

Public Charge 101

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Timeline

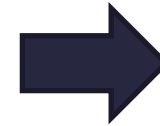
Public Charge Final Reg was published August 2019 with an effective date of 10-15-19. Nine lawsuits filed to block implementation



Three nationwide injunctions and one Illinois state-only injunction blocked implementation. By Feb. 22, 2020, all injunctions lifted by US Supreme Court.



Effective date for the rule was 2/24/20 in all 50 states.



Never a dull moment.....

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Yesterday afternoon, July 29, 2020, a Federal District Court Judge from the case pending in NY issued a temporary nationwide injunction for the duration of The COVID-19 public health emergency.

The injunction applies to Illinois as well; implementation of the DHS public charge rule has been PAUSED.

The defendants will appeal and the U.S. Supreme Court will likely weigh in.

Given that we don't know how long the nationwide injunction will be in place...

- This presentation will presume the status quo as of two days ago so that you have the information...and as we know more, we will share it with you....
- make sure you are signed up for our list serv:
pifillinois@povertylaw.org

What is “Public Charge”?

What are we talking about when we are talking about “public charge”?

- “Public charge” is a ground of inadmissibility.
 - Grounds of inadmissibility are reasons that a person could be denied a green card, visa, or admission into the United States.
- In deciding whether to grant an applicant a green card or a visa, an immigration officer assesses all the specific circumstances of the individual’s life (known as the **totality of circumstances factors**) and makes a prediction whether that person is likely to become dependent on certain government benefits in the future.
 - If the immigration official determines the answer is YES, then the applicant is considered a **“public charge.”**
- Persons denied a green card could be subject to removal/deportation.

Who is making these decisions?:

- Decisions about applications for LPR status inside the U.S., are guided by regulations and policy from the **U.S. Citizenship and Immigration Services (USCIS)** in the **Department of Homeland Security (DHS)**.

Who is Subject to the Public Charge Test?

Which applicants are subject to the public charge rule?

- 1) Applicants for a visa abroad (DOS rule)—**topic for another day!**
 - Implementation of this rule was also halted by a federal court judge yesterday, 7-29-20: more information [here](#).
- 2) Applicants for adjustment of status (applying for legal permanent residence (LPR))--also known as a green card--in the United States
- 3) LPRs who have been absent from the United States for a continuous period of > 180 days could be questioned as to their likelihood of becoming a public charge when they seek reentry.
- 4) Nonimmigrants (visa holders) applying for an extension or change of status within the United States **(new policy under the final rule)**

[2] Who is **Most** Affected by the Public Charge Ground of Inadmissibility and the New Rule?

- Those seeking lawful permanent resident (LPR) status based on a family relationship.
 - These include the spouses, children, and unmarried adult sons and daughters of a U.S. citizen or LPR and the parents, siblings, and married sons and daughters of a U.S. citizen.

Approximately two-thirds of the one million non-citizens who obtain LPR status every year base it on a family relationship.

[2] (Continued) Example: For Green Card/LPR applications inside the U.S.

Rosa will be assessed under the DHS Public Charge test



- Rosa entered the U.S. on a visa; she meets and marries a U.S. citizen.
- Rosa then applies for a green card through the family immigration pathway via her U.S. citizen spouse.

[3] Will this rule affect immigrants who are already green card holders or U.S. citizens?

- The rule does not affect individuals who have already become U.S. citizens
- LPRs also are not subject to a public charge inadmissibility determination when they apply to **renew** their green card or when they **apply** to become a U.S. citizen
- LPRs who have been absent from the United States for a continuous period > 180 days could be questioned as to their likelihood of becoming a public charge when they seek reentry and
 - should talk with an immigration attorney prior to leaving the US.

