

OVERVIEW

The Department of Homeland Security (DHS) published its [final Public Charge rule](#) on August 14, 2019. The rule was scheduled to take effect October 15, 2019 but a [court-issued injunction on October 11, 2019 temporarily blocked its implementation nationwide](#) and multiple other nationwide injunctions have since been issued blocking the rule from taking effect and also postponing the effective date of the rule until the legal cases are settled. In brief, the rule alters what is taken into consideration in public charge determinations. Whereas historically, only cash benefits have been considered, the new rule expands consideration to health, nutrition, and housing benefits. Our [blog](#) offers details. The rule is not retroactive and hence none of the changes that it includes can take effect until the rule itself is implemented. Given the October legal ruling and other pending cases, when and if it will take effect is not currently known. Until it does take effect, individuals and families can continue to utilize health, nutrition and housing benefits without concern for public charge. As has been the case for a long time, cash benefits continue to be considered for public charge.

This list of resources will continually be updated and is intended to ensure that you have reliable materials at your fingertips to help with your efforts related to Public Charge. Additionally, in partnership with the Community Foundation Boulder County and the Boulder County Health Improvement Collaborative, we have created a website where resources can be accessed online: <https://commfound.org/publiccharge>

KEY LINKS

- [Final Rule](#)
- [Injunction Blocking Implementation](#)
- [Formal Updates from U.S. Citizenship and Immigration Services](#)
- Basic Overview: [Kaiser Family Foundation Factsheet](#); [CHCF Blog](#)

LEGAL STATUS

On Friday, October 11, 2019, a New York **federal court** [blocked implementation](#) of the Department of Homeland Security's public charge [final rule](#).

The block came in the form of a preliminary nationwide injunction which prohibits the administration from enforcing the rule. As a result, the rule is now stayed and postponed until further notice. Judge Daniels included in his ruling that “the balance of equities and the interests of justice favor issuance of a preliminary injunction,” and noted that the plaintiffs are likely to succeed in their claims against the administration. Stakeholders have argued that the final rule discriminates against low-income immigrants.

In addition to [New York](#), judges in [California](#), [Washington](#), [Illinois](#), and [Maryland](#) have also ordered that DHS cannot implement and enforce the final rule under the INA. The court orders also postpone the effective date of the final rule until there is final resolution in the legal cases. Most of the injunctions are nationwide and prevent USCIS from implementing the rule anywhere in the U.S. Thus the rule is currently blocked from implementation.

Protecting Immigrant Families has produced an [excellent resource](#) for tracking the cases related to public charge. Additionally, the [U.S. Citizenship and Immigration Services](#) posts helpful regular [updates](#).

