



New Final Public Charge Rule: What's changed?

In effect as of December 23, 2022.

A short horizontal line with a teal segment on the left and an orange segment on the right.

Disclaimer:

This presentation contains general information on public charge for **educational purposes ONLY**. Immigrants and service providers should consult with an experienced immigration attorney with specific questions or concerns or who need representation.



Agenda

- What is Public Charge?
 - Who is affected by the rule and who is not
 - Which benefits are included in the rule and which are not
- What's changed?
- Scenario Questions
- Key Messages and Resources
- Q&A

What is Public Charge?

HISTORY OF PUBLIC CHARGE

1882

IMMIGRATION ACT OF 1882

Excluded "any person unable to take care of him/herself without becoming a public charge."

1952

IMMIGRATION AND NATIONALITY ACT (INA)

Contained provision defining inadmissibility as "who ... at the time of application for a visa or ... at the time of application of admission or adjustment of status who is likely to become a public charge."

1996

EXPANDED THE INA

To include the following as minimum criteria for consideration in determining inadmissibility: "age, health, family status, assets, resources, financial status, and education and skills..."

1999

FIELD GUIDANCE

issued on determining public charge

2019

DHS PUBLISHES FINAL RULE

amending DHS regulations on how DHS will determine whether an immigrant applying for admission or adjustment of status is inadmissible to the U.S. because he or she is likely at any time to become a public charge.



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When does Public Charge apply?



- Immigrants applying for lawful permanent resident status (green cards) through a family-based petition
- Many temporary visas
- Reentry to the U.S. as permanent residents after absences of 180 consecutive days or more



- Refugees, asylees, TPS-holders, DACA
- People with a T-visa status (victims of trafficking) or U-visa status (victims of crime) and other humanitarian statuses, like parole
- **People who already have their green cards will NOT be subject to public charge:**
 - When they renew their green card
 - When they apply for U.S. citizenship

For more specific questions, please consult an immigration attorney.



The new final rule

As of **December 23, 2022**, only two types of benefits programs will be considered:

- **Public cash assistance for income maintenance**
 - Supplemental Security Income (SSI)
 - Temporary Assistance for Needy Families (TANF) - cash assistance only
 - State or local general assistance
- **Long-term institutionalization at government expense**
 - Nursing home facility or mental health institution
 - **DOES NOT** include short-term rehabilitation, imprisonment for conviction of a crime, use of home and community based services


Public benefits **NOT** considered

- **Enrollment in the following health coverage programs:**
 - Health Benefits for Immigrant Adults (HBIA): 42-64 years
 - Health Benefits for Immigrant Seniors (HBIS) 65 years and older
 - All Kids
 - Moms & Babies
 - Affordable Care Act (ACA) Adult
 - Aid to the Aged, Blind, and Disabled (AABD), except cash assistance.
 - COVID-19 testing and vaccines
- **Nutrition:** SNAP, free and reduced school meals, WIC
- **Housing:** Subsidized public housing, rental assistance programs, homeless shelters
- **Special Purpose or Supplemental Benefits:** disaster assistance, pandemic assistance, utility assistance like LIHEAP, child care assistance
- **Federal, tribal, territorial, state or local tax credits:** Child Tax Credit, Earned Income Tax Credit (EITC)




One major improvement.

The new rule clarifies that benefits received by family members not applying for immigration status – such as U.S. citizen children – will not be considered.




Scenario 1: I already have a green card, am I subject to public charge?

No. If, however, you leave the US for more than 180 days in a row, you could be subject to public charge when you seek to reenter the US.



Scenario 2: I am applying to renew my DACA. Does public charge apply to me?

No. Public charge does not apply to individuals renewing their DACA status.



Scenario 3: I am applying for SNAP for my U.S.-citizen child. Will this affect my green card application under a public charge test?

No. The child's use of SNAP is not considered under the individual's public charges, according to the new rule.



Key Takeaways & Messages

- Not all immigrants face a public charge test.
- Only a few public benefits programs are included in the public charge test.
- A child's or other family member's use of public benefits never affects the applicant's immigration application.
- Medicaid is safe for eligible immigrant families to use for any other health care need except for long-term use of institutional care.
- SNAP, WIC, the Child Tax Credit, Section 8, and other "non-cash" federal programs (and state- and locally-funded versions of those programs) never affect immigration applications.

