



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

This memo is archive material that has been superseded by more recent rule making. (8/29/2019)

The Honorable Clarence H. Carter  
Director  
Department of Human Services  
64 New York Avenue, N.E., 6th Floor  
Washington, District of Columbia 20002

Dear Mr. Carter:

On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

USCIS agency guidance clearly stipulates that certain public benefits **are not subject to public charge determinations, including Supplemental Nutrition Assistance Program (SNAP) benefits**. The Food and Nutrition Service (FNS) has long supported USCIS' policy on public charge and **encourages States administering SNAP benefits to make the policy well known in the immigrant communities in your State**.

FNS would also like to express our thanks to you and our State partners for all the work you do to provide SNAP benefits to eligible immigrant households. FNS will continue to be a resource by providing whatever technical assistance or policy support you may need on SNAP policy affecting immigrants and to assist in making the Federal policy on public charge widely known and understood to ensure eligible immigrant individuals and families are not dissuaded from applying for program benefits.

Should your staff have any questions on SNAP policy on public charge, please have them contact Vicky Robinson at [vicky.robinson@fns.usda.gov](mailto:vicky.robinson@fns.usda.gov) or at (703) 305-2476.

Sincerely,

Kevin W. Concannon  
Under Secretary  
Food, Nutrition, and Consumer Services

Attachment

An Equal Opp

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

The Honorable Estelle Richman  
Secretary of the Department of Public Welfare  
Post Office Box 2675  
Harrisburg, Pennsylvania 17105-2675

Dear Ms. Richman:


On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

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Food, Nutrition, and Consumer Services

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United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

The Honorable Christopher Finch  
Commissioner of Human Services  
Knud Hansen Complex - Building A  
1303 Hospital Ground Charlotte Amalie  
Saint Thomas, Virgin Islands 00802-6722

Dear Commissioner Finch:

On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

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Kevin W. Concannon  
Under Secretary  
Food, Nutrition, and Consumer Services

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United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

The Honorable Brenda Donald  
Secretary of Human Resources Department  
Saratoga State Center  
311 West Saratoga Street  
Baltimore, Maryland 21201-3521

Dear Ms. Donald:

On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

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Food, Nutrition, and Consumer Services

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United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

The Honorable Patsy A. Hardy  
Secretary of Health and Human Resources  
Department of Health and Human Resources  
State Capitol Complex, Bldg. 3 RM 206  
Charleston, West Virginia 25305-0330

Dear Ms. Hardy:

On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

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Under Secretary  
Food, Nutrition, and Consumer Services

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United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

The Honorable Marilyn B. Tavenner  
Secretary of Health and Human Resources  
Post Office Box 1475  
Richmond, Virginia 23219

Dear Ms. Tavenner:


On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

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United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

The Honorable Rita Landgraf  
Secretary of Health and Social Services  
1901 North Dupont Highway  
New Castle, Delaware 19720-1115

Dear Ms. Landgraf:

On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

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Sincerely,

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Kevin W. Concannon  
Under Secretary  
Food, Nutrition, and Consumer Services

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United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

The Honorable Jennifer Velez  
Commissioner of Human Services  
Post Office Box 700 - Capitol Place One  
Trenton, New Jersey 08625-0700

Dear Commissioner Velez:

On October 20, 2009, the United States Citizenship and Immigration Service (USCIS) restated its longstanding policy regarding Public Charge. The Immigration and Nationality Act provides that an immigrant who is likely at any time to become a public charge is inadmissible to the United States and is ineligible to become a legal permanent resident. USCIS agency guidance has defined public charge to mean an individual who is likely to become primarily dependent on the government for assistance. However, receiving public benefit does not automatically make an individual a public charge. USCIS and the Department of State are responsible for making public charge determinations. Attached is the USCIS policy on public charge.