HELPFUL RESOURCES

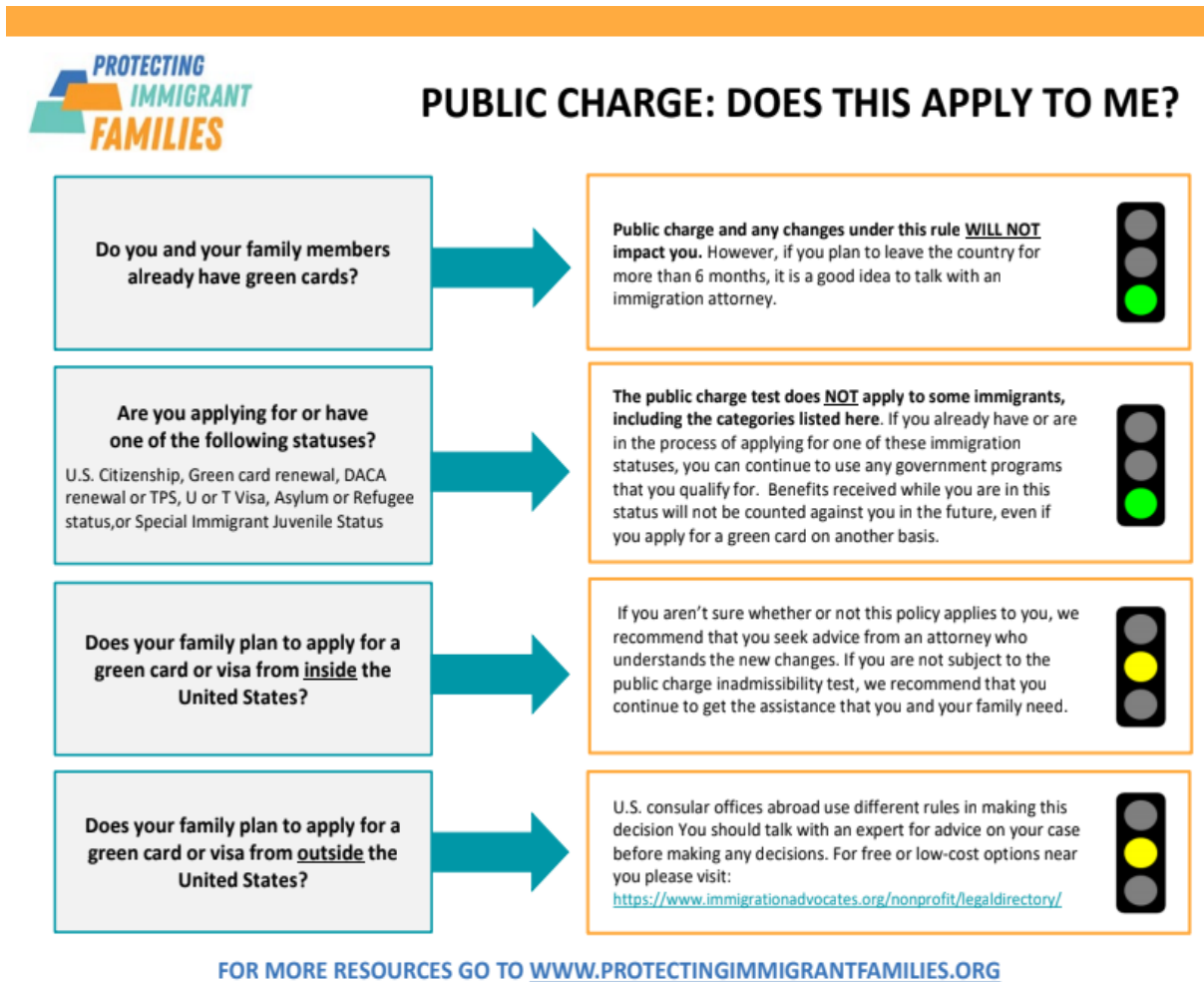
A range of resources are included below and are intended for individuals, families, providers, and community partners. Two of the most important things to understand about public charge are (1) what benefits count and which can families continue to utilize, and (2) who is subject to public charge determinations and who is not. The following chart and images help outline these key pieces.

COMPARISON CHART (UPDATED 10/21/19):

WHAT BENEFITS ARE CONSIDERED IN PUBLIC CHARGE DETERMINATIONS & WHICH ARE NOT?

<p>Benefits Previously & Currently Considered in Public Charge Determinations</p> <p><i>*Since a 10/11/19 court injunction blocked the new rule from being implemented, only the benefits in this column can currently be considered in public charge determinations.</i></p>	<p>Benefits included in Public Charge Determinations Per the Final Rule</p> <p><i>*The 10/11/19 court injunction blocks the new rule from being implemented. Thus, benefits with a star* cannot be considered in public charge determinations until the rule is allowed to be implemented.</i></p>	<p>Benefits excluded from Public Charge Determinations in the Final Rule</p> <p><i>*These benefits do not count toward public charge determination. It is okay to utilize these benefits and they can help individuals and families thrive.</i></p>
TANF	TANF	Medicaid for Emergency Services
SSI	SSI	Medicaid for Pregnant Women & Postpartum Women until 60 Days Post-Birth
State / Local Cash Assistance	Federal, State, or Local Cash Benefit Programs for Income Maintenance	WIC
Public Assistance for Long Term Care in an Institution (including Medicaid)	Public Assistance for Long Term Care in an Institution (including Medicaid)	Medicaid for Immigrants Under Age 21
	Non-emergency Medicaid for Non-Pregnant Adults Over Age 21*	Medicaid for School-Based Services & Services Under the Individuals with Disabilities Education Act
	SNAP*	CHIP / CHP+
	Section 8 Housing Assistance under the Housing Choice Voucher Program*	Medicare Part D Low-Income Subsidy (LIS)
	Section 8 Project-Based Rental Assistance*	
	Subsidized Public Housing*	

PUBLIC CHARGE: DOES THIS APPLY TO ME?



