Know the Facts about Public Charge

This fact sheet is not a substitute for legal advice. People concerned about how public benefits might affect their immigration status should ask an immigration attorney for help.

Last updated Dec. 19, 2022

As of March 9, 2021, the expanded federal public charge rule is blocked permanently. It is no longer in effect anywhere in the United States. This means:

- Immigrants can safely get public health, nutrition and housing benefits.
- These benefits will not affect their immigration status.

On September 8, 2022, the U.S. Department of Homeland Security issued a new rule that restores the understanding of “public charge” that was in place since 1999.

The new rule will apply to all immigration applications filed on or after December 23, 2022. In the meantime, U.S. Citizenship and Immigration Services (USCIS) will follow President Biden’s Executive Order 14012 and apply the public charge policies set forth in the 1999 Interim Field Guidance.

The 1999 public charge rule now applies, but remember that:

- Many noncitizens are exempt from the public charge rule.
- Most noncitizens who qualify for public benefits are exempt from the public charge rule.
- Most benefits received by a noncitizen’s children or other family members do not count during the noncitizen’s public charge test in the U.S.

Refer to USCIS’s Public Charge Resources web page for more information.

The public charge rule does not apply to most people who qualify for public benefits.

Certain noncitizens are exempt from the public charge rule, including but not limited to:

- Applicants seeking refugee or asylee status;
- U.S. permanent residents including those renewing their green card;
- Noncitizens seeking T (victim of human trafficking) or U (victim of criminal activity) status;
- Applicants seeking Temporary Protected Status (TPS);
- Self-petitioners under the Violence Against Women Act (VAWA);
- Special immigrant juveniles;
- Applicants seeking military parole in place (PIP).

What public benefit programs count as public charge?

Now, the public charge rule only considers use of these programs:

- Temporary Assistance for Needy Families (TANF, a monthly cash benefit);
- Other state, Tribal, territorial, or local cash assistance programs (“General Assistance”);
- Supplemental Security Income (SSI); and
- Government programs supporting people living in long-term care institutions, such as a nursing home or mental health facility.
What public benefit programs do not count as public charge?

Many benefits, like those on the list below, are safe, and do not count in any public charge test:

- Oregon Health Plan (OHP) coverage for:
  - Youth younger than 21 (i.e., Medicaid, CHIP and Cover All Kids)
  - Pregnant adults (i.e., Medicaid and Citizenship Waived Medical Plus, or CWM Plus), including postpartum coverage
  - Emergency Medicaid for people ages 24-56 (i.e., CWM)
  - All other adults (i.e., Medicaid and Healthier Oregon)

- Reproductive health coverage
- Oregon MothersCare program
- Supplemental Nutrition Assistance Program (SNAP) or food stamps, including Pandemic EBT
- Public housing and Section 8 subsidized housing
- Section 8 rental assistance (e.g., housing choice vouchers)
- Women, Infants and Children (WIC) (nutrition assistance for women, infants, and children to age 5)
- COVID-19 testing, care, and vaccination
- Food from the food bank or food boxes
- Disaster or emergency assistance or benefits
- Special education services funded by the Individuals with Disabilities Education Act (IDEA) that Medicaid covers.
- School-based health services for school-aged children
- Early Head Start and Head Start/Oregon Prekindergarten
- Free and reduced School Lunch Program
- Social Security Retirement
- Medicare
- Medicare Part D Low-Income Subsidy
- Older Americans Act (OAA) programs.
- State-funded programs to aid older adults and people with disabilities (e.g., Oregon Project Independence)
- Unemployment Insurance
- Commercial health insurance premium subsidies through Oregon’s Health Insurance Marketplace
- Employment Related Day Care childcare reimbursement
- And many other health and social services programs not listed here

Getting public benefits alone does not make someone a public charge. The public charge test:

- Looks at all the noncitizen’s circumstances — not just if they are likely to use public benefits.
- As required by federal immigration law, looks at the noncitizen’s
  - “Age; health; family status; assets, resources, and financial status; and education and skills,”
  - Completed Form I-864 (Affidavit of Support), filed on the noncitizen’s behalf, and
  - Past or current receipt of cash assistance and government-paid long-term institutional care.

Have questions? You’re not alone. There’s help.

- Call the Oregon Public Benefits Hotline at 1-800-520-5292.
- Search the National Immigration Legal Services Directory for free or low-cost legal services.
- Search for a private immigration lawyer in your area.
- Some Oregon residents may qualify for free representation at Portland Immigration Court through Equity Corps of Oregon. Learn more and seek assistance here.
- Find help with other legal issues such as housing, custody, divorce, employment, victim’s rights, and more with Oregon Law Help’s directory of nonprofit legal services or the Oregon State Bar’s Lawyer Referral Service.
- Stay informed by visiting protectingimmigrantfamilies.org.