[4] Non-immigrant visa holders (e.g., students, tourists, and temporary workers):

- Are subject to the DHS public charge test but this does not usually present a significant barrier.
- Most of these applicants must also establish that they do not intend to immigrate to the U.S. (reside permanently) and have the resources to support themselves while they are here temporarily.
- They have a modified test:
 - Must prove they have not accessed **certain benefit programs** (those included in the rule) at the time they apply for an extension or a change of their nonimmigrant status (e.g., from a student to an employment-based visa).
 - But they aren't usually eligible for these benefits anyways and they have the financial means anyways

Non-citizens who are not subject to the public charge ground of inadmissibility and thus not affected by this rule:

- **Refugee** applicants and refugees who are applying for adjustment of status
- **Asylum** applicants and asylees who are applying for adjustment of status
- Applicants for withholding of removal or relief under the Convention Against Torture
- Applicants for initial or re-registration of Temporary Protected Status (TPS)
- Applicants for initial or **renewal of Deferred Action for Childhood Arrivals (DACA) status**
- Cubans who are applying for adjustment of status under the Cuban Adjustment Act
- Amerasians who are applying for adjustment of status
- Afghan and Iraqi interpreters and translators who are applying for special immigrant visas (SIV)
- Applicants for Special Immigrant Juveniles Status (SIJS)
- Victims of certain crimes who are applying for a U nonimmigrant visa or **U visa holders** applying for adjustment of status
- Victims of trafficking who are applying for a T nonimmigrant visa; **T visa recipients** who are applying for adjustment of status no longer have to seek a waiver of public charge inadmissibility
- Victims of domestic violence who are applying for relief under the Violence Against Women Act (VAWA), including approved self-petitioners who are applying for adjustment of status
- Applicants for “registry” based on their having resided in the United States since before January 1, 1972
- Applicants for benefits under the Nicaraguan Adjustment and Central American Relief Act (NACARA)
- Applicants for benefits under the Haitian Relief and Immigrant Fairness Act (HRIFA)
- Lautenberg parolees who are applying for adjustment of status.

A complete list is set forth at [8 CFR §212.23\(a\)](#).

For economic and racial justice

Does Public Charge Apply to DACA Recipients?

- There is no public charge assessment when a person renews their DACA.
- However, DACA recipients are not exempt from public charge.
 - If a DACA recipient obtained a pathway to becoming an LPR, such as by marrying a U.S. citizen, they would be subject to a public charge assessment (unless the pathway were itself exempt, such as a U visa).
- **So if Rosa had active DACA status, she would still be subject to public charge test when she applies for green card using family immigration pathway**

What is the Public Charge Inadmissibility *Test*?

Public Charge Test in the Final Rule

USCIS determines:

- Whether the applicant is *more likely than not* to receive one or more public benefits ***at any time in the future***; and
 - is more likely than not to exceed 12 months total within any 36-month period (such that, for instance, receipt of two benefits in 1 month counts as 2 months).
- **This prediction** must consider, at a minimum, an applicant's ***age, health, family status, assets, resources, financial status, education, and skills....***
 - Consideration of these mandatory factors requires a case-by-case determination based on the ***totality of the applicant's circumstances***.



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Applying the Public Charge Test to Rosa

Rosa

- Based on Rosa’s current Totality of the Circumstances factors (age, health, family status, income and resources and skills and education) predict:
 - whether ***at any time in the future***, Rosa would be likely to “receive one or more public benefit... for more than 12 months total within any 36-month period
 - (such that, for instance, receipt of two benefits in one month counts as two months).”

- Rosa entered the U.S. on a visa; she meets and marries a U.S. citizen.
- Rosa then applies for a green card through the family immigration pathway via her U.S. citizen spouse.

Deeper Dive: Totality of the Circumstances Test in the

“The totality of the circumstances analysis involves weighing all the positive and negative factors related to the factors[] as they apply to the applicant”

- Any factor that decreases the applicant’s future likelihood of receiving one or more public benefits above the 12 months in the aggregate in a 36-month period threshold is **positive**.
- Any factor that increases the applicant’s future likelihood of receiving one or more public benefits above the 12 aggregate months in a 36-month period threshold is **negative**

Factors in the TOC Test

Age

Family Status

Education & Skills

Health

Financial Status/Asset and Resources

The applicant’s prospective immigration status and expected period of admission;



Sponsor’s Affidavit of Support is no longer given great weight but is required.

