

# UNDERSTANDING THE NEW “PUBLIC CHARGE” RULE

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Massachusetts  
Immigrant & Refugee  
Advocacy Coalition



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## WHAT IS “PUBLIC CHARGE”?

- Public Charge is part of **admissibility** - a test to decide who can be granted a visa or green card
- Old Definition of Public Charge → An individual who is likely to become *primarily dependent* on the government for subsistence



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## NEW PUBLIC CHARGE TEST

- New Definition for “Public Charge” → those who are more likely than not to receive any of listed benefits for more than 12 months in the aggregate within any 36-month period.
  - Benefits counted in the aggregate → if person uses 2 benefits in one month, that counts as 2 months worth of benefits
- New Rule effective February 24, 2020
  - Only applies to green card applications filed on or after this date
  - Newly added benefits obtained before this date are not considered



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## WHO DOES PUBLIC CHARGE APPLY TO?

### APPLIES TO:

Immigrants applying for a green card (lawful permanent residence) or a visa

### DOES NOT APPLY TO:

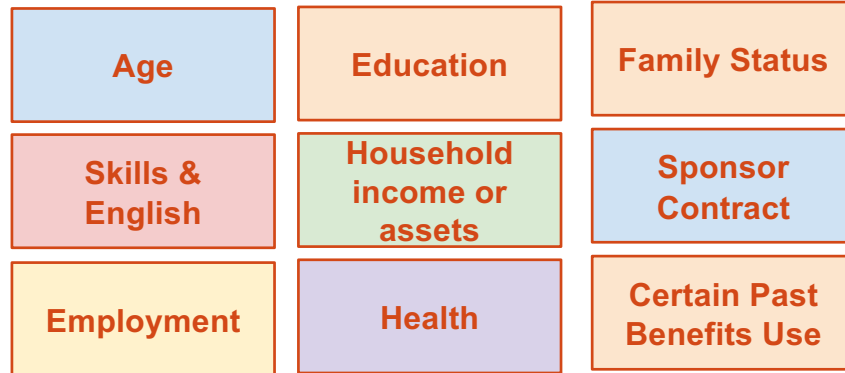
- U.S. Citizens
- Citizenship applications
- Green card renewals
- Conditional green card holders
- Refugees/Asylees
- VAWA self-petitions
- T/U visas
- SIJ visas
- DACA applications or renewals
- TPS applications or renewals
- Liberian DED eligible for LRIF

**Many immigrants are NOT subject to public charge.  
It does not apply to all immigrants.**



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# THE PUBLIC CHARGE TEST



It's not just about benefits – the test will look at a “totality of the circumstances”



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# BENEFITS CONSIDERED IN PUBLIC CHARGE TEST

## **Benefits that were already considered and will continue to be considered**

- Cash assistance programs ( Emergency Aid to the Elderly, Disabled, and Children (EAEDC), Transitional Aid to Families with Dependent Children (TAFDC), Supplemental Security Income (SSI))
- Any benefit for long term institutional care

## **Newly added benefits: only those received on or after February 24, 2020 will matter**

- Supplemental Nutritional Assistance Program (SNAP)
- Federal housing assistance (Section 8 Housing Choice Voucher, Project-Based Rental Assistance, and Public Housing)
- Non-Emergency Medicaid for people 21 and older (except pregnant women and 60 days post-partum)

## **MOST IMMIGRANTS SUBJECT TO PUBLIC CHARGE TEST**

**DO NOT QUALIFY FOR THESE BENEFITS!**



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## BENEFITS NOT CONSIDERED UNDER NEW RULE

- Women, Infants, & Children Nutrition (WIC) Program & school lunch programs
- Health Safety Net
- MassHealth Limited (Emergency Medicaid)
- MassHealth coverage for pregnant women (including 60 days after pregnancy), for children and young people under age 21, and MassHealth paid by state-only funding
- Coverage through the Health Connector, including Advanced Premiums Tax Credits (APTC) and ConnectorCare
- Children's Medical Security Plan (CMSP)
- Medicare
- COBRA , Veterans Administration Coverage and Tricare



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## HOW DOES THE GOVERNMENT DECIDE?

- New Form I-944, Declaration of Self Sufficiency
- Public charge is a **forward looking test**
- Must consider the “totality of circumstances”
- Affidavit of support
  - Still required for family-based petitions
  - USCIS will consider “the likelihood that the sponsor would actually provide the statutorily-required amount of financial support to the alien, and any other related considerations.”



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## MAIN TAKEAWAYS

- The new rule is meant to impose a **wealth test** and make it harder for low-income immigrants to obtain green cards
- Many immigrants are **not subject to the public charge rule**
- Most immigrants should **continue to enroll/receive benefits**
- A lot of the harm is due to immigrants being fearful of receiving critical supports due to confusion about the rule



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## THE FUTURE OF PUBLIC CHARGE

- We do not yet know how the rule will be implemented by immigration officers
- Litigation is still pending so the rule may still be struck down



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## PUBLIC CHARGE IN THE TIME OF COVID-19

- USCIS Announcements:
  - **Testing and treatment** (including a vaccine) for COVID-19 will not impact the public charge analysis
  - If social distancing or quarantine are in place or if employer/school shuts down operations, can submit a statement with application explaining how such policies affected the public charge factors
- **All low-income residents** of Massachusetts will qualify for **free testing and treatment**
  - MassHealth and Health Safety Net and Health Connector plans cover testing and treatment with no out-of-pocket expenses



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## PUBLIC CHARGE IN THE TIME OF COVID-19

- **Unemployment** and PUA are not a “public benefit” and are **exempt from public charge** test
- Benefits received by other family members (for example food stamps for US citizen children) are not counted
  - However receipt of benefits may indicate other negative factors, such as low income



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## WHERE TO GET MORE INFORMATION

- ❖ MIRA's website: [www.miracoalition.org/pif](http://www.miracoalition.org/pif) and [www.miracoalition.org/coronavirus](http://www.miracoalition.org/coronavirus)
- ❖ Protecting Immigrant Families campaign: [www.protectingimmigrantfamilies.org](http://www.protectingimmigrantfamilies.org)
- ❖ Health Care For All's helpline: 1-800-272-4232 (questions about health benefits)



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JESSICA CHICCO

Massachusetts Immigrant and Refugee Advocacy Coalition

[jchicco@miracoalition.org](mailto:jchicco@miracoalition.org)

[www.miracoalition.org](http://www.miracoalition.org)



@MIRACoalition



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