about whether your child’s use of these health and nutrition programs will affect your immigration status or your application for a green card. This document provides answers to frequently asked questions to help you make good decisions for your family.

I will have my green card interview in the U.S. If my child receives health or nutrition assistance, will that make it more difficult for me to get a green card? No. Health and nutrition benefits your children receive will not count against you in your green card application.* We recommend you continue to enroll your children in benefits programs that they are eligible for. Benefits that you get for your children or other family members are different from benefits that you may receive yourself. Including your name on your child’s application does NOT mean that you have applied for benefits for yourself.

If I apply for benefits for my child, will I have to give information about myself? Yes, some. The application requires income information for everyone in your family, even if they are not applying for benefits for themselves. However, you will not have to provide a social security number or information about your immigration status if you are only applying for benefits for your children. You can leave these sections blank.

Will I need to repay the government for benefits used by my U.S. Citizen child? No. If your U.S. Citizen child is eligible for and receiving benefits now, your family will not be responsible for repaying those benefits in the future.

Will information that I put on an application for my child be used for immigration enforcement? No. Any information you give on the application will be used only to determine your child’s eligibility for the program. This information is not used for immigration enforcement. You should make sure you provide only the information needed and should not provide any false information.

What if I am undocumented? If you are undocumented and applying for your child or another family member, you should not provide any information about your immigration status. Instead you may say or write, “I am not applying for this program for myself.”

I heard that immigrants are no longer allowed to enroll in Medicaid or the ACA marketplace. Is that true? The President issued an order on health insurance but it does not apply to immigrants already in the U.S. who will not have immigration applications processed abroad. People who are eligible to enroll in subsidized coverage through the healthcare marketplace - like [healthcare.gov](https://www.healthcare.gov) - should not avoid enrollment based on fear of new policies.

****If you or a family member will have a visa or green card application processed outside of the U.S., different rules may apply. We recommend that you talk with an expert for advice on your case before making any decisions about enrolling in health coverage. For free or low-cost options in your area, visit:**
<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>



KNOW YOUR RIGHTS!

Public Charge Messages for Community Members

Updated January 2020

Fight fear with facts. You have rights in this country no matter where you were born. We encourage you to learn more about your situation before making decisions that may harm you or your family. Get the facts, make a plan, and share this information with others.

1

Most immigrants will not be affected.

This DHS regulation does not affect all immigrants. Refugees, asylees, survivors of trafficking, domestic violence and other serious crimes, and other “humanitarian” immigrants are not affected. Lawful permanent residents (or “green cards”) are not affected unless they leave the US for over 180 days and seek to reenter. Benefits received when people are in one of these statuses will not be counted against them.

2

Many public programs are not considered in the public charge test.

Life-saving food and nutrition programs like WIC, CHIP, school lunches, food banks, shelters, child care assistance, state and locally funded health care, and many more programs are not included in DHS’ public charge test.

3

Use of public programs does not automatically make you a public charge.

Immigration officials must look at **all your circumstances** in determining whether you are likely to become a public charge in the future. This includes your age, health, income, assets, resources, education/skills, family you must support, and family who will support you. Positive factors, like having a job or health insurance, can be weighed against negative factors, like having used certain benefits or having a health condition. Either way, you will have a chance to show why you are not likely to rely on certain benefits in the future

4

Benefits used by family members will not count in public charge decisions made in the U.S.

U.S. citizen family members can use the nutrition, food, or housing programs that help them thrive. Benefits that your children receive will not count against you if your green card application is processed in the U.S. Benefits that you get for your children or other family members are different from benefits that you may receive yourself. Including your name on your child's application does NOT mean that you have applied for benefits for yourself.

5

There are laws protecting the personal information of public benefits applicants and recipients.

Federal and state laws generally protect the privacy of people who apply for or receive health care coverage, nutrition, economic support, or other public benefits. Applications for public programs should not ask for information about the immigration status of people applying to get benefits for another person in their family or the household. Benefit agencies may share information with other government agencies only for purposes of administering their programs, with limited exceptions. You should provide only the information necessary and should never misrepresent anything when completing public benefit applications or dealing with any government agency.

TAKE ACTION!

Get the facts, Make a plan. Information is power! Several resources can help you determine if you might be affected by this rule. Learn about what this new rule means by visiting www.keepyourbenefits.org or <https://protectingimmigrantfamilies.org/know-your-rights/> and work with your lawyer and family to determine how these changes might affect you or your family.

Empower Ourselves. It's up to us to protect our families and communities. We can all make our voices heard by contacting local, state, and federal officials in charge of creating policies that affect us. If you need free or low-cost legal assistance, find a legal services organization near you at: <https://www.immigrationadvocates.org/legaldirectory/>.