For economic and racial justice

How is Totality of Circumstances Analyzed: I-944 Declaration of Self-Sufficiency Form

- The applicant will be **required** to submit much of the information required for the public charge test in the new Form I-944, *Declaration of Self-Sufficiency*.
 - This includes information to prove up the totality of the circumstances factors and public benefits
- Applicant must submit this form when applying for a green card if they are not exempt from the public charge test.



Declaration of Self-Sufficiency

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-944
OMB No. 1615-0142
Expires 10/31/2021

To be completed by an attorney or accredited representative (if any).

<input type="checkbox"/> Select this box if Form G-28 is attached.	Volag Number (if any) <input type="text"/>	Attorney State Bar Number (if applicable) <input type="text"/>	Attorney or Accredited Representative USCIS Online Account Number (if any) <input type="text"/>
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▶ **START HERE** - Type or print in black ink.

Part 1. Information About You

1. Your Current Legal Name (do not provide a nickname)

Family Name (Last Name)

Given Name (First Name)

Middle Name

2. U.S. Mailing Address

Totality of the Circumstances Test: Age

Whether the applicant's age will impact ability to work

Negative

- Persons who are younger than 18 or older than 61.
- Applicants can overcome the negative age factor by other positive factors in the totality of the circumstances, such as ***employment history***, being able to ***attain employment***, or ***having adequate means of financial*** support by household members
- For applicants for admission under age 18, USCIS will give weight to the availability of outside support from a parent and any other evidence addressing the resources and assets available to the child in the totality of the circumstances.

Positive

- Persons between the ages of 18 and 62

Totality of the Circumstances Test: Family Status

considers an [applicant's] household size in relation to the [applicant's] assets and resources to determine whether the [applicant] is more likely than not to become a public charge in the future

Negative

- If the applicant is not able to support him or herself and the household members at 125% FPL for the [applicant's] household size, then this is a **negative factor**.

Positive

- If the applicant is able to support him or herself and the [applicant's]'s household members at 125% FPL for the [applicant's] household size, then this is a **positive factor**.

TOC Test: Education and Skills

Whether the applicant has adequate education and skills to obtain or maintain employment with an income sufficient to avoid becoming a public charge

Negative

- No work experience is a **negative** factor unless due to being a “primary caregiver” for a child, elderly, sick, or disabled member of their household.

Positive

- A history of employment (e.g. 3 years of tax returns) is a **positive**.
- A high school degree or higher education, occupational skills, certificates or licenses are **positives**.
- Proficiency in English or in other languages in addition to English is a **positive**. Enroll in a class now.

TOC Test: Income and Financial Status

Negative

- Annual Household income: less than 125% FPL (\$21,550 for a family of 2) (**negative**)
- < 580 credit score is **negative** ([CLINIC resource](#))
- ***Use of or applications for public benefits.*** [we will talk about this more in a minute....]
- Fee waivers received on or after 2/24/20 and for immigration programs that are subject to the public charge ground of inadmissibility.

Positive

- Annual Household income: if > 125% it is **positive** and if > 250% FPL it is **heavily positive** factor
- Credit history/score: credit score > 670 is **positive**

- ✓ (Evidence of Checking and savings account statements; Annuities; Stocks and bonds (cash value)/certificates of deposit; Retirement accounts and educational accounts; Net cash value of real estate holdings; and Any other evidence of substantial assets that can be easily converted into cash).
- ✓ NOTE: applicants who do not have a credit report or score must submit a statement from one of the three agencies verifying that they do not have one;

TOC: Health

whether has health conditions that could require extensive treatment in the future, or that could affect a person's ability to work, attend school, or care for oneself.

