

## New Public Charge Rule Preserves Access to Benefits

On September 8, 2022, the Biden Administration published a new federal regulation defining the meaning of “public charge.” This new rule formalizes guidance currently in effect, and marks a strong move away from the wealth test enacted under the Trump administration which led to widespread fear and deterred millions from receiving the assistance for which they qualified. The new public charge rule is scheduled to take effect on December 23, 2022.

### WHAT IS THE PUBLIC CHARGE TEST?

Public Charge is part of the test immigration uses to decide who can be granted a visa or a green card. Individuals can be denied admission to the US if they are found likely to become a public charge. However, many people are exempt from the public charge test.

### WHO IS SUBJECT TO THE PUBLIC CHARGE TEST?

In general, individuals applying for a green card are subject to the public charge test, but it does not apply to individuals adjusting status as refugees, asylees, Special Immigrant Juveniles, U and T visa beneficiaries, or self-petitioning through the Violence Against Women Act. It also does not apply to individuals applying for DACA, Temporary Protected Status (TPS), or citizenship.

### WHAT DOES THE NEW REGULATION SAY?

The new regulation makes clear that someone will only be considered likely to become a public charge if they are likely to become primarily dependent on the government. Here are the key takeaways:

- The only public benefits considered in the public charge test are **cash assistance** used for income maintenance (like SSI, TANF, or “general assistance”) and **long-term institutional care** paid for by the government. Most individuals who are applying for a visa or green card are not eligible for these two types of benefits.
  - DHS will take into account how long the benefit was received and how recently, along with other factors like an individual’s education and skills, income, and affidavit of support in making a determination.
- **All other benefits - including SNAP/food stamps, school lunch programs, WIC, rental assistance, healthcare, pandemic relief, unemployment benefits, and housing - are not considered in the public charge test and don’t affect immigration applications.**
- Benefits received by an immigrant’s other family members - including one’s children - will not be considered and don’t affect the immigrant’s applications.

You can read more about the details of the rule [here](#).

### WHAT DOES THIS MEAN FOR RECEIPT OF BENEFITS?

With very few exceptions, individuals should continue to apply for and receive the benefits for which they are eligible. Visit [KeepYourBenefits.org](https://www.KeepYourBenefits.org) for more information.

### WHAT HAPPENS NEXT?

The new regulation is likely to face legal challenges. However, the Biden administration followed the right notice and comment procedure to issue this regulation, so it is on solid legal grounds, and the new rule is in line with the policy that has largely been in place for more than 20 years.