

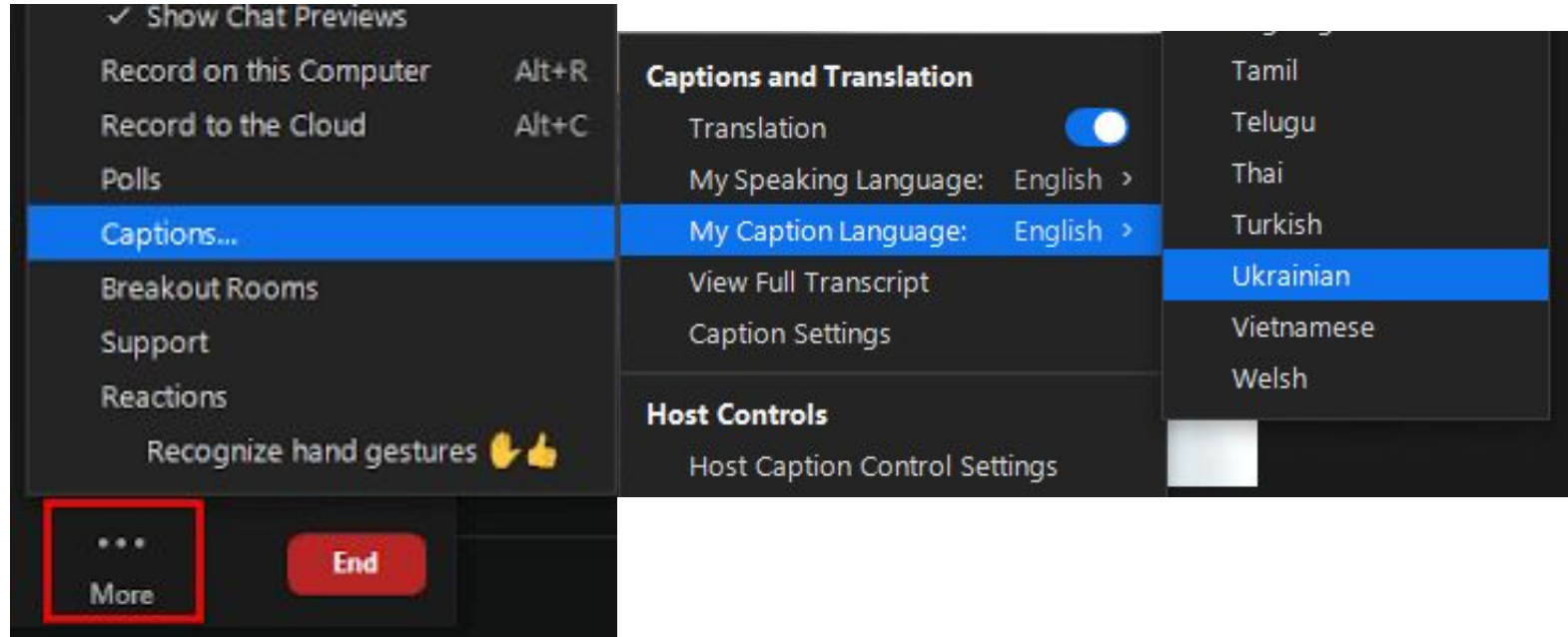


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Seattle
Office of Immigrant
and Refugee Affairs

