Proposed Rule:
Inadmissibility on Public Charge Grounds

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“Public Charge” is a term used in immigration law to refer to a person who is likely to become primarily dependent on the government for support.

A public charge assessment is made:

- When a person applies to enter the U.S. or
- Applies to adjust status to become a Lawful Permanent Resident (LPR), NOT when applying to become a U.S. citizen.

+ LPR returns to U.S. following trip outside country lasting more than 180 days.
Under current policy, only two types of public benefits may be considered:

1. **Cash assistance** for income maintenance
2. **Institutionalization for long-term care** at government expense
Officer to look at applicant’s:

- Age
- Health
- Family status
- Financial status
- Education and skills
- Affidavit of support
  - Legally enforceable contract that one signs to accept financial responsibility for another person, usually a relative, who is coming to the U.S. to live permanently
RECENT CHANGES:
FOREIGN AFFAIRS MANUAL (FAM)
Officials in consulates abroad use the Department of State’s FAM to make decisions about whether to grant permission to enter the U.S.

● **NOTE:** Affects only decisions made by consular officials abroad
PUBLIC CHARGE: Proposed Changes
A “public charge” is an immigrant who receives one or more public benefits.
Proposed Changes

Public Benefit Defined As:

- Cash Assistance for income maintenance (SSI, GA, TANF)
- Long-term Institutionalization
- Non-Emergency Medicaid*
- SNAP
- Medicare Part D Low Income Subsidy
- Housing Assistance (public housing or Section 8 housing vouchers and rental assistance)

* Note: Exception for certain disability services offered in school, and for Medicaid benefits received by children of U.S. citizens who will be automatically eligible to become U.S. citizens

Required Factors:

- Age (under 18 or over 61 negative)
- Health
- Family status
- Assets, resources
- Financial status (Credit Score)
- Education and Skills
- English language proficiency
- Affidavit of support
Other than cash or long-term care at government expense, benefits used before rule final and effective will not be considered in the public charge determination.
The receipt of public benefits by U.S. citizen children will not directly be a factor in a parents’ public charge test.

If a child is an immigrant, his/her own use of benefits counts toward his/her own public charge determination.
Proposed Income Considerations

- New income threshold for households that hope to overcome a “public charge” test.
- Requires that the immigrant (not just the sponsor) earn at least 125% of FPL
- Weighs as “heavily positive” a household income of 250% of FPL
  - To avoid scrutiny under the public charge test, a family of 4 would need to earn nearly $63,000 annually.
WHAT HAPPENS NEXT
How the rule will move forward

1. Proposed rule published in Federal Register for public inspection
2. Proposed rule published for public comment on Regulations.gov
3. 60 day opportunity for Public Comment
4. DHS reads and considers all comments
5. Final rule published in the Federal Register
Key Messages for Families

The policy on public charge decisions made within the U.S. has not yet changed.

- The federal agency must respond to comments. It will not take effect until after it becomes final, which will take additional time.
- Not all immigrants are subject to the public charge test.
- The test looks at all the person’s circumstances, weighing positive factors against any negative ones.
- Get help deciding what’s best for your family and, if you can, consult with an immigration attorney or a Board of Immigration Appeals–accredited representative about your own situation.
Resources

- **Get Trained** to disseminate accurate information
- [pifillinois@povertylaw.org](mailto:pifillinois@povertylaw.org)
- [www.protectingimmigrantfamilies.org](http://www.protectingimmigrantfamilies.org)