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# Fact Sheet

October 20, 2009

## Public Charge

### **Introduction**

Public charge has been part of U.S. immigration law for more than 100 years as a ground of inadmissibility and deportation. An individual who is likely at any time to become a public charge is inadmissible to the United States and ineligible to become a legal permanent resident. However, receiving public benefits does not automatically make an individual a public charge. This fact sheet seeks to inform non-citizens about public charge determinations and help them to make informed choices about whether to apply for certain public benefits.

### **Background**

Under Section 212(a)(4) of the Immigration and Nationality Act (INA), an individual seeking admission to the United States or seeking to adjust status to that of an individual lawfully admitted for permanent residence (green card) is inadmissible if the individual, "at the time of application for admission or adjustment of status, is likely at any time to become a public charge." If an individual is inadmissible, admission to the United States or adjustment of status is not granted.

Immigration and welfare laws have generated some concern about whether a non-citizen may face adverse immigration consequences for having received Federal, state, or local public benefits. Some non-citizens and their families are eligible for public benefits – including disaster relief, treatment of communicable diseases, immunizations, and children's nutrition and health care programs – without being found to be a public charge.

### **Definition of Public Charge**

For purposes of determining inadmissibility, agency guidance has, since 1999, defined "public charge" to mean an individual who is likely to become "primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance, or institutionalization for long-term care at government expense." See "Field Guidance on Deportability and Inadmissibility on Public Charge Grounds," 64 FR 28689 (May 26, 1999). In determining whether an alien meets this definition for public charge inadmissibility, a number of factors must be considered, including age, health, family status, assets, resources, financial status, education, and skills. No single factor - other than the lack of an affidavit of support, if required - will determine whether an individual is a public charge.

### **Benefits Subject to Public Charge Consideration**

The agency guidance specifies that cash assistance for income maintenance includes Supplemental Security Income (SSI), cash assistance from the Temporary Assistance for Needy Families (TANF) program and State or local cash assistance programs for income maintenance, often called “General Assistance” programs. Acceptance of these forms of public cash assistance could make a non-citizen inadmissible as a public charge, if all other criteria are met. However, the mere receipt of these benefits does not automatically make an individual inadmissible, ineligible to adjust status to lawful permanent resident, or deportable on public charge grounds. *See* “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 64 FR 28689 (May 26, 1999). Each determination is made on a case-by-case basis in the context of the totality of the circumstances.

In addition, public assistance, including Medicaid, that is used to support aliens who reside in an institution for long-term care – such as a nursing home or mental health institution – may also be considered as part of the public charge analysis of the totality of the circumstances. Short-term institutionalization for rehabilitation is not subject to public charge consideration.

### **Benefits Not Subject to Public Charge Consideration**

Under the agency guidance, non-cash benefits and special-purpose cash benefits that are not intended for income maintenance are not subject to public charge consideration. Such benefits include:

- Medicaid and other health insurance and health services (including public assistance for immunizations and for testing and treatment of symptoms of communicable diseases, use of health clinics, short-term rehabilitation services, prenatal care, and emergency medical services) other than support for long-term institutional care
- Children's Health Insurance Program (CHIP)
- Nutrition programs, including Food Stamps, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the National School Lunch and School Breakfast Program, and other supplementary and emergency food assistance programs
- Housing benefits
- Child care services
- Energy assistance, such as the Low Income Home Energy Assistance Program (LIHEAP)
- Emergency disaster relief
- Foster care and adoption assistance
- Educational assistance (such as attending public school), including benefits under the Head Start Act and aid for elementary, secondary, or higher education
- Job training programs
- In-kind, community-based programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter)
- Non-cash benefits under TANF such as subsidized child care or transit subsidies
- Cash payments that have been earned, such as Title II Social Security benefits, government pensions, and veterans' benefits, among other forms of earned benefits, do not support a public charge determination
- Unemployment compensation is also not considered for public charge purposes

Some of the above programs may provide cash benefits, such as energy assistance, transportation or child care benefits provided under TANF or the Child Care Development Block Grant (CCDBG), and one-time emergency payments under TANF. Since the purpose of such benefits is not for income maintenance, but rather to avoid the need for on-going cash assistance for income maintenance, they are not subject to public charge consideration.