Negative

- the applicant has been diagnosed with a physical or mental medical condition; the nature and severity of the condition(s);
- the medical condition is likely to require extensive medical treatment or institutionalization in the future;
- the condition affects the applicant's capability for normal physical activity and ability to complete daily tasks;
- the medical condition will interfere with the applicant's ability to provide and care for him or herself, to attend school, or to work;

Positive

- Whether the applicant is in good health
- The absence of any major health problem is a **positive** factor.

“**Disability**” is considered in the public charge analysis “to the extent such disability makes the [applicant] more likely than not to become a public charge”

Health Insurance:

Heavily weighted positive factor:

- Private health insurance provided by an employer;
- Private health insurance purchased outside the Health Insurance Marketplace and Affordable Care Act (ACA);
- Private insurance purchased through the ACA that is not subsidized;
- State-only subsidized health insurance, including state-based exchange;
- Foreign subsidized health insurance; and
- Medicare.

“Plain” Positive factor:

- Medicaid for children under 21 (All Kids), pregnant women (including 60 days after delivery), (Moms & Babies) or the disabled;
- Insurance purchased through the ACA that is subsidized.

If the non-citizen has a countable health condition and does not have access to private health insurance or other resources to pay for treatment, the condition will be weighed as ***heavily negative***.

Public Benefits Assessed in the Rule

Prior List of Benefits Are Still Included in Final Rule

- Supplemental Security Income (SSI)
- Temporary Assistance to Needy Families (TANF)
- State or local general relief or general assistance, and
- Institutionalization for long-term care.



- ****Medicaid** **Exceptions on Next Slide**
- Supplemental Nutrition and Assistance Program (SNAP or food stamps)
- Section 8 Housing Choice Voucher Program
- Section 8 Project-Based Rental Assistance, and
- Public Housing

Public Benefits

Provide the requested information and submit documentation, as outlined in the Instructions. If you need additional space to complete any **Item Number** in this Part, use the space provided in **Part 9. Additional Information**.

16. Have you **EVER** received, or are currently certified to receive in the future any of the following public benefits? (select **all** that apply).

- Yes, I have received, or I am currently certified to receive in the future the following benefits:
- Any Federal, State, local or tribal cash assistance for income maintenance
 - Supplemental Security Income (SSI)
 - Temporary Assistance for Needy Families (TANF)
 - General Assistance (GA)
 - Supplemental Nutrition Assistance Program (SNAP, formerly called "Food Stamps")
 - Section 8 Housing Assistance under the Housing Choice Voucher Program
 - Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation)
 - Public Housing under the Housing Act of 1937, 42 U.S.C. 1437 et seq.
 - Federal-funded Medicaid
- No, I have not received any public benefits.
- No, I am not certified to receive in the future any of the above public benefits.

17. Have you disenrolled, withdrawn from, or requested to be disenrolled from the public benefit(s)? Yes No

Expected date of disenrollment (mm/dd/yyyy)

- I have a pending application for the following public benefits (select all that apply):
- Any Federal, State, local or tribal cash assistance for income maintenance
 - Supplemental Security Income (SSI)
 - Temporary Assistance for Needy Families (TANF)
 - General Assistance (GA)
 - Supplemental Nutrition Assistance Program (SNAP, formerly called "Food Stamps")
 - Section 8 Housing Assistance under the Housing Choice Voucher Program
 - Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation)
 - Public Housing under the Housing Act of 1937, 42 U.S.C. 1437 et seq.
 - Federally-funded Medicaid
- I applied for and the application was denied (select all that apply):
- Any Federal, State, local or tribal cash assistance for income maintenance
 - Supplemental Security Income (SSI)
 - Temporary Assistance for Needy Families (TANF)
 - General Assistance (GA)
 - Supplemental Nutrition Assistance Program (SNAP, formerly called "Food Stamps")
 - Section 8 Housing Assistance under the Housing Choice Voucher Program
 - Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation)
 - Public Housing under the Housing Act of 1937, 42 U.S.C. 1437 et seq.
 - Federally-funded Medicaid

