
PIPS - Partners Office for International Professionals and Students

Memorandum

To: Hospital Staff

From: Noel Palatas, Manager

Date: February 26, 2020

Inadmissibility on Public Charge Grounds Final Rule

[United States Citizenship and Immigration Services \(USCIS\) announced](#) that it will implement the Inadmissibility on Public Charge Grounds final rule on February 24, 2020. Briefly, the public charge regulations were originally scheduled to go into effect on October 15, 2019, but an injunction halted enforcement of the rule. The U.S. Supreme Court lifted the injunction allowing enforcement of the regulation to go forward while litigation in lower courts proceeds.

[What does "Public Charge" mean?](#)

"Public charge" is a ground of inadmissibility under U.S. immigration law. Grounds of inadmissibility are reasons that a person could be denied (1) a visa to enter the United States, (2) entry into the United States with a valid visa at a U.S. port-of-entry, or (3) legal permanent residency (aka a green card).

U.S. law has long required that immigrants demonstrate financial self-reliance. In deciding whether to grant an applicant a green card or a visa, the U.S. government must decide whether that person is likely to become dependent on certain U.S. government benefits in the future, which would make them a "public charge." The new rule will require the government to determine whether the applicant is likely to become a public charge "at any time" in the future.

Foreign nationals seeking a change of status in the U.S. or extension of stay in the U.S. in H-1B, E-3, TN, O-1, H-1B1 status will need to attest they have not received public benefits beyond a set threshold. The U.S. Government will only consider public benefits received on or after February 24, 2020 for petitions or applications postmarked on or after that date.

An applicant may be asked if they have received any U.S. government benefits when:

1. Applying for a visa at a U.S. Embassy or Consulate outside of the U.S.;
2. Applying for a change of visa status in the U.S. (example: F-1 to H-1B, J-1 to H-1B);
or
3. Applying for adjustment of status U.S permanent resident (green card holder).

How will this impact visa processing at the consulates?

Consular officers will consider the public charge guidelines when reviewing requests for non-immigrant visas (J-1, H-1B, F-1 etc.) If a consular office needs additional information to determine if an applicant will become a public charge, the consular office can require the applicant to complete some or all of a public charge questionnaire, [Form DS-5540](#). This form requires information on health insurance, income, assets, and liabilities. This may occur during an initial visa application or when someone is renewing a visa. For people seeking a visa extension, there are questions about tax returns and tax transcripts. PIPS cannot predict which of our visa holder will be asked to complete this form or what part of the form they might be asked to complete.

What is considered a public U.S. government benefit?

Receipt of any of the following public benefits on or after February 24, 2020, will be counted towards the public charge threshold, include the following:

1. Supplemental Security Income (SSI);
2. Temporary Assistance for Needy Families (TANF);
3. Any other federal, state or local cash benefit programs (i.e., general assistance);
4. Supplemental Nutrition Assistance Program (SNAP, i.e., food stamps);
5. Section 8 Housing Assistance under the Housing Choice Voucher Program;
6. Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation);
7. Medicaid (includes certain MassHealth benefits); and,
8. Public Housing under Section 9 of the U.S. Housing Act of 1937.

As this is an evolving matter, we will update our website as needed. If you have questions, please reach out to our office at pips@partners.org.