



# “Public Charge” Ground of Inadmissibility: What You Need to Know About the New Rule and Its Impact on Legal Immigrants and their Families

## Overview:

There are a number of eligibility requirements (known as grounds of inadmissibility) that the federal government considers when determining whether to admit an individual into the United States or allow an immigrant to adjust status and become a lawful permanent resident (LPR) or to receive a Green Card. One such factor is whether the individual is or is likely to become a “[public charge](#).”<sup>i</sup>

For many years, the public charge analysis undertaken by the federal government focused on the likelihood that an immigrant will become financially dependent on (likely to receive over 50% of their income or support from) the government through: (1) the receipt of public cash assistance, or (2) long-term hospitalization or similar care at the government’s expense. In making the public charge determination, the federal government considers several factors including: age, health, family status, assets, resources, financial status, and education/skills. The government may (and at times must) also consider whether an “affidavit of support”<sup>ii</sup> has been filed by a relative (or other individual) in the U.S.

## Changes Under the New Rule:

The Administration has issued a new rule that drastically revises the public charge analysis.<sup>iii</sup> *The rule is currently set to take effect on October 15, 2019.* Under [the rule](#), the Administration is significantly expanding the number of public benefits—and number of immigrants—considered in its public charge analysis. The proposed list of benefits would include not only those programs already considered (in red) but also many new programs (in blue):

<a href="#">Supplemental Security Income (SSI)</a> <sup>iv</sup>	<a href="#">Temporary Assistance for Needy Families (TANF)</a> <sup>v</sup>	<a href="#">General Assistance</a> <sup>vi</sup>
<a href="#">Long-term institutionalization at the government’s expense</a> <sup>vii</sup>	<a href="#">Non-emergency Medicaid</a> <sup>viii</sup>	<a href="#">Supplemental Nutrition Assistance Program (SNAP)</a> <sup>ix</sup>
<a href="#">Section 8 Housing Choice Voucher Program</a> <sup>x</sup>	<a href="#">Section 8 Project Based Rental Assistance</a> <sup>xi</sup>	<a href="#">Public Housing</a> <sup>xii</sup>

Programs other than those listed above will not be considered under the rule. *Individuals will be deemed a public charge if they are determined to be “more likely than not” to receive any of the above listed benefits for an aggregate period of more than 12 months in any 36-month period (with, for example, receipt of two benefits during the same month counting as two months).*

The rule does not directly consider the use of benefits by the applicant’s citizen dependents or other family members in the analysis. In other words, family members may still receive assistance without impacting the applicant’s eligibility for a green card.

The rule does consider household size and family income as part of the “family status” factor of the analysis. A family’s income and size as they relate to the federal poverty guideline will now be under greater scrutiny. A household with an income that qualifies for public benefits may be considered a negative factor in determining whether the applicant will be a public charge, regardless of whether eligible family members utilize public benefits. We fear that children living in immigrant or mixed-status families (families whose members have different citizenship or immigration statuses) will be removed from public benefit programs, despite eligibility, out of fear and confusion from this rule.

## Why Does the “Public Charge” Rule Matter to Catholics?

*“Amen, I say to you, whatever you did for one of the least of these brothers of mine, you did for me.” (Matthew 25:40, 45).*

1. **The Rule Harms Families.** The changes to the public charge analysis are deeply concerning as they will undermine the health, well-being, and unity of lawful immigrants and mixed-status families. The new rule will prevent family reunification for many individuals seeking lawful admission to the United States, as many more individuals will be denied entry on the public charge ground. Further, it will likely force certain mixed-status families lawfully present in the U.S. to choose between family unity and physical well-being, as applying for or receiving vital public benefits by individuals who are in the U.S. on visas or looking to adjust their status may endanger their ability to stay in the United States and provide care for their children. This is a choice no family should be forced to make.

2. **The Rule Targets Lawful Immigrants.** As noted above, this rule targets individuals who are in the country legally or seeking to come to the U.S. lawfully. It will undoubtedly deter such individuals from enrolling in programs for which they otherwise qualify. In fact, the mere proposal of this rule has already had a chilling effect on families' willingness to access critical benefits and services.
3. **The Rule Will Likely Prevent Families from Receiving Vital Nutrition and Housing Assistance.** We know the critical importance of these programs and services, and the role they play in helping families get back on their feet and maintaining self-sufficiency.

### Who Is Impacted by the New Rule:

- Most noncitizens who are living in the United States lawfully and seeking lawful permanent resident (LPR) status or seeking to extend their current legal status; and
- Individuals overseas who are applying for admission (seeking to legally enter) into the U.S. as immigrants or non-immigrants.

As noted above, these applicants' families, including U.S. citizen children, could be indirectly harmed by the rule.