PUBLIC CHARGE: KNOW THE EXCEPTIONS

- The Colorado Center on Law & Policy's (CCLP) Allison Neswood is an expert on public charge and is offering webinars and speaking engagements to expand understanding. CCLP's bilingual factsheet offers a clear overview of the rule and does an excellent job of outlining which key populations and benefits are exempt from public charge. The general overview has not yet been updated since the injunction on Oct. 11 but the latter piece is immensely valuable on its own. It is included here in both English and Spanish.

KNOW THE LIMITATIONS

The public charge rule changes will harm people's chances of becoming permanent legal residents of the United States. But there are important limitations to the rules that communities should know:



There is no public charge test during the citizenship application process. People who already have their green card will not be subjected to the public charge test, unless they leave the U.S. for more than 6 months and then try to come back. Green card holders that plan to leave for a long period should talk to an immigration attorney.



Several groups are exempt from the public charge test. People who entered the United States as refugees, who were granted asylum, who have temporary protected status or who have certain other statuses granted for humanitarian purposes are exempt from public charge. Their use of public benefits will not be considered when they apply for a green card.



Getting benefits for eligible children will not be considered when a parent applies for adjustment of status.* The new rule is explicit that people can access benefits for their children or other family members without risking their own ability to adjust their status.



Use of Medicaid by pregnant women and children will not count against them when they apply for adjustment of status.* Pregnant women and children that can document lawful presence can receive Medicaid even though they don't have their green card yet. If they use Medicaid, that will not count under the new public charge test.

*People who did not enter the US legally and maintain their legal status may not be eligible for adjustment of status. They will have to go to their home country and apply for a green card from there. For now, the foreign consulate officers that process green card applications abroad may ask about public benefits used by household members. To understand whether you need to be concerned about this, ask an immigration attorney if you or your family members will have to go abroad to apply for a green card.

If you have questions or if you would like someone to present to your organizations or community about public charge, please contact Allison Neswood, aneswood@cclponline.org.

CONOCER LAS LIMITACIONES

Los cambios en las reglas de carga pública perjudicarán las posibilidades de que las personas se conviertan en residentes legales permanentes de los Estados Unidos. Pero hay limitaciones importantes en las reglas que las comunidades deben conocer:



No hay una prueba de carga pública durante el proceso de solicitud de ciudadanía. Las personas que ya tienen la residencia (tarjeta verde) no serán sometidas a la prueba de carga pública, a menos que salgan de los EE.UU. por más de 6 meses y luego traten de regresar. Las personas que ya tienen su residencia (tarjeta verde) que planean salir por un largo período de tiempo deben hablar con un abogado de inmigración.



Varios grupos no están sujetos a la prueba de carga pública. Las personas que entraron a los Estados Unidos como refugiados, a quienes se les otorgó asilo, quienes tienen estatus de protección temporal o quienes tienen ciertos otros estatus otorgados con propósitos humanitarios no están sujetos a la carga pública. Su uso de beneficios públicos no será considerado cuando soliciten la residencia (tarjeta verde).



Obtener beneficios para niños elegibles no se considerará cuando un padre solicite un ajuste de estatus.* La nueva regla es explícita que las personas pueden tener acceso a los beneficios para sus hijos u otros miembros de la familia sin arriesgar su propia capacidad de ajustar su estatus.



El uso de Medicaid por parte de mujeres embarazadas y niños no contará en su contra cuando soliciten el ajuste de estatus.* Las mujeres embarazadas y los niños que puedan documentar su presencia legal pueden recibir Medicaid aunque aún no tengan su residencia (tarjeta verde). Si usan Medicaid, eso no contará bajo la nueva prueba de carga pública.

*Las personas que no entraron a los Estados Unidos legalmente y mantienen su estatus legal pueden no ser elegibles para el ajuste de estatus. Tendrán que ir a su país de origen y solicitar la residencia (tarjeta verde) desde allí. Por ahora, los oficiales del consulado extranjero que procesan las solicitudes de la residencia (tarjeta verde) en el extranjero pueden preguntar acerca de los beneficios públicos utilizados por los miembros de la familia. Para saber si usted necesita estar preocupado por esto, pregúntele a un abogado de inmigración si usted o los miembros de su familia tendrán que ir al extranjero para solicitar la residencia (tarjeta verde).

Si tiene preguntas o si desea que alguien le haga una presentación a su organización o comunidad acerca de la carga pública, por favor contacte a Miguel Mendez at mmendez@cclponline.org.