Received, applied for, denied, certified for

Medicaid Benefits specifically **excluded but reportable** from the public charge test:

Excluded from public charge test	Still needs to be included on I-944?
Medicaid for children up to age 21 (includes the All Kids program, EPSDT)	Yes
Medicaid for pregnant women including for 60 days after the pregnancy ends (Moms & Babies program)	Yes
Emergency Medicaid	Yes
Federal Medicaid for services under the Individuals with Disabilities Education Act	Yes
Federal Medicaid for “school-based benefits or services” for secondary education	Yes

Excluded but Needs to be Reported on I-944

20. Have you received, applied for, or have been certified to receive federally-funded Medicaid in connection with any of following? (select all that apply)

Submit evidence as outlined in the Instructions.

- An emergency medical condition
 - For a service under the Individuals with Disabilities Education Act (IDEA)
 - Other school-based benefits or services available up to the oldest age eligible for secondary education under State law
 - While you were under the age of 21
 - While you were pregnant or during the 60-day period following the last day of pregnancy
 - None of the above apply to me
-
-

Medicaid Benefits specifically **excluded but reportable** from the public charge test:

Excluded from public charge test	Still needs to be included on I-944?	Immigrant Eligibility	Considered a positive factor if applicant is currently enrolled/active as health insurance
Medicaid for children up to age 21 (includes the All Kids program, EPSDT)	Yes	Available regardless of immigration status	Yes
Medicaid for pregnant women including for 60 days after the pregnancy ends (Moms & Babies program)	Yes	Available regardless of immigration status	Yes
Emergency Medicaid	Yes	Must be ineligible for full-scope Medicaid (e.g. an undocumented adult over age 19)	No because not full-scope health insurance
Federal Medicaid for services under the Individuals with Disabilities Education Act	Yes	Available regardless of immigration status	No
Federal Medicaid for “school-based benefits or services” for secondary education	Yes	Available regardless of immigration status	No

Other Benefits/Programs Excluded from Public Charge Test:

- AIDS Drug Assistance Program (ADAP); PAP, CHIC, Ryan White; locally funded programs for persons living with HIV/AIDS
- WIC
- EITC
- LIHEAP
- Public benefits received while in a status that is exempt from the public charge ground of admissibility or received a waiver of the public charge inadmissibility ground
- State and Local Public Health Programs
- Public benefits received by immigrant who at time of receipt is enlisted in U.S. Armed Forces serving in active duty or in the Ready Reserve (or is a spouse or child of such service member).
- School lunch programs including National School Lunch Act (NSLP)
- Medicare Part D Low-income Subsidies– Extra Help

Even More Benefits/Programs Excluded from the Public Charge Test:

- Pell grants and student aid programs
- Disaster relief programs
- Social Security retirement benefits
- Head Start and Healthy Start
- Public benefits received by children being adopted internationally by U.S. citizen parents

Housing Programs Excluded from Final Rule

- Housing Opportunities for Persons with AIDS
- Department of human services homelessness prevention
- Homeless and transitional housing
- Local CBDG grant programs
- Emergency assistance for persons at risk of homelessness
- HUD local continuum of care
- Flexible housing pool
- Section 515 rural housing
- Section 202 supportive housing for the elderly
- USDA Home loan and grant programs
- Lead abatement programs such as HUD's Lead-Based Paint and Lead Hazard Reduction Grant
- Housing programs that provide mortgage assistance or credits
- LIHTC housing,
- Section 515 rural housing
- Section 514/516 farm labor housing as public benefits
- under 20 CFR 655.122(d)(1), and 20 CFR 655.122(d)(4), employer-provided housing at no cost to the H-2A workers (temporary workers performing agricultural services)
- The rule does not consider homeownership programs, such as the Housing Choice Voucher Homeownership

Can a person be determined a “public charge” and not use public benefits? Yes.