#### The Chilling Effect on Family Food Programs: Catholic Charities of Orange County, CA,

*"A challenge [to Catholic Charities of Orange County] is how to help our potential CalFresh (food program) clients overcome the fear of being considered "public charge." Due to fear of legal repercussions on their immigration and citizenship status, many CalFresh clients are now afraid to come out in the open to apply for this benefit. Some who are already receiving CalFresh benefits have even opted out or discontinued their benefits so as not to be considered "public charge." We have engaged the help of an immigration lawyer to explain their residency status to fearful and cautious clients. We are addressing this concern through a continuing education campaign on this subject of "public charge."*

—Executive Leadership Catholic Charities of Orange County, CA

### Who Is Excluded from the Changes:

Certain groups are, by law or regulation, excluded from or may obtain waivers of the public charge bar, including:

- Refugees; asylees; qualifying victims of trafficking, domestic violence, or certain other serious crimes; VAWA self-petitioners; special immigrant juveniles; Afghan and Iraqi special immigrants; Temporary Protected Status applicants; and certain people paroled into the U.S.
- Additionally, public charge does not apply in naturalization proceedings.<sup>xiii</sup>

### What You Can Do to Protect Immigrant Families:

1. **Learn More about Public Charge.** Public Charge is a very technical issue. It is necessary to educate yourself. Please read and share this backgrounder with your network. To learn more about USCCB and CCUSA's specific objections to the rule as proposed in October 2018, see the [joint comments](#) we filed in opposition. Also, please stay tuned for updates on this issue – litigation challenging this rule has already been filed, which could impact or delay the Administration's ability to implement the new rule on October 15th.
2. **Encourage Community Immigrants to Visit Catholic Charities.** The rule is complicated and immigrants in your community who have questions are encouraged to meet with experienced service providers.
3. **Share Stories.** It is vital that we document how this new rule and the fear surrounding it is impacting families. If you work with or know of affected individuals who would be willing to share their stories, please contact [jfi@usccb.org](mailto:jfi@usccb.org). Identifying information can be redacted to protect individuals' privacy.
4. **Voice Your Concern with Your Lawmaker.** Please meet with your Senators and Representative to let them know about your concerns with the changes to the rule. You can encourage them to publicly voice their opposition or otherwise engage the Administration on this issue.

### Endnotes:

<sup>i</sup> Immigration and Nationality Act (INA) § 212(a)(4).

<sup>ii</sup> An affidavit of support refers to a document that is submitted by a relative or sponsor of the immigrant applicant that accepts formal financial responsibility for the applicant.

<sup>iii</sup> Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (August 14, 2019), available at <https://www.federalregister.gov/documents/2019/08/14/2019-17142/inadmissibility-on-public-charge-grounds>.

<sup>iv</sup> Supplemental Security Income - 2018, SOCIAL SECURITY ADMINISTRATION, <https://www.ssa.gov/ssi/> (last visited Oct. 10, 2018).

<sup>v</sup> TANF, ADMINISTRATION FOR CHILDREN AND FAMILIES, <https://www.acf.hhs.gov/ofa/programs/tanf/about> (last visited Oct. 10, 2018).

<sup>vi</sup> This would be federal, state, local, or tribal cash benefits programs for income maintenance.

<sup>vii</sup> This includes things like hospital services, nursing facilities, inpatient psychiatric services, etc. that are paid for by the government (e.g., under Medicaid or the Social Security Act).

<sup>viii</sup> Medicaid, MEDICAID.GOV, <https://www.medicaid.gov/medicaid/index.html> (last visited Sept. 22, 2018). The rule includes exceptions for Medicaid benefits: (i) addressing an "emergency medical condition;" (ii) used for certain disability services; (iii) certain school-based services; (iv) benefits received by individual under age 21; and (v) benefits received by a woman during or 60 days after pregnancy.

<sup>ix</sup> Supplemental Nutrition Assistance Program (SNAP), U.S. DEPT. OF AGRICULTURE (USDA) (April 25, 2018), <https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap>.

<sup>x</sup> Housing Choice Vouchers Fact Sheet, U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT (HUD), [https://www.hud.gov/topics/housing\\_choice\\_voucher\\_program\\_section\\_8](https://www.hud.gov/topics/housing_choice_voucher_program_section_8) (last visited Sept. 17, 2018).

<sup>xi</sup> Renewal of Section 8 Project-Based Rental Assistance, HUD, <https://www.hud.gov/hudprograms/rs8pbra> (last visited Sept. 22, 2018).

<sup>xii</sup> Public Housing, HUD, [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph](https://www.hud.gov/program_offices/public_indian_housing/programs/ph) (last visited Oct. 10, 2018).

<sup>xiii</sup> See INA § 316; Public Charge, U.S. CITIZENSHIP AND IMMIGRATION SERVICES (June 26, 2017), <https://www.uscis.gov/greencard/public-charge>.