**Final Public Charge Rule Published**

The final rule making changes to the public charge provisions of the immigrant law was issued on August 12. The Administration finalized the rule despite a showing of overwhelming opposition among the more than 260,000 comments submitted on it. While a few changes were made to the proposed rule –children under age 21 and pregnant women can still use Medicaid and be exempt from public charge consideration – the final rule adopts most of the proposed changes.

*This document provides some preliminary information about the rule. Also note that there will be lawsuits filed that will ask the Court to stop its implementation.*

**What is public charge?**

Under federal law, immigration and consular authorities can deny admission to the United States or adjustment to LPR status (green card) to a person they deem likely to become a public charge. The officials must look at ‘the totality of the circumstances’ - including the immigrant’s age, health, education, income, assets, skills, employment, and family status as well as other relevant factors (including receipt of public benefits) in making the public charge determination.

**What public benefits can be considered and which cannot?**

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| **Benefits that will be considered** | **Benefits that will NOT be considered**  |
| * Medicaid for adults (age 21+), seniors and people with disabilities.
* Medicaid received in a long-term care institution.
* Cash assistance – RI Works and SSI
* SNAP
* Section 8 vouchers and other public housing
 | * Medicaid for children/youth under age 21
* Medicaid for pregnant woman during pregnancy and 60 days post-partum
* Medicaid for school based services
* Tax credits to pay for health insurance purchased through HSRI
* WIC
* Medicare Part D Low-Income Subsidy
* In-state tuition
* Government student loans
* Emergency services, including disaster relief
* Earned benefits connected to work or military service (Social Security, Veteran’s benefits)
* Employment and Job Training programs
* Child development services
* Earned income tax credits
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**To whom does the rule apply and when will it apply?**

* The rule applies to immigrants who are applying for LPR status (green card) through family-based petitions. It will also affect LPRs who leave the country for more than 6 months when they return. And the rule extends the public charge test if a person seeks to extend a temporary non-immigrant visa or to change categories (e.g., from student to workers).
* Only benefits received by the immigrant are counted; not benefits received by their family members
* Only benefits received after implementation (mid-October) will be considered. (Except that SSI, RI Works or Medicaid in a long-term care institution will be considered even if received prior to that date.)
* If an immigrant has received one or more of the designated public benefits for more than 12 months in a 36-month period (receipt of two benefits in one month counts as two months) they are considered to be a public charge. However, even if they do not meet this threshold, receipt of any benefits can be considered under the ‘totality of the circumstances’ in making the public charge determination.

**To whom does the rule NOT apply?**

* Refugees, asylees, survivors of trafficking and other serious crimes, self-petitioners under VAWA, special immigrant juveniles, certain people paroled into the US, several other categories of noncitizens.
* Individuals enlisted in the US Armed Forces, serving in active duty or the Ready Reserve, or their spouses or children.
* LPRs applying to become citizens.