



## Frequently Asked Questions – Public Charge *Last updated Jan. 31, 2020*

**Disclaimer:** This document does *not* contain legal advice. Individuals who are concerned about whether and how receipt of public benefits might affect their immigration status should ask for help from an immigration attorney.

### **What people should know about the current status of public charge:**

- **The new federal public charge rule is no longer blocked. It will take effect on Feb. 24, 2020. It will not be retroactive.**
  - On Jan. 27, 2020, the U.S. Supreme Court set aside a preliminary injunction from New York that prevented the U.S. Department of Homeland Security public charge rule from taking effect nationwide.
  - Because the new rule will **not** be retroactive, no one will be held to it until Feb. 24, 2020.
- **Given that litigation efforts continue, it is important for people to know the facts, and to stay updated:**
  - The public charge rule does **not** apply to every immigrant.
  - Many public benefits do **not** count towards public charge.
  - Public benefits your children or other family members get **do not** count against you in the public charge test.
  - Just getting public benefits alone **does not** make you a public charge.
  - Stay informed. Litigation continues and things could change. Don't make decisions based on fear, make them based on facts.
- Those who have questions or concerns about how public charge may impact them or members of their family should contact an immigration attorney for help.
  - Call **the Oregon Public Benefits Hotline at 1-800-520-5292** for free assistance, or
  - Go online to find an immigration attorney at [oregonimmigrationresource.org](http://oregonimmigrationresource.org).
- The state of Oregon is monitoring developments around public charge closely.
  - We will continue to update our clients, community partners, members of the public and other stakeholders as more information becomes available.

**Background:** On Aug. 12, 2019, the U.S. Department of Homeland Security announced it had finalized the new public charge rule. The new rule was going to take effect on Oct. 15, 2019. However, it was temporarily blocked by federal courts. On Jan. 27, 2020, the U.S. Supreme Court set aside the last of three federal injunctions that had blocked the new rule from taking effect. This means the new public charge rule can now go into effect. The only exception is in Illinois where the rule remains blocked by a statewide injunction.

## **What is public charge?**

“Public charge” or the “public charge test” is used by immigration officials to decide if a person can:

- Enter the United States, or
- Get lawful permanent resident (LPR) status (i.e. a green card).

## **How are public charge decisions made?**

Immigration officials are supposed to look at all a person’s circumstances to determine if they are likely to depend on the government for aid *in the future*. Use of public benefits is supposed to be only one of several factors used to make this decision.

## **What happens if a person is found to be a public charge?**

Officials can deny the applicant entry to the United States or a green card.

## **Who does public charge affect?**

The only people that public charge affects are those who:

- Apply to enter the United States,
- Apply to get a green card, or
- Have a green card who leave the United States for 180 consecutive days or more, and who seek to re-enter the country.

## **Who does public charge *not* affect?**

- U.S. citizens:
  - Those who are born in the United States, and
  - Those who have naturalized.
- Green card holders (except those who leave the U.S. for 180 consecutive days or more). This includes:
  - People with green cards who are applying for U.S. citizenship, and
  - Those renewing their green card.
- Active military service members and their families.
- Immigrants who are in the United States for humanitarian reasons. For example:
  - Refugees
  - Asylees (including people applying for asylum)
  - People with Temporary Protected Status (TPS)
  - Violence Against Women Act (VAWA) self-petitioners
  - T or U visa applicants or holders
  - People with Special Immigrant Juvenile Status (SIJS)
  - Certain parolees, and
  - Other categories of noncitizens.

## **What public benefit programs in Oregon count as public charge under the new rule?**

- Non-emergency Oregon Health Plan (i.e. Medicaid) coverage for non-pregnant adults 21 and older.
- Medicaid-funded long-term care.
- Supplemental Nutrition Assistance Program (SNAP), or food stamps.
- Federal, state or local cash assistance programs. This includes:
  - Supplemental Security Income (SSI), and
  - Temporary Assistance for Needy Families (TANF).
- Section 8 rental assistance (i.e., housing choice vouchers).
- Project-based Section 8 housing and subsidized housing.

**What public benefit programs in Oregon do *not* count as public charge under the new rule?**

- Oregon Health Plan coverage for youth younger than 21 (i.e., Medicaid and the Children’s Health Insurance Program, or CHIP).
- Oregon Health Plan coverage for people who are pregnant including 60 days after giving birth (i.e., Medicaid and Citizen-Alien Waived Emergent Medical Plus, or CAWEM Plus).
- Oregon MothersCare (OMC) program.
- Emergency Oregon Health Plan coverage for people of all ages (i.e., CAWEM).
- Oregon’s Cover All Kids program.
- Special education services funded by the Individuals with Disabilities Education Act (IDEA) that Medicaid covers.
- Early Head Start and Head Start/Oregon Prekindergarten.
- Employment Related Day-Care child-care reimbursement.
- School-based health services for school-aged children.
- Free and reduced School Lunch Program (exception: the new rule would consider this if there was a referral to this program through SNAP).
- Women, Infants, and Children (WIC) supplemental nutrition program.
- Commercial health insurance premium subsidies through Oregon’s Health Insurance Marketplace.
- Oregon Food Bank programs and services.
- Older Americans Act (OAA) programs.
- State-funded programs to aid older adults and people with disabilities (e.g., Oregon Project Independence (OPI) program).
- Medicare Part D Low-Income Subsidy (LIS).
- *Many other health and social services programs not listed here.*

**Questions? Please contact the following state agencies or programs.**

Department of Human Services

- Nicole Stapp, Legislative Relations Unit  
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Oregon Department of Education

- Carmen Xiomara Urbina, Deputy Director  
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Oregon Health Authority

- Jeannette Taylor, Government Relations  
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Oregon Health Insurance Marketplace

- Chiqui Flowers, Administrator  
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Oregon Housing and Community Services

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