

Public charge considers if a person applying for a green card could be primarily dependent on the government for support in the future. Immigration officials review all of a person's circumstances and may consider whether a person has been primarily dependent on two specific types of benefits in the past. If immigration officials determine a person is likely to depend on the government for subsistence in the future, they can deny that person permission to come to the U.S. or deny their green card application.

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WHO DOES PUBLIC CHARGE APPLY TO?

Public charge does not apply to everyone. People seeking a green card through a family member or who seek to enter the US from abroad may be subject to this test. Many people (see the list below) are exempt.

There is **no public charge test** for the following categories of immigrants:

- Asylees
- Refugees
- U or T visa applicants and holders (human trafficking or victims of crimes)
- VAWA self-petitioner
- People seeking or granted SIJS (Special Immigrant Juvenile Status)

There is **no public charge test** when an immigrant applies for the following:

- U.S. citizenship
- Green card renewal
- Asylum, DACA, TPS, or DED (initial applications and renewals)

WHICH BENEFITS ARE CONSIDERED?

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Immigration officials can only consider benefits received by the green card applicant. They cannot consider benefits used by other family or household members, even if the applicant's name is on their family member's application. Most people applying for family-based green cards are not eligible for these benefits programs. Immigration officials can only consider **two types of benefits**:

1. Monthly cash assistance intended to support a person. This includes Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), and state-based cash assistance programs.
2. Long-term institutional care at government expense.



IMMIGRATION OFFICIALS WILL NOT CONSIDER



Medicaid, Emergency Medicaid, the Children's Health Insurance Program, state and local health care programs (except long-term care), and insurance and subsidies through Healthcare.gov and other healthcare exchanges



Nutrition programs, such as Supplemental Nutrition Assistance Program (SNAP), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), school lunch programs, and food banks



Subsidized housing programs, such as Section 8 and Public Housing



COVID vaccines, testing, and treatment, and COVID-related supports, such as Pandemic Electronic Benefits Transfer (P-EBT), stimulus payments, child tax credits, and emergency rental assistance



Other state-based, non-cash assistance programs



Cash benefits based on work or earnings, including Social Security, retirement, pensions, veterans benefits

3

WHAT'S THE TOTALITY OF THE CIRCUMSTANCES?

Immigration officials must consider an affidavit of support – a contract that a sponsor (usually a family member) signs to accept financial responsibility for a person moving permanently to the U.S. Even if someone has used the programs above, immigration officials will look at the individual's whole situation when they decide if they're likely to become a public charge in the future. Past use of public benefits can be outweighed by positive factors. The public charge test also considers:

- Income
- Employment
- Education
- Health
- Family Status
- Affidavit of support

We strongly recommend that immigrants seek trusted legal advice if they have public charge or immigration status concerns; in most cases public benefits use will not negatively impact an immigrant's legal status. Updated information and resources in more languages are available at pifcoalition.org.

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