

# Public Charge Guide

April 2020

## Public Charge Policy

Under longstanding federal policy, the Federal Government can deny an individual entry into the United States, or adjustment to lawful permanent resident status, if he or she is determined likely to become a “public charge.” Public charge is a term used in immigration law to refer to a person who is or might be dependent on public programs as their main source of support.

Application for or use of certain public benefits is just one factor of many that is considered in determining if a person is likely to become a public charge. In August of 2019, the Federal Government released a new public charge policy. Under the new federal policy, a public charge is redefined as an immigrant who receives one or more public benefits for more than 12 months over a 36-month period.

## Effective Date

The federal policy change will not go into effect until **February 24, 2020**. There are several legal challenges that are seeking to stop the federal policy from being implemented. Benefits, other than cash assistance and long-term care services, used before February 24, 2020, will not be considered in public charge determinations.

## Every family is different, reach out for legal advice first.

An immigration or public benefits attorney can give you advice based on your specific situation. You can find a list of legal services providers below:

### NM Legal Aid

301 Gold Ave SW  
Albuquerque, NM 87102  
(505) 243-7871

### NMILC

625 Silver Ave SW  
Albuquerque, NM 87102  
(505) 247-1023

It is important to have accurate information, before you make a decision about your public benefits, so you can make the right choice for the health and well-being of your family.

## Not all immigrants are subject to the new federal policy.

It does **NOT** apply to green-card holders who apply for citizenship. Green-card holder means lawful permanent resident. The policy does not apply to refugees. It does not apply to asylees. It does not apply to Special Immigrant Juveniles. It does not apply to some trafficking victims. It does not affect victims of some crimes. It does not affect some victims of domestic violence. There are others to whom it does not apply.

## Not all programs are subject to the new federal policy.

Public programs used by your children, who are United States citizens, cannot be used against you or another immigrant parent in a public charge determination.

- ✓ If you are only receiving nutrition benefits through the Women, Infants, and Children Program or WIC, you are **NOT** impacted by this federal policy.

- ✓ If you are only receiving subsidies for health insurance coverage through the New Mexico Health Insurance Exchange (beWellnm), you are **NOT** impacted by this federal policy.
- ✓ If you are under the age of 21 and only receiving Medicaid benefits, you are **NOT** impacted by this federal policy.
- ✓ If you are a pregnant woman, or within 60 days following the birth of a child, and only receiving Medicaid benefits, you are **NOT** impacted by this federal policy.
- ✓ If you are only covered for emergency medical services as part of Medicaid, you are **NOT** impacted by this federal policy.

### **Programs included in public charge consideration.**

You should consult with an immigration or public benefits attorney to better understand the impact of accessing public programs, including but not limited to the following:

- ✓ TANF
- ✓ SNAP
- ✓ Medicaid (adults 21+ only)
- ✓ Government-funded long-term institutional care
- ✓ Supplemental Security Income
- ✓ Public housing, Section 8 housing vouchers, and project-based Section 8

### **COVID-19 (Coronavirus) Testing**

On March 13, 2020, the Federal Government issued a statement clarifying that receipt of any treatment or preventive services related to COVID-19 will not negatively affect an individual under the public charge rule. Specifically, the Federal Government said it will not consider testing, treatment, or preventative care, which includes vaccines if one were to become available, related to COVID-19, as part of a public charge determination. COVID-19 testing, treatment, or care will also not be considered in relation to the public benefit condition applicable to certain nonimmigrants seeking an extension of stay or change of status, even if such treatment is provided or paid for by one or more public benefits as defined in the rule.

### **Appointments scheduled prior to effective date.**

You should keep your doctor, or any other health and human services appointments that are scheduled prior to the February 24, 2020 effective date.

### **Family members accessing public programs.**

The Federal Government will only consider public benefits received directly by the person who is applying for the change in status, or if they're listed as a beneficiary. This means that your family members accessing public programs will have no impact on you.

### **Personal information and your privacy.**

The information you provide for the enrollment of public programs cannot be shared publicly. However, the Federal Government may share your information internally between its own departments and agencies. You should only provide the information that is necessary for eligibility determination.

### **Impact on lawful permanent residents.**

There is no public charge policy to renew a green card. There is no public charge policy to apply for citizenship (naturalization).

It is important for lawful permanent residents or green card holders to speak to an immigration or public benefits attorney before leaving the United States for more than 180 days. This federal policy could apply if a green card holder leaves the United States for more than 180 days. If a green card holder travels outside the United States for more than 180 days during one trip, the government can ask questions to see if the person is a public charge upon returning to the United States.