- An applicant does not need to have received public benefits in the past, be receiving now, or be currently eligible to be determined a public charge.
 - While receipt of certain public benefits is part of the TOC, **most** findings of inadmissibility under this rule will likely not be based on the applicant’s current receipt of public benefits.

Rosa

Rosa (as a LPR applicant who entered U.S. on a visa) was

- ineligible for federal Medicaid (except Moms & Babies if pregnant),
- ineligible for SNAP, TANF, public housing

Yet if she has:

- household income <125% FPL,
- a medical condition needing treatment,
- low English proficiency,
- low credit score,
- Poor credit history,

she *could* still be determined a public charge.

Rosa may decide to apply later or may decide to apply and in her application, emphasize her positive factors:

- Working age
- Skills gained
- English proficiency
- Can work or attend school despite medical condition
- Has private health insurance through spouse
- Etc.....

Rosa

- household income <125% FPL,
 - a medical condition needing treatment,
 - low English proficiency,
 - low credit score,
 - Poor credit history,
- she *could* still be determined a public charge.

Effective Date for the Final Rule:

- Feb. 24, 2020
- Remember that most applicants will have submitted their application *prior to 2/24/20*

Rosa

- If Rosa submitted her LPR application **prior to 2/24/20**, it is assessed under the 1999 test
- If Rosa submitted her LPR application **on or after 2/24/20**, it is assessed under Final Rule that went into effect 2/24/20

Public Benefits Received By LPR Applicant's Family Members

- Rosa's application is assessed under Final Rule that went into effect 2/24/20.
- Immigration officials will only consider public benefits received directly by Rosa for Rosa's own benefit, or where Rosa is a listed beneficiary of the public benefit: which in this example is **zero programs**
- Immigration officials will **not** consider the use of benefits by her U.S. citizen children and she will not have to report their use of benefits on the I-944 form

- ❑ Rosa has two U.S. citizen children with her U.S. citizen spouse.
- ❑ Both of her children are enrolled in All Kids and SNAP.
- ❑ Rosa completed the applications for her children.
- ❑ Rosa submitted her LPR application 4/24/20.

What Counts When? Immigration officials...

- Will not consider any benefits not listed in the rule
- Will not consider benefits received by an applicant's family members.
- The public charge test excludes benefits received by **active duty** servicemembers, military reservists and their spouses and children, but does not exclude benefits received by veterans or their families.

What Counts When? Immigration officials...

- Benefits received by immigrants while in a status that is exempt from a public charge determination (e.g., time spent as a refugee, VAWA self-petitioner, etc.) will not be held against them if they apply for admission into the U.S. or LPR status under a different pathway.

What Counts When? Immigration officials...

- Benefits received by immigrants while in a status that is exempt from a public charge determination (e.g., time spent as a refugee, VAWA self-petitioner, etc.) will not be held against them if they apply for admission into the U.S. or LPR status under a different pathway.

Example: Andrea had a U visa from 2014-2018, but never applied to adjust as a U visa holder because she divorced her husband, who was the principal U visa holder, and so did not think she could adjust anymore.

- Now she is adjusting through a petition filed by her new husband.
- Only while she had a U visa, she received cash assistance for income maintenance.
- Andrea would have to disclose this on the I-944 by checking the box at item number 16 for “Yes, I have received...” one of the public benefits listed on that page and then the box next to “Any Federal, State, local or tribal cash assistance for income maintenance”; at item number 18 she would list the details of her receipt of cash assistance; and then at item number 19, she would check the box for “At the time I received the public benefits, I was present in the United States **in a status exempt** from the public charge ground of inadmissibility and I received the public benefits during that time.” (She would also have to attach proof of her U nonimmigrant status grant.)

