

Appendix Table 1: Key Differences between Previous and New “Public Charge” Policies

| | Policy Based on 1999 Guidance | Unpublished Final Rule Released August 12, 2019 |
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| Definition of Public Charge | An alien who has become or who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.” | Public charge means an alien who receives one or more public benefits for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two public benefits in one month counts as two months). |
| Public Benefits that May Be Considered for Public Charge Purposes | <ul style="list-style-type: none"> • SSI • TANF • State/local cash assistance programs • Public assistance for long-term care in an institution (including Medicaid) | <ul style="list-style-type: none"> • SSI • TANF • Federal, state, or local cash benefit programs for income maintenance • Non-emergency Medicaid for non-pregnant adults over age 21²⁰ • SNAP • Section 8 Housing Assistance under the Housing Choice Voucher Program • Section 8 Project-Based Rental Assistance • Subsidized public housing |
| Consideration of Use of Public Benefits in a Public Charge Determination | <ul style="list-style-type: none"> • May take into consideration past and current receipt of cash public assistance for income maintenance or institutionalized long-term care • No weight should be placed on receipt of non-cash benefits or receipt of cash benefits for purposes other than income maintenance • Cash benefits received by children or other family members should not be attributed to the individual, unless the family member’s benefits are the family’s sole source of support | <ul style="list-style-type: none"> • Will consider whether an individual has applied for, been approved for, or received public benefits • Will not consider benefits received by or applied for on behalf of other family members • Will not consider benefits received by active duty or reserve service members and their families • Will not consider benefits received by an individual during periods in which the individual was present in an immigration category that is exempt from a public charge determination • Will not consider benefits received by foreign-born children of U.S. citizen parents who will be automatically eligible to become citizens |
| Heavily Weighted Negative Factors | Not Specified | <ul style="list-style-type: none"> • Has received one or more public benefits for more than 12 months in the aggregate within the prior 36 months • Not a full-time student and is authorized to work, but is unable to demonstrate employment, recent employment, or a reasonable prospect of future employment • Has a medical condition that requires extensive treatment or institutionalization and is uninsured and does not have sufficient resources to pay for medical costs related to the condition • Previously found inadmissible or deportable on public charge grounds |
| Heavily Weighted Positive Factors | Not Specified | <ul style="list-style-type: none"> • Household has financial assets/resources of at least 250% of the FPL • Authorized to work or employed with an income of at least 250% of the FPL • Individual has private insurance that is not subsidized by Affordable Care Act tax credits |