New (2026) Public Charge Rule: Changes and Impact

August 27, 2026

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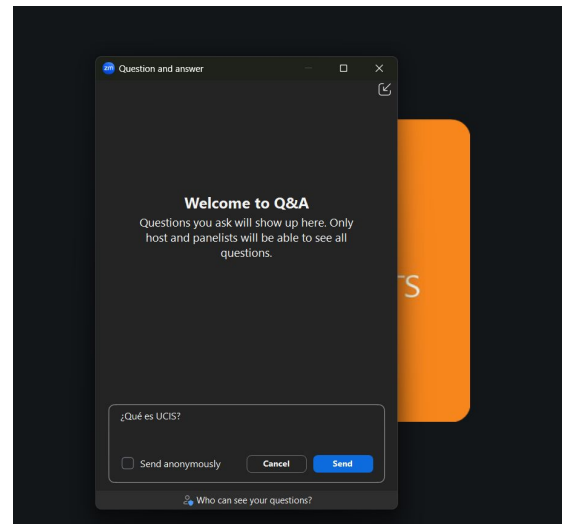
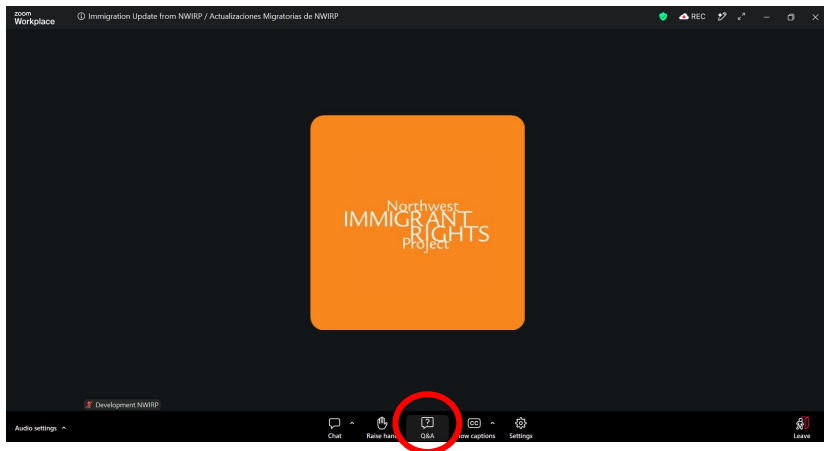
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- Individuals with immigration questions should seek the advice of a reputable and experienced immigration attorney, trusted DOJ Accredited Representative
- The information provided today is only guaranteed to be updated through today
- Please also join NWIRP's mailing list: www.nwirp.org/join/mailling-list

**This webinar will be recorded and both the recording and slide deck
will be shared with registered participants**

Questions in the Q&A Option

- Please ask questions in the Q&A at any time. We will do our best to answer them by replying to them in the Q&A tab.
 - *Por favor hagan preguntas en cualquier momento. Haremos todo lo posible para responder en la función de “Preguntas y Respuestas” en zoom.*



Today's Presentation

Public Charge

- What is Public Charge?
- Who is impacted?
- History of Public Charge
- New (2026) DHS Public Charge Rule, effective Sept. 18, 2026
- DHS-USCIS Guidance
- Recap - What Changed?

Key Messages and Other Updates

- Impact of means-tested public benefits now considered
- Messaging for immigrant communities

Scenarios and Q&A

Resources

Public Charge

What is Public Charge?

Public Charge is a “Ground of Inadmissibility” under immigration law which specifically looks at whether a person is likely to depend on the government for subsistence (or receive benefits) in the future

A “Ground of inadmissibility” is a reason to deny someone a green card (lawful permanent residence) or entry to the U.S.

- The longstanding rule considers only two types of benefits:
 - 1) cash assistance for income maintenance
 - 2) long-term institutional care at government expense

In the applicant’s case analysis, a totality of the circumstances standard is applied considering five statutory factors: 1) Age, 2) Health, 3) Family Status, 4) Assets, Resources, and Financial Status, and 5) Education and Skills

Who Does Public Charge Apply to (and Not)?

Public Charge inadmissibility ground applies if you are:

- Applying for green card based on family petitions and some employment-based petitions
 - Inside U.S.
 - Adjustment with USCIS
 - Outside U.S.
 - Consular Process with DOS

Public Charge inadmissibility ground DOES NOT APPLY if you are:

- A U.S. citizen
- Seeking a green card through humanitarian-based applications: asylum, refugee status, VAWA, U & T, Special Immigrant Juvenile (SIJ) Classification
- A green card* holder, renewing, and applying for citizenship

*Green card holder departure for 180+ days and reentry is subject to public charge and other inadmissibility grounds

Who Else is Not Impacted by Public Charge?