Impact

Impact of Public Charge Inadmissibility Rule: Direct and Indirect Effects

- *Directly affected* individuals
 - Certain non-citizens who are applying for admission to the country or adjustment to LPR status
 - Certain non-immigrant visa holders who seek an extension of their visa or another non-immigrant status
- Broader population of people subject to “*chilling effect*”
 - Fear extends to **people** who are not subject to public charge
 - Fear extends to **benefits** not considered in public charge test

Public Charge is a race and wealth test

- This rule “has the potential to reshape U.S. immigration by lowering levels of permanent immigration and tilting admissions toward those with more wealth and education.”
- Because “the public-charge rule’s primary immigration impact will be through its test of the **likelihood of future benefits use.**”

In other words, Public Charge is a race and wealth test for those who want to remain in the US with their families.

Of the 2 million applicants granted LPR status 2012-2016:

- 69% would have had at least one negative factor under the new public charge definition,
- 43% at least two negative factors, and 17% had at least three negative factors.
- The study concluded that 39% of recent LPRs spoke English poorly or not at all, 33% had household incomes <125% FPL, 25% did not have a high school diploma, and 12% were under age 18 or over age 61



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Disproportionate Impact on Immigrants with health conditions, less English proficiency, lower incomes, who don't have a formal work history

Chilling Effect is Real

- Illinois immigrant advocacy and service organizations have described how community members of every immigration status voicing their desire to disenroll themselves and their family members from a long list of benefits
- Academic Studies:
 - Approximately 7 million, or **31 percent of all noncitizens**, use one or more of the four major federal benefit programs), and a substantial number might disenroll because they do not understand the rule and therefore fear its immigration consequences.
 - **One in 4 children in Illinois has a noncitizen parent**
 - In a 2018 nationwide **Urban Institute survey**, 14 percent of all immigrants and 21 percent of those with low incomes reported withdrawing from or not enrolling in a public-benefit program due to fears of the rule.
 - **1 in 7 Adults chilled from use of benefits in the rule**

Messages

Fight Fear with Facts!

- The public charge test does not apply to all immigrants – many immigrant statuses are not subject to the test.
- Most immigrants who are subject to public charge are not eligible for the benefits that count as negative factors under the rule, and many essential benefits are not considered in the public charge rule or I-944.
- Only benefits used by the applicant for LPR status are considered under the public charge rule, not benefits used by their family members.

Will I be determined a public charge if I use public benefits included in the rule?

- Use of public benefits **will not automatically** make one a public charge, and the applicant can present the best case for him/herself.
- The public charge rule requires immigration officials to look at **all factors** that relate to ability to support oneself, (age, health, income, assets, resources, education/skills, family members they support, and family who will support them, signed affidavit of support).
- Since the test looks at the person's overall circumstances *prospectively*, no one factor is definitive.
- Any negative factor, such as using an included public benefit, can be overcome by positive factors, such as having completed training for a new profession or having college-educated children who will help support the family.

Affirmative Narrative

- Immigrants are our neighbors, essential workers, us!
 - economic engines of communities: [CBPP analysis](#)
- Undocumented immigrants are tax-payers: \$758M in annual state and local tax contributions; <https://itep.org/immigration/>
- Most immigrants—and almost always the undocumented-- are systemically excluded from almost all state benefits/programs; however, Illinois....
 - First state to provide health coverage for undocumented children (now 1 of 6) and seniors (the first state!)
 - One of the first to provide temporary drivers' licenses

COVID

COVID and public charge

- **U.S. Citizenship and Immigration Services (USCIS)** [issued an alert](#) in March stating that it will not consider testing, treatment, or preventive care (including the administration of vaccines, if a COVID-19 vaccine becomes available) related to COVID-19 in a “public charge” admissibility assessment, even if the health care services are provided by Medicaid.
 - **As a result of the USCIS alert:** An individual subject to the public charge test and who has received COVID testing/treatment can explain how reduced hours, job loss, and related financial difficulties were caused by the coronavirus and it is not supposed to negatively impact the individual.
 - However, the alert is confusing and it remains to see how helpful it will be in practice.
- Tool for enrollment assisters to answer questions community members may have about possible public charge consequences due to accessing specific public benefits and programs during the COVID-19 crisis: <https://docs.google.com/document/d/12KWIn9q-fya43HQMczm50u3DeeