# DHS Revises Rule Regarding "Public Charge" Ground of Inadmissibility

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The U.S. Department of Homeland Security has announced a new rule putting greater emphasis on the importance of financial and economic self-sufficiency to applicants for U.S. permanent residence. The rule—which will come into effect on October 15, 2019—will make it harder for intending immigrants to qualify for permanent residence (commonly referred to as a "Green Card") if they have benefitted from certain public benefit programs such as cash benefits for income maintenance, Supplemental Security Income (SSI), Temporary Assistance to Needy Families (TANF), Supplemental Nutritional Assistance Program (SNAP), most forms of Medicaid, and certain housing programs.

Specifically, the USCIS announcement regarding the rule states:

"DHS has revised the definition of 'public charge' to incorporate consideration of more kinds of public benefits received, which the Department believes will better ensure that applicants subject to the public charge inadmissibility ground are self-sufficient. The rule defines the term "public charge" to mean an individual who receives one or more designated public benefits for more than 12 months, in the aggregate, within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months). The rule further defines the term "public benefit" to include any cash benefits for income maintenance, Supplemental Security Income (SSI), Temporary Assistance to Needy Families (TANF), Supplemental Nutritional Assistance Program (SNAP), most forms of Medicaid, and certain housing programs.

The regulation also excludes from the public benefits definition: public benefits received by individuals who are serving in active duty or in the Ready Reserve component of the U.S. armed forces, and their spouses and children; public benefits received by certain international adoptees and children acquiring U.S. citizenship; Medicaid for aliens under 21 and pregnant women; Medicaid for school-based services (including services provided under the Individuals with Disabilities Education Act); and Medicaid benefits for emergency medical services.

This rule also makes certain nonimmigrant aliens in the United States who have received designated public benefits above the designated threshold ineligible for change of status and extension of stay if they received the benefits after obtaining the nonimmigrant status they seek to extend or from which they seek to change.

Importantly, this regulation does not apply to humanitarian-based immigration programs for refugees, asylees, Special Immigrant Juveniles (SIJs), certain trafficking victims (T nonimmigrants), victims of qualifying criminal activity (U nonimmigrants), or victims of domestic violence (VAWA self-petitioners), among others.



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This rule also explains how USCIS will exercise its discretionary authority, in limited circumstances, to offer an alien inadmissible only on the public charge ground the opportunity to post a public charge bond. The final rule sets the minimum bond amount at $8,100; the actual bond amount will be dependent on the individual's circumstances."

USCIS will apply the public charge inadmissibility final rule only to applications and petitions postmarked (or submitted electronically) on or after October 15, 2019. Applications and petitions already pending with USCIS on October 15, 2019 (postmarked and accepted by USCIS) will be adjudicated based on previous guidance, which is more lenient.

While the public charge ground of inadmissibility is not new law, the revised enforcement and application standard is new policy. While the government claims the increased standard and enforcement of the regulation will promote self-sufficiency and successful integration of immigrants into the U.S., critics are concerned about the humanitarian impact of the rule, worrying that it may deter intending immigrants from applying for critical aid needed to survive.

Please reach out to your LMWF immigration professional with any questions or concerns about this new rule or its impact on you or your family.

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