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Public Charge Final Rule: What the Immigrant Community Needs to Know

Does the Public Charge rule affect my eligibility for certain public benefits like accessing financial assistance (subsidies) through the health insurance marketplace (Nevada Health Link)?

- NO! The new public charge rule DOES NOT change eligibility for health and public benefits programs.
- If you are receiving subsidies or tax credits through Nevada Health Link, you will not be affected.
- Subsidies (financial assistance to help for your monthly premium) are not included in the final rule.
- Your children can still use NV Check-Up!
- Immigrants who are currently eligible for public benefits will remain eligible. Keep your health insurance plan – it's important to be covered.
- Green card holders cannot be deported simply for using public benefits.

BACKGROUND: On August 14, the Department of Homeland Security issued “Inadmissibility on Public Charge Grounds” final rule, which overhauls federal guidance that has been in place since 1999. The final rule subjects new populations to public charge, gives greater weight to factors that penalize low-income immigrants, and expands the scope of benefits considered in public charge determinations to include Medicaid, Supplemental Nutrition Assistance, and housing benefits. Benefit programs already existing in the rule include: Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), Federal, state, or local cash benefit programs, and institutionalization for long-term care.

WHAT IS Public Charge?

- “Public charge” is a term used in immigration law for more than 100 years, to identify an individual who is likely in the future to become dependent on public benefit programs.
- Being considered a public charge can result in the denial of a lawful permanent residency (green card) application or entry to the United States.
- When determining if a person is likely to become a public charge, the federal government looks at a variety of factors including age, health, income, family size, public assistance received, and education level.

HEALTH BENEFITS NOT Included in the Final Rule:

- Eligibility rules for the public benefit programs such as Nevada Health Link have not changed. **If an individual or family is receiving subsidies or tax credits on an exchange plan, the subsidies are not included in this final rule.**
- Medicare Part D Low-Income Subsidy
- Children’s Health Insurance Program (CHIP), Nevada Check-Up
- Affordable Care Act Marketplace subsidies, Nevada Health Link
- State/locally-funded non-cash programs

The final change to rules defining “public charge” makes it harder for many immigrants to obtain a visa or become a permanent resident (get a green card) if they have used or might use certain types of public assistance. The final rule overhauls the existing public charge determination process by:

- Applying public charge determination to new groups of immigrants
- Giving the Department of Homeland Security more latitude to consider evidence – like income, education, health status – when weighting someone is a public charge
- Expanding the list of public benefits considered
- Making it more likely that low-income immigrants will be determined a public charge

WHO could be impacted in Nevada? The final rule would apply to:

- Individuals seeking to legally enter the United States.
- Individuals legally in the U.S. seeking to become a lawful permanent resident/obtain a green card.
- Individuals legally in the U.S. seeking to extend a current visa
- Individuals legally in the U.S. seeking to change visa types
- Applicants for, or recipients of, any of the expanded list of non-monetized benefits subject to the public charge.
- Immigrants not subject to the rule, but who disenroll from benefits due to confusion, fear, or misinformation.
- Anyone seeking lawful permanent resident status through a family petition.

The public charge rule DOES NOT apply to:

- Green card holders who renew green cards or apply for citizenship, unless they leave the country either for more than 6 months and/or with certain criminal convictions, and then see to re-enter
 - Groups of aliens that Congress specifically exempted from the public charge ground of inadmissibility, such as refugees, asylees, certain Cuban, Haitian, Central American, Afghans and Iraqis with special immigrant visas, nonimmigrant trafficking and crime victims,
 - Individuals applying under the Violence Against Women Act, and special immigrant juveniles. Additionally, the rule excludes consideration of benefits received by U.S. citizen children of aliens who will acquire citizenship under either section 320 or 322 of the INA, and by alien service members of the U.S. Armed Forces. [Read more from UCIS here.](#)
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Immigration Law Resources in Nevada:

How do I find an attorney with experience in immigration matters? You can contact the **State Bar of Nevada's Lawyer Referral & Information Service at 702-382-0504** (toll-free in Nevada at 1-800-789-5747).

The State of Nevada Bar's main office (see listed below) can tell you whether or not an attorney is licensed in Nevada and is in good standing. For more information and to read the full brochure, [click here](#).

The State's Bar Main Offices:

Las Vegas Office:

3100 W. Charleston Blvd., Suite 100 Las Vegas, NV 89104
Phone: 702-382-2200 or toll-free 1-800-254-2797

Reno Office:

9456 Double R Blvd., Suite B Reno, NV 89521
Phone: 775-329-4100 Fax 775-329-0522

More Resources in Nevada: The United State Citizenship and Immigration Services website [Nevada office field locator](#) can be found on their website. Or call below:



USCIS Contact Center

Call toll-free: 800-375-5283. For people who are deaf, hard of hearing or have a speech disability: TTY 800-767-1833.

Resources: <https://www.ilrc.org/public-charge-community-messages>;
https://familiesusa.org/sites/default/files/product_documents/RR_Trump%20Admin%20Threatens-Immigrant-Families_Fact%20Sheet.pdf; <https://www.shvs.org/wp-content/uploads/2019/08/Public-Charge-Webinar-Slides.pdf>;
<https://www.uscis.gov/legal-resources/final-rule-public-charge-ground-inadmissibility>