Public Charge inadmissibility ground ALSO DOES NOT APPLY if you are:

- Applying for or renewing your temporary status or protection (e.g. DACA, TPS)

Reminder: a public charge determination generally is only considered when someone applies for a green card...

If an applicant in temporary status or protection is seeking to apply for a green card through a family member, then the public charge ground of inadmissibility applies in determining whether they will become a public charge in the future

History of Public Charge

- For decades (since 1999), the longstanding guidance for “public charge” had been understood to apply narrowly:
 - Considered core five statutory factors introduced in 1996
 - In terms of public assistance, again, only considered a potential public charge issue if:
 - Person relied on cash assistance for income maintenance (and most were ineligible), or
 - Person was in long-term institutional care that was government funded

Related requirement:

Intending immigrant (applicant) has to secure a financial “sponsor” who can demonstrate they will support by filing an “Affidavit of Support” (I-864)

History of Public Charge

- In 2018-2019, the first Trump Administration rolled out proposals and policy changes broadening the concept of public charge:
 - Jan. 2018: Policy change at Department of State (DOS)– impacting immigrants in consular processing (applying for a green card abroad)
 - Aug. 2019: new DHS regulation issued–impacting certain immigrants getting green card in U.S.
 - It was to go into effect in Oct. 2019, but blocked by federal courts from Oct. 2019-Feb. 2020
- On Feb. 24, 2020: DHS regulation went into effect for applications filed on/after this date; DOS rule for consular interviews also went into effect on/after this date

History of Public Charge

- In 2022, the Biden Administration restored the historical, narrower definition **focusing strictly on cash assistance and long-term institutionalization in the public charge analysis**
 - Excluded benefits accessed or received by applicant's household and family members

- July 2026 - under the Trump Administration, DHS announced a final rule rescinding the 2022 Biden-era public charge that goes **into effect on September 18, 2026**

History of Public Charge

- Aug. 2026 - DHS-U.S. Citizenship and Immigration Services (USCIS) issued new and expansive guidelines to their policy manual
 - Erases any regulatory definition of the term public charge
 - Allows a discretionary totality of the circumstances analysis

But what does this mean and what remains uncertain?

History of Public Charge

In 2026, a totality of the circumstances standard (a balancing test) considers the same core five statutory factors when making public charge inadmissibility determinations:

1. Age
2. Health
3. Family Status
4. Assets, Resources, and Financial Status
5. Education and Skills

Affidavit of Support (I-864) is no longer sufficient on its own to overcome a finding of public charge inadmissibility; may be considered as a positive factor

****Future litigation likely**** — But anticipate the public charge rule goes into effect and remains in effect for the foreseeable future

New (2026) DHS Public Charge Rule

DHS Final Rule goes into effect on September 18, 2026

****prospective****

- Erases any regulatory definition of the term “public charge”
- Allows a discretionary totality of the circumstances analysis
 - Adjudicating officers not limited in what they can consider, and can use all relevant information to make individualized public charge determinations
- USCIS is still required to consider the five statutory factors to assess an applicant’s likelihood at any time of becoming a public charge plus any other relevant individual factors or circumstances in the applicant’s record

DHS-USCIS Guidance on Public Charge

USCIS updated its Policy Manual on Aug. 18, 2026

- USCIS may consider means-tested benefits and public benefits received by the applicant —prospectively —on or after Sept. 18
 - A benefit received is generally considered to be “means-tested” if eligibility for the benefit itself is determined based on the applicant’s income or assets falling below a certain financial threshold
 - A benefit received is generally a “public” benefit if the payment or assistance are provided by a government agency (federal, state, local) or by appropriated funds of the government

DHS-USCIS Guidance on Public Charge

“Means-tested” benefits received before Sept. 18 — **only** if public cash assistance for income maintenance and long-term institutional care

