

# PUBLIC CHARGE UPDATE— As of 2/25/2020



## Background and Overview

**Changes to the Federal Public Charge Rule, explained below, will become effective in Oregon on February 24, 2020.** On January 30, 2020, the U.S. Citizenship and Immigration Services (USCIS) announced implementation of the rule change. This announcement followed the U.S. Supreme Court action on January 27, 2020, to set aside the last of three federal injunctions that had blocked the rule changes from taking effect on October 15, 2019 as previously planned.

Changes include, but are not limited to, expanding the kinds of public benefits considered in the public charge test. Under the current rule, the only public benefits considered when determining who is likely to become a “public charge” are cash-assistance programs and Medicaid-funded long-term care.

The new rule expands the list of benefits to include nutrition assistance (Supplemental Nutrition Assistance Programs); housing assistance (public housing and Section 8); and non-emergency Medicaid for non-pregnant adults 21 and older.

Eligibility rules for public benefit programs in Oregon have not changed and many immigrants are exempt from public charge (both under the current and new rule). We realize this federal change may cause concern and confusion for Oregonians who use affected public benefits. We hope that this information clarifies who is affected by public charge and how to get help if needed.

## Things to Keep in Mind

Public benefits your children or other family members get don’t count against you in the Public Charge Test. Most immigrants who are applying for a green card are not eligible for the benefits listed in the rule. And benefits used by eligible family members are not counted unless the family members are also applying for a green card.

Some immigrant groups are not subject to “public charge.” Certain immigrants — such as refugees, asylees, many survivors of domestic violence, and other protected groups — are not subject to “public charge” inadmissibility determinations and would not be affected by this final rule. Exempt immigrants include: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; certain people paroled into the U.S. as well as other “humanitarian” immigrants. And lawful permanent residents (Green Card holders) are not subject to the public charge test when they apply for U.S. citizenship.

The rules specify that any benefits received while in an exempt status will not be counted against applicants, if they later seek status through a non-exempt status.

Immigration officials must consider all of an immigrant’s circumstances. The public charge statute — which cannot be changed by regulations — requires immigration officials to look at all factors that relate to noncitizens’ ability to support themselves, including their age, health, income, assets, resources, education/skills, family members they support and family who will support them. They may also consider whether a sponsor has signed an affidavit of support (a contract) promising to support the noncitizen. Since the test looks at the person’s overall circumstances prospectively, no one factor is definitive. Any negative factor, such as not having a job, can be overcome by positive factors, such as having completed training for a new profession or having college-educated children who will help support the family. Thus, use of public benefits will not automatically make one a public charge, and the applicant can present the best case for him/herself.

## Update as of 11/27/2019

- As of October 11, 2019 – “Public Charge” Regulation has been BLOCKED by multiple federal courts.
- Just days before President Trump’s expanded “public charge” was set to go in effect, federal judges in New York, Washington, and Maryland issued nationwide injunctions, temporarily blocking the rule.
- Families should continue to use the services they are eligible for without fear.

For questions and concerns on how public charge impacts your immigration status, you can seek trusted legal counsel using this list of Public Charge assistance providers. [Find the closest one to you here.](#)

### Concerning Federal Changes to Public Charge Rules

*Please Note: This rule is not retroactive, so if such benefits were received prior to the change (scheduled for Oct 15, 2019) those will not be considered.*

Lane County Health & Human Services, along with our partners at The Oregon Health Authority, have been closely monitoring the pending change to the Department of Homeland Security’s federal public charge rule that is now scheduled to go into effect October 15, 2019. This change will impact access to essential services like health care for some immigrant communities in Oregon, and Lane County. It is important to know what is and is not impacted by the change, and that eligibility criteria for our programs have not changed.

We are aware that some families may be concerned and faced with difficult choices. We will be working with our local health care providers and community partners in order to help inform and monitor the changing situation on this issue, and other issues impacting immigrant communities, while maintaining our focus on improving the health of all people in Lane County.

We know that health coverage contributes to healthier pregnancy, birth, and childhood outcomes, better education, and reduced emergency department visits and hospitalizations. Lane County Health & Human Services will continue to focus on improving access to health care for all people in Lane County.

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Public charge is a term used in immigration law to describe an individual who is likely to become dependent on the government in the future. The new rule defines a public charge as “someone who is “more likely than not” to receive public benefits for more than 12 months within a 36-month period”. Being considered a public charge can result in the denial of a green card (permanent residency) application.

Prior to this change, the only public assistance considered when determining if a person would become a public charge was cash assistance (e.g. Temporary Assistance for Needy Families and Social Security Income) and assisted long-term care at public expense.

After this change, the list of programs that may impact public charge determination will be expanded to include;

- Non-emergency Medicaid (full Oregon Health Plan),
- Supplemental Nutrition Assistance Program (food stamps or SNAP) and
- Housing assistance (such as section 8).

While these changes are significant, it is important to know that the changes do not impact the following areas, so these benefits will continue to NOT be considered in a public charge determination;

- All public benefits received by children up until age 21 (including Medicaid/CHIP)
- Medicaid and public assistance for women who are pregnant and for 60 days after a pregnancy
- Medicaid for the treatment of an emergency medical condition
- School lunch programs
- Foster care and adoption
- Student loans and mortgages
- Food pantries
- Homeless shelters
- Disaster relief
- Services or benefits funded by Medicaid but provided under the Individuals with Disabilities Education Act

Local health departments, along with the Oregon Health Authority, Oregon Department of Human Services and Oregon Housing and Community Services, are all closely monitoring this rule, and will work with community partners to support affected Oregonians.

The final rule is scheduled to be published on August 14, 2019, and to go into effect on October 15, 2019.

#### ADDITIONAL RESOURCES:

[USCIS Final Rule on Public Charge Information](#) page and [USCIS Public Charge Fact Sheet](#).

[Rule: Inadmissibility on Public Charge Grounds](#)

[National Academy for State Health Policy analysis](#) (addresses proposed not final rule)

[Kaiser Family Foundation analysis](#) (addresses proposed not final rule)