

Public Charge

What is Public Charge, and does it apply to me?

Public charge is defined as being primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or long-term institutionalization at government expense. That means that when an immigration officer is evaluating public charge (the “public charge test”) they are determining whether they believe the person is likely to rely, in the future, on public cash assistance for income maintenance or long-term institutionalization paid for by the government.

What is the public charge test?

Many noncitizens do not face a public charge test in their immigration applications. For those who do, federal law requires immigration officials to look at certain factors to determine whether someone is likely to become a public charge. These include:

- Age
- Health
- Family status
- Assets, resources, and financial status
- Education and skills.

For some applicants, an Affidavit of Support (USCIS Form I-864) is also required.

Under DHS policy on public charge, the **only** public benefits that immigration officials look at as part of the public charge test are:

- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- State, Tribal, territorial, or local cash assistance for income maintenance
- Institutionalization for long-term care at government expense



Does the federal government look at all public benefits in the public charge test?

No. Many public benefits and services for healthcare, nutrition, housing, and other special purposes are **not** looked at as part of the public charge test.

Some benefits **excluded** from the public charge test are:

- SNAP, WIC, free and reduced school meals
- Medicaid (except for long-term institutionalization), CHIP, Medicare
- Home-based or community-based health services
- Vaccines, testing and treatment for COVID-19 and other communicable diseases
- Public housing and shelter
- Supplemental or special-purpose benefits such as child care or utility assistance

Also, the new DHS final rule on public charge makes clear that:

- Benefits received by family members other than the applicant, such as a U.S. citizen child, will **not** be looked at in the applicant's public charge test
- Being in an institution for short-term rehabilitation or for a criminal conviction will **not** be looked at as part of the public charge test
- Disability, on its own, is **not** enough to make someone a public charge
- Using benefits that are looked at in the public charge test does **not** automatically make someone a public charge

Does public charge apply to me?

- Many noncitizens **do not** face a public charge test in their immigration applications.
- Under current law, current DHS policy, and the new DHS final rule issued in 2022 on public charge, the following groups generally do not face a public charge inadmissibility test:
 - People applying for or granted:
 - Asylum
 - Refugee status
 - U or T visas
 - Special Immigrant Juvenile Status (SIJS)
 - VAWA self-petitions
 - U.S. citizenship
 - People applying for or renewing DACA or Temporary Protected Status (TPS)
- There are also other statuses not listed here that may not face a public charge

5 KEY THINGS TO KNOW ABOUT PUBLIC CHARGE

Essential facts for green card holders, undocumented immigrants, and people applying to sponsor a family member.

By the Immigrant Legal Resource Center: <https://www.ilrc.org/sites/default/files/2023-03/Public%20Charge%205%20Things%20to%20Know.pdf>

Not all immigrants need to worry about public charge since many are not affected and can receive any public benefit they are eligible for without consequences. Read below for more information about whether public charge affects you or your family.

IF YOU ARE A GREEN CARD HOLDER (LAWFUL PERMANENT RESIDENT):

1. Generally, people who already have a Permanent Resident, or “green”, card are not affected by public charge.
2. There is no public charge test to renew a green card.
3. Green card holders cannot be deported simply for using public benefits. It is very difficult for the government to deport a green card holder for being a “public charge.”
4. Public charge could apply if a permanent resident leaves the United States for more than 180 days. It is important for green card holders to speak to a trusted immigration attorney or accredited representative before leaving the United States for more than 180 days.
5. There is no public charge test to apply for citizenship. In fact, receiving certain benefits might qualify a person for a fee waiver to apply for citizenship. Using public benefits that you do not qualify for, or receiving funds while you are outside the country, could cause problems. Review your public benefits history with a trusted legal representative before applying for citizenship if you are concerned.

IF YOU ARE UNDOCUMENTED (NO LAWFUL STATUS):

1. A family member's use of public benefits is not considered in your public charge test, and your family should use all benefits they are eligible for.
2. With few exceptions, your personal information will not be shared with Immigration & Customs Enforcement (ICE) when you sign-up for a benefit because there are laws and regulations that protect immigrants.
3. If you are not eligible to apply for a green card now, public charge does not apply to you. Public charge only affects people who are applying for a green card through a family member or are applying for certain visas to enter the United States. Even if you plan to apply many years in the future, there is likely no reason to give up important benefits now.

PEOPLE WHO PLAN TO APPLY FOR A GREEN CARD THROUGH A U.S. CITIZEN OR LAWFUL PERMANENT RESIDENT FAMILY MEMBER SHOULD SPEAK TO A TRUSTED IMMIGRATION ATTORNEY OR ACCREDITED REPRESENTATIVE TO RECEIVE ADVICE SPECIFIC TO THEIR SITUATION.

4. Many immigration applications do not have a public charge test.

For example, there is no public charge test to apply for:

- Asylum U visa (for victims of crime)
- T visa (for victims of trafficking)
- VAWA (for certain victims of domestic violence)
- Special Immigrant Juvenile Status (for minors who have been abused, abandoned, or neglected)
- DACA
- TPS

5. Anyone who wants to submit an immigration application should work with a trusted immigration attorney or accredited representative to prepare a strong application.

IF YOU WANT TO SPONSOR A FAMILY MEMBER TO COME TO THE U.S.:

1. If you are a lawful permanent resident, keep in mind there is no public charge test to renew a green card, or to lift the conditions on permanent residence (for those with 2-year green cards).

2. If you want to become a U.S. citizen in order to sponsor a family member, there is no public charge test to naturalize. You can become a U.S. citizen even if you have used benefits or need a fee waiver for your application.

3. If you are a U.S. citizen or lawful permanent resident, you can sponsor some family members and still use public benefits. **If you sponsor a family member, your relative will have a public charge test, not you.**

4. If you sponsor a family member, an immigration officer will consider things like your income, assets, and whether you have used public benefits to evaluate your ability to support the family member you are sponsoring.

5. If you are sponsoring your family member and do not have enough income to support your family member, you can add a second (“joint”) sponsor who has enough income to support the family member. It is important to review your financial documentation with a trusted immigration attorney or accredited representative to prepare a strong application and decide whether a joint sponsor is needed.

En español: 5 COSAS IMPORTANTES QUE DEBE SABER SOBRE LA CARGA PÚBLICA

<https://www.ilrc.org/sites/default/files/2023-03/5%20Cosas%20Que%20Saber%20Sobre%20la%20Carga%20Publica.pdf>

Other Resources on Public Charge

Immigrant Legal Resource Center Public Charge Frequently Asked Questions (2023):

<https://www.ilrc.org/sites/default/files/2023-05/Public%20Charge%20FAQs.pdf>

USCIS Public Charge Resources: <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge/public-charge-resources>

DHS Final Rule on Public Charge (2022):

<https://www.federalregister.gov/documents/2022/09/09/2022-18867/public-charge-ground-of-inadmissibility>