Resources

- **Protecting Immigrant Families - Illinois (PIF-IL):**
 - Factsheets available in multiple languages and on multiple issues relevant to public charge (HBIA/HBIS, Moms & Babies, WIC).
 - For legal questions, contact pifillinois@povertylaw.org.
- **Keep Your Benefits:** Contains a Guide to see if someone would be assessed under the public charge test.
- **ICIRR - Immigrant Family Resource Program:** Supports for immigrants applying for public benefits.





Immigration Division of the Law Office of the Cook County Public Defender

- The Immigration Division can be reached at pdimmigrationunit@cookcountyil.gov and at 312-603-0636.
- For more information and factsheets, visit [Immigration Division | Law Office of the Cook County Public Defender](#).

Immigration Defense - Key Facts -



What is the Immigration Division?

The division is a historic initiative of the Cook County Public Defender's Office, funded by public and private money, to provide zealous representation to noncitizens appearing before the Cook County Circuit Court and Chicago Immigration Court.

The division's immigration attorneys work with assistant public defenders to minimize immigration consequences of criminal cases and take on removal cases before the immigration court.

Why was the pilot formed?

The outcome of a criminal case significantly affects an immigrant's ability to remain in the U.S., and criminal and immigration counsel can best protect immigrants by working together.

Immigrants facing deportation from the U.S. are not provided an attorney if they cannot afford one, profoundly impacting their ability to receive a fair hearing.

The division was formed to begin to address these issues in Cook County.

When was it formed?

The Immigration Division was formed in fall 2020 and began working with assistant public defenders representing noncitizens in criminal proceedings.

In early 2022, Governor Pritzker signed Public Act 102-0410 into law and the Cook County Board of Commissioners passed a resolution in support of this initiative. This authorized the Cook County Public Defender's Office to represent noncitizens in removal proceedings, also known as deportation cases, before the Chicago Immigration Court.

What immigration cases will the Public Defender take on?

The Cook County Public Defender's Office has flexibility to prioritize cases under its current grant funding and staffing levels, using the following parameters:

- Indigency – lack of funds for private counsel.
- People detained by U.S. Immigration and Customs Enforcement (ICE) must have connections to Cook County via residency or current or former representation by the Cook County Public Defender's Office. Representation of people not detained by ICE is currently limited to current and former Cook County Public Defender clients.
- Cases accepted through the Midwest Immigrant Defenders Alliance - a legal aid collaboration.
- As we believe that all individuals are entitled to counsel, the office accepts cases without regard to factors such as the perceived strength of the case.

Immigration Division contact:
PDImmigrationunit@cookcountyil.gov
(312) 603-0636



Cook County Legal Aid for Housing and Debt (CCLAHD)

- Free legal help with evictions, foreclosures, debt, and property tax issues for residents of Cook County.
- Phone: 855-956-5763
- www.cookcountylegalaid.org

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Helping you resolve eviction, foreclosure, debt, and tax deed issues.

LEGAL HELP IS AVAILABLE AT NO COST FOR ALL COOK COUNTY RESIDENTS!
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Call the CCLAHD hotline at (855) 956-5763 to learn how you can get help resolving your housing and debt problems. All services are available at no cost to Cook County residents and property owners regardless of income, language, or immigration status. The hotline is open Monday-Friday from 9:00 - 4:30.

CCLAHD can help if:

- ▶ You are a renter facing eviction
- ▶ You are a landlord dealing with an eviction issue
- ▶ You are being sued for an unpaid debt
- ▶ You need to sue someone who owes you money

RENTAL ASSISTANCE IS NOW AVAILABLE!

Rental assistance programs can help eligible landlords and tenants by paying up to 18 months of past and future rent. You may be eligible if you are a tenant who fell behind on your rent because of COVID-19 and meet the income requirements. If your application is approved, the payments will be made directly to your landlord. Visit chicookilrenthelp.org to learn more about rental assistance programs.

Cook County Legal Aid for Housing and Debt (CCLAHD) is a county-wide initiative to help resolve eviction, foreclosure, debt, and tax deed issues with free services including legal aid, mediation, and referrals to rental assistance programs. Visit www.cookcountylegalaid.org for information about other programs and services.



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Lawyers' Committee for Better Housing
Legal Aid Chicago
Legal Aid Society





Q&A



Thank you!

Want to request a public charge (or any other immigration topic) workshop for your staff or community?

Contact **Nina Sedeño**, Immigration Policy Analyst
at nsedeno@latinopolicyforum.org.