Prospective use of certain “means-tested” public benefits if received on or after Sept. 18, including (but not limited to):

- Cash assistance for income maintenance
- Public or assisted housing
- Food assistance (e.g. food stamps) (not food banks)
- Financial aid for post-secondary education
- Any other similar benefit (e.g. government-funded health coverage) — **Expansion: benefit received by applicant, household member, or family dependent on applicant**

DHS-USCIS Guidance on Public Charge

In addition, USCIS may consider the benefits received by the applicant's children or any household member whom the applicant is legally obligated to support

- Factor: Assets, Resources, and Financial Status

What counts as benefits “received”?

- Benefit receipt by applicant — highly relevant
- Application or approval can be considered
- Withdrawal, cancellation, or unenrollment can be considered
- Family members' benefits —not directly counted as “receipt” but weighed

Note: Earned or work-related benefits such as social security, Medicare, unemployment insurance, and workers compensation are not means-tested public benefits and will not be considered

DHS-USCIS Guidance on Public Charge

Five statutory factors in the totality of the circumstances standard

Age:

- Adds emphasis on applicant's employment in light of their age
- e.g. Public charge determination = someone older, unable to work, with limited financial resources
 - But if retired or nearing retirement, your assets and benefits will be considered as positive

Health:

- USCIS must not make health diagnosis, but defers to required medical exam report (I-693) submitted with green card application
- Applicant's disability alone is insufficient (discriminatory), but an applicant with "a disability or medical condition that requires extensive medical treatment or care, is unable to work, and has limited financial resources" may be considered to become a public charge
 - But will look to see if applicant can show sufficient health insurance coverage

DHS-USCIS Guidance on Public Charge

Family Status

- Applicant's household size and certain family members residing with or dependent on the applicant are considered for either a positive or negative determination

Assets, Resources, and Financial Status

- USCIS must consider applicant's household annual income
- The source of income is relevant in the analysis
- Income from means-tested public benefits is not considered
- Household's assets, resources, and liabilities are considered
- Income of certain relatives (whether residing or not with the applicant) who contribute financially may be considered as positive
 - Income earned without work authorization is considered in calculating household income

DHS-USCIS Guidance on Public Charge

Education and Skills

- Degrees, certifications, licenses, education certificates, and skills through work experience or educational programs
 - language skills (English proficiency)
- Employment history
 - Evidence of current or prospective employment with estimated salary or wages
- For primary caregivers within their household who lack recent employment history, USCIS may positively consider their unpaid contributions through caretaking

Recap – What Changed?

2022 Public Charge Rule	2026 Public Charge Rule
Applies if I-485 is submitted before Sept. 18, 2026	Applies if I-485 is submitted on or after Sept. 18
Clearly defines “public charge” as someone primarily dependent on government for subsistence	Removes that definition and the published policy guidance provides new formulation
Only two public benefits are considered: cash assistance and long term institutional care	Allows consideration of any and all means-tested benefits, and does NOT contain a clear list of benefits
Excludes consideration of benefits received by applicant’s family members	While applicant’s family members’ benefits are not directly counted, their receipt of means-tested benefits may be considered as evidence of applicant’s financial circumstances
Includes clear guardrails specific to application of a public charge analysis	Removes regulatory guardrails in the analysis, leading to confusion, inconsistent adjudications
Affidavit of Support (I-864) sufficient to overcome a finding	Affidavit of Support no longer sufficient on its own

Key Messages and Other Updates

What Is the Bottom Line?