CONSUMER MATERIALS

- **Protecting Immigrant Families (PIF)** has a range of helpful resources created for consumers. A full list is available [here](#). A sampling includes:
 - o [Should I Keep My Kids Enrolled in Health and Nutrition Programs?](#) – This guide is designed to help families answer commonly asked questions about how to make good decisions for their family and their health.
 - o [Who does the public charge test apply to?](#) – This includes 5 scenarios that help readers understand who public charge does and does not apply to. It could be great to use for staff trainings.
 - o [Let's Talk About Public Charge](#) - This resource is designed to help immigrants, mixed-status families, and communities understand the core elements of public charge. Available in [Spanish](#), [Arabic](#), [Hindi](#), [Chinese](#), and [English](#).
 - o [Getting the Help You Need](#) - This resource is designed for people that work directly with immigrant families to help them understand whether they are subject to public charge. Also available in [Spanish](#), [Arabic](#), [Hindi](#), [Chinese](#), [French](#), [English](#)
 - o [You Have Rights: Protect Your Health](#) - This resource is designed to help mixed-status families know more about their rights with respect to seeing a doctor or enrolling in health insurance. Available in [Spanish](#), [French](#), [Chinese](#), [Arabic](#) and more languages coming soon.
- **Hunger Free Colorado** has a [website](#) dedicated to information regarding public charge and has created a range of resources for consumers and others.
 - o [Public Charge: What You Need to Know About Food Resources](#) (also available in [Spanish](#))
 - o [Immigrant Rights & Food Assistance: Does this apply to me?](#) (also available in [Spanish](#))

FACTSHEETS & BACKGROUND DOCUMENTS

- [Protecting Immigrant Families](#) also has a range of excellent [resources](#) for advocates, providers, community partners, and more. A sampling is included here:
 - o [Public Charge Fact Sheet](#)
 - o [Webinar](#)
 - o [Analysis & FAQ of final rule](#)
 - o [Who does the public charge test apply to?](#) – *This includes 5 scenarios that help readers understand who public charge does and does not apply to. Great to use for trainings.*
 - o [What Advocates Need to Know Now](#) – Updated 10/17/19

Multiple publications describe the **impact** of the public charge rule, including the following.

- [Kaiser Family Foundation](#)
 - o Issue Brief: [Impact of Shifting Immigration Policy on Medicaid Enrollment and Utilization of Care among Health Center Patients](#) (Oct.15, 2019) (Related [Article](#))
 - o Issue Brief: [Estimated Impacts of Final Public Charge Rule on Immigrants and Medicaid Coverage](#) (Sept. 18, 2019)
 - o Issue Brief: [Changes to Public Charge Inadmissibility Rule: Implications for Health and Health Coverage](#) (Aug. 12, 2019)
- [Urban Institute](#)
 - o The Urban Institute's August 19, 2019 [publication](#) focuses on five ways the Public Charge rule is affecting immigrants, including: (1) "Chilling effects" reduce immigrants' use of safety net programs; (2) "Chilling effects" lead to hardships for immigrant communities ("Interviewees most frequently cited a lack of resources for food and adequate nutrition.") ("Interviewees reported foregoing medical care

and only accessing doctors in emergency situations”); (3) “Chilling effects” can “spillover” to people with varying immigration and citizenship statuses; (4) Immigrants’ decisions rely heavily on information from news, social media, and word of mouth; and (5) The current immigration climate is shaping how immigrants lead their day-to-day lives.

FREE AND LOW-COST LEGAL ASSISTANCE

This document is not intended to serve as legal advice. A list of entities providing free and low-cost immigration legal services has been compiled by the [National Immigration Legal Services Directory](#) and is available [here](#). It is easily searchable by zip code.

ORGANIZATIONAL STATEMENTS

- The American Academy of Pediatrics (AAP) and 23 other organizations released a joint [statement](#) in opposition to the rule.
- Nurse Family Partnership released a [statement](#) in opposition to the rule and also clarifying that the federal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program is NOT considered as part of a public charge determination.

BLOGS & HELPFUL ARTICLES

- [California Health Care Foundation](#): An overview of the final rule, including a description of the benefits that are and are not impacted, and where things stand with court cases. (by Billy Wynne and Dawn Joyce)
- [Commonwealth Fund](#): *Background, description of the final rule, and exploration of the impact.*