Background: On August 12, 2019, the Trump administration published a “final rule” that changes the way that public charge rules are applied. This rule came into effect on October 15, 2019. The term “public charge” is used in U.S. law to deny entrance or adjustment of status to an immigrant who has used or is deemed likely to use certain public benefits. On January 27, 2020, the U.S. Supreme Court (SCOTUS) set aside the last of the national preliminary injunctions that had prevented the Department of Homeland Security (DHS) public charge rule from taking effect nationwide. This decision means that the rule can now go into effect throughout the country, except in Illinois where it is blocked by a state-wide injunction. SCOTUS has not yet determined the legality of the public charge rule, so SCOTUS’s decision means that the rule can take effect while the litigation continues to work its way through the lower courts. Here are six things that refugees and refugee service providers should know about this rule change at this time.

1. **Refugees, asylees and certain other populations are exempt.** The new “public charge” rule change relating to admissibility and obtaining permanent residency - a green card - does not apply to refugees, asylees, Afghan and Iraqi Special Immigrant Visa recipients, Amerasians, Lautenberg entrants, trafficking survivors, Violence Against Women Act petitioners, Special Immigrant Juveniles, and other populations that are exempt from “public charge” policies. This protection is statutory (INA § 209(c), 8 USC 1157, 8 USC § 1159(c)) and cannot be changed by the Administration without an act of Congress. There are no proposals or efforts to change this protection. The administration’s final rule re-states that these populations will not be penalized for using benefits when they apply for admission, a green card, or family reunification through the resettlement related processes: I-730, Visa 93, Visa 92, Affidavit of Relationship, or follow-to-join process. Benefits received while in an exempt status will not be counted in a public charge assessment, even if the immigrant applies for adjustment through a pathway that is subject to a public charge determination. Refugees or other exempted populations should not worry about being denied a green card or family reunification for using benefits while they are in exempted status.
2. **However, an immigrant’s use of benefits once they have a green card could affect their ability to sponsor relatives through non-refugee-specific pathways.** After a refugee, asylee, or another exempt individual adjusts to Lawful Permanent Residency / receives a green card, then their income and use of benefits from that point on could potentially impact their ability to sponsor family members through non-refugee specific pathways within the broader immigration system, including the I-130 process. For I-130 petitions, family members abroad need to pass the “public charge” test, and the government will look at the sponsor’s overall financial status to assess the likelihood that they can support the family member(s) they are petitioning for - an affidavit of support alone will not be enough. The ability of a green card holder to sponsor their family abroad could potentially be impacted if they have used public benefits while a green card holder, or if their current income as a green card holder is less than 125% of the federal poverty level, but income won’t be the only factor considered. Benefits received by the applicant’s family members are not considered in determining whether the person seeking to come to the United States is likely to become a public charge. This is a complex process that takes into account the totality of circumstances, so anyone directly impacted should see an immigration lawyer for legal advice.

3. **You can still take your children to school and seek medical care for them.** These are not considered in public charge findings. Social Security Disability Insurance, veterans benefits, unemployment, workers compensation, in-state tuition, student loans, and emergency and disaster assistance, including emergency Medicaid, are EXEMPT from public charge determinations. The final rule also exempts Medicaid for pregnant women and children under 21. See an immigration attorney for specific questions.

4. **Public charge is NOT a factor in the naturalization process.** Green card holders applying for U.S. citizenship do not undergo a public charge test. This cannot be changed through regulation.

5. **These changes are NOT retroactive.** Benefits used before the rule is effective on October 15, 2019 will not be considered in public charge determinations. Only visa applications postmarked or submitted electronically on or after October 15th will be impacted. Any benefits not included in the previous version of the public charge rule that an immigrant received before the new final rule goes into effect should not be counted against them. NOTE: An exception is that cash for income maintenance or institutionalization for long-term care at government expense will be considered in public charge assessments for adjustment of status applications.

6. **Another “public charge” proposal regarding deportability is NOT current law.** The Department of Justice intends to publish a related, proposed regulation to change the criteria used to deport people who have become public charges. By statute, a person can be deported if they have become a public charge within five years of entry based on conditions that existed prior to arriving to the United States. Current policy greatly limits the conditions under which this could happen. Any changes to this policy would likely take many months because proposals have to go through a public comment period and will be challenged by potential litigation. Please see the current grounds for deportability based on public charge, and see an immigration lawyer if you have questions.

**Resources:** The below resources will help you better understand the public charge issue, the position of the Catholic Bishops on it, and legal resources that can provide support to those affected by the new rule.

- **Backgrounder:** Public Charge Ground of Inadmissibility
- **Comment** filed by the United States Conference of Catholic Bishops in coordination with the Catholic Charities, USA
- A list of immigration legal service providers can be found at the Catholic Legal Immigration Network [website](#).