- Public charge is likely to make it more difficult for community members to obtain green cards:
 - BUT NOT because of receipt of means-tested public benefits alone
 - Instead, because of other vague guidance and broader discretion in applying the statutory factors
 - age; health; family status; assets, resources, and financial status; and education and skills
- Complicated messaging with regard to receipt of benefits:
 - Do not recommend you drop benefits unless you have received individualized advice
 - But also can't say it's completely safe for everyone (because it could be a problem for a few), but only one part of the totality of the circumstances standard

Key Messages

- The public charge ground of inadmissibility does not impact all immigrants or non-U.S. citizens; it primarily applies to people seeking a green card through a family member
- Many immigrants (e.g. refugee status, asylee status, VAWA, U/T visa, SIJ), and others are exempt from a public charge inadmissibility ground when they apply for those specific statuses and when applying for a green card from those statuses
 - But receipt of means-tested public benefits while in an exempt status will likely be considered in the totality of the circumstances if family-based green card
- An individualized analysis and a totality of the circumstances standard is applied
 - Factors and circumstances may be weighed either as positive or negative

Key Messages

- A public charge determination considers the applicant's future, not just their past
 - USCIS Guidance: “[p]ast or current receipt of means-tested public benefits may not be indicative of future receipt”
- There is no bright-line test and no single factor is outcome-determinative in the finding of public charge ground of inadmissibility
- Virtually everyone applying for a green card (either undocumented or temporary status) is NOT eligible for the federally funded benefits; also consider HR 1 eligibility changes to Medicaid

Key Messages

- Receipt of means-tested or public benefits alone should NOT actually bar an applicant from being able to get a green card
 - Remember this is just ONE of the many factors considered
 - Unenrollment advice does not serve the best interest of immigrant communities (consider harm versus help); case-by-case guidance is important
- Many uncertainties remain in how the 2026 Public Charge Rule will be applied and inconsistencies (or variations) in adjudications are anticipated as well as legal challenges
- As service providers, important to stay up to date and understand the impact on communities, prepare messaging, and share information about available resources
- Everyone should seek legal advice from trusted legal practitioners before filing a green card application

What Is the Message for Community?

- If you are filing an immigration petition for a family member (even if you yourself are a U.S. citizen or green card holder):
 - Receipt of public benefits **could** make it more difficult for you to pursue the petition
 - Talk to an immigration lawyer or DOJ accredited representative before you make a decision
- If you are a green-card holder (regardless of how you obtained your green card):
 - Receipt of public benefits for which you are eligible is not a problem
 - But: Do NOT travel outside of U.S. for over 180 days w/o consulting with an immigration attorney, AND
 - Use caution if ongoing receipt of benefits while outside U.S.

What Is the Message for Community?

- If you are undocumented / only have temporary status:
 - Receipt of means-tested public benefits is not an issue if you're getting a green card through asylum, refugee, VAWA, U/T, SIJS
 - Receipt of means-tested public benefits **alone** should not affect your ability to get a green card through your family member
 - Consider that there is additional risk if you have to apply outside the U.S. (generally the process if you entered U.S. w/o a visa)
- If you are not applying for a green card, do NOT drop benefits until you've sought legal advice and remember that every situation is different

Other Updates

- HR 1 changes limit eligibility for federally-funded programs (Medicaid,
 - Beginning Oct. 1, 2026 many people will lose access to Medicaid (Apple Health in WA) and long-term services and support
- Aug. 21, 2026 – a federal court ruling vacated current administration’s blanket suspension of immigrant visa issuance for nationals of 75 countries, clearing the way for applicants to once again receive the individualized consideration required under federal law
 - Following the court ruling, State Department ordered a global “pause” on immigrant visa appointments, citing a training program as the reason, after the court issued its order
 - Aug. 26, 2026- the Plaintiffs filed an emergency motion to enforce Friday’s court order and judgment in the lawsuit
- Sept. 18, 2026 –USCIS will publish a new edition of Form I-485 and there will be no grace period. Anticipate DHS and DOS issue new forms that would require reporting of application for benefits requested (even if not received)

Scenarios and Q&A

DHS-USCIS Guidance on Public Charge

USCIS scenarios* provided to illustrate the practical application of the totality of the circumstances analysis used in the public charge inadmissibility determination

*Not binding and similar scenarios might be decided differently (discretion and lack of statutory guardrails)

- Finding an applicant admissible or inadmissible

Not a Public Charge Finding

e.g. **25-ya**, unemployed college graduate, living with parent, no benefits used, sufficient affidavit of support submitted

e.g. **35-ya**, employed high school graduate, small number of benefits used for one year for ~10 years prior to filing, sufficient affidavit of support submitted

e.g. **28-ya**, college degree, spouse and 2 children, full-time employment, moderate household's net worth, no means-tested public benefit, no medical condition, sufficient affidavit of support submitted

e.g. **65-ya**, widowed, H-1B entry, received substantial life insurance policy, owns home, savings, social security benefits, sufficient affidavit of support by substitute sponsor submitted

e.g. **50-ya**, parent of USC applicant, B2 entry, college degree, full-time employment, received emergency medicaid (periodically for 10 years, 16 years prior), in good health, lives with non-U.S. citizen spouse, sufficient affidavit of support submitted

Public Charge Finding

e.g. **55-ya**, long-term unemployed (10+ years), college graduate, no evidence of particular medical condition, low income based solely on receipt of means-tested benefits, state funded cash assistance program; a sufficient affidavit of support filed

e.g. **70-ya**, divorced, with low income, with medical conditions that require extensive medical care, unable to work, limited savings, no insurance, son supports her and his three dependents, no means-tested benefits received

e.g. **30-ya**, no medical conditions, H.S.-level education, part-time job, but petitioner loses his job and received unemployment and later TANF bringing the household income below federal poverty guidelines, minimal savings, 3 children receiving means-tested benefits, petitioner's parents support financially, joint-sponsor lives out of state

Conversations and Questions

I am in asylum status and will pursue my green card application soon. Now I'm worried that using SNAP is going to stop me from getting my green card.



The public charge test does not apply to people with approved asylum or who are pursuing a green card through asylum adjustment. We encourage you to stay enrolled in SNAP as you remain eligible.

Note that HR 1 changes removes SNAP eligibility for humanitarian-based noncitizens, including asylum seekers. But you are now likely automatically shifted to receive WA-state-funded food benefits as of May.

If instead, you are applying for a green card through a family petition, receipt of means-tested public benefits could impact your eligibility.

Conversations and Questions

I am a current DACA recipient and pregnant. I am currently enrolled in Medicaid (WA Apple Health), but I am afraid it will be used against me when I renew my DACA protection.

The public charge analysis for a DACA renewal does not apply.

A public charge determination will consider Medicaid (in WA Apple Health) used by pregnant women in the totality of the circumstances when applying for a green card through a family member if the benefit is received on or after Sept. 18, 2026. Medicaid* is a means-tested benefit.

Conversations and Questions

If I am applying for my green card through consular processing and I don't currently receive public benefits, I should not be at risk of being found inadmissible under public charge, right?



Receipt of a means-tested or public benefits is one factor of many factors considered under the totality of the circumstances test.

A person's income and assets, age, health, education and skills (like English proficiency), family status, and affidavit of support are also considered in determining whether a person is admitted to the U.S. or approved green card status.

We anticipate DOS will issue guidance soon.

Conversations and Questions

My friend says public charge will apply to her and so she discontinued SNAP benefits for her U.S citizen child and she said I should too.



Decisions about unenrolling from benefits should not be based on assumptions, rumors or social media. It's an Individualized assessment and families should seek trusted advice before they make decisions that will affect them or their families health, nutrition, or housing stability.

Here, we need more information on this person's individual situation.

Conversations and Questions

I am scared to sign up for WIC, I know that WIC is a public benefit.



Yes, WIC is both a means-tested and public benefit and will be considered in the public charge test, but it is not a public charge determination on its own. Other factors will be considered in the totality of the circumstances.

We encourage you to sign up for programs you or your children are eligible for.

Conversations and Questions

My children who are 12 and 19 years old receive health insurance through Apple Health. My U.S. citizen spouse is filing a family petition for them. Should I be concerned?



Your children's ages and their use of Apple Health will be considered in the public charge analysis in each of their individual application for a green card. But these are two factors in the totality of the circumstances test and consideration of the five statutory factors: age; health; family status; assets, resources, and financial status; and skills and education.

Conversations and Questions

My brother has been a green card holder for seven years and he is applying for citizenship. He uses Section 8 housing vouchers and has received SNAP benefits for one year. Does public charge inadmissibility apply to him?



Section 8 housing vouchers and SNAP are considered for a public charge determination. But the public charge test does not come up when applying for U.S. citizenship.

It is important to note that the adjudicating USCIS officer may inquire about any benefits received if the green card holder remained abroad for 180+ days; the person should seek legal advice if so.

Conversations and Questions

I am currently 20 years old and unemployed because I am in school. I have TPS and applied for WASFA this year. I am applying for a green card through my father's petition. Should I be worried?



While your unemployment status may be considered a negative factor given your age, your education status may be considered a positive factor in balancing the statutory factors. A WASFA application on its own is not considered a public benefit, but depending on the program you become eligible for and receive this could be considered a means-tested benefit for financial aid if it (e.g. WA Grant) is based on income eligibility.

Conversations and Questions

I have a job (no work authorization) and I have a college degree, but my petitioning U.S. citizen spouse is unemployed. Can I still get my green card or will public charge apply?



A sufficient affidavit of support (I-864) is required in most family-based petitions and usually submitted by the petitioner.

While it is considered as just one factor, not filing an affidavit of support would make you inadmissible under the public charge ground.

Even if your employment is not with work authorization, your income may be considered a positive factor in your household's financial status. You may also submit an affidavit of support by a joint sponsor in support of your application.

Conversations and Questions

**Is receiving free food from a food bank considered to be receiving a public benefit?
What if I am living unsheltered?**



No. Food received from banks/pantries is not considered a public benefit.

If you are receiving shelter assistance, this is also not considered in the public charge analysis.

If you are currently applying for a green card through a family member, your assets, resources, and financial status as well as other factors will be considered in the totality of the circumstances.

Conversations and Questions

My sister has a medical condition that requires her to stay home and she is unable to care for herself. She does not have health insurance. She is applying for a green card through her son's petition. Should she be concerned?

Even if not receiving state-funded health insurance (and even if in current exempted status, such as a U visa holder), your sister's health will be considered if she has a health condition that requires extensive treatment and she does not have access to private health insurance or other resources to cover treatment. Submitting evidence of positive factors should help.

Conversations and Questions

My spouse is in the military and they are petitioning for me. We also live in Section 8 housing and receive TANF for our minor daughter and for my spouse. Should I be worried?



According to the policy manual, the use of means-tested public benefits by service members should be considered in the totality of circumstances:

- Military service risks and hardships
- Future pay growth as they advance in their career; therefore a potential decrease in the receipt of means tested benefit

Resources

General Legal Resources

- **Nonprofit Agencies:**
 - National Immigration Legal Services Directory:
 - www.immigrationadvocates.org/nonprofit/legaldirectory/
 - Executive Office for Immigration Review Roster of DOJ-Recognized Agencies:
 - www.justice.gov/eoir/find-legal-representation
- **Private Immigration Attorneys:**
 - American Immigration Lawyers Association (AILA): www.ailalawyer.com
- **Non-Immigration Legal Questions:**
 - www.washingtonlawhelp.org

Public Charge Resources

- Protecting Immigrant Families (PIF)
 - <https://pifcoalition.org/>
 - Public Charge Regulation Toolkit:
<https://pifcoalition.org/toolkits/public-charge-regulation/>
- National Immigration Law Center
 - [Public Charge Applicability Tables](#) (NILC)
 - [2026 DHS Public Charge Rule FAQ](#) (NILC & PIF)
 - [Public Charge: What Advocates Need to Know](#) (NILC & PIF)
- Northwest Health Law Advocates (NoHLA)
 - Data Privacy; Using Health Programs and Public Charge
<https://nohla.org/immigrants-access/#data-privacy>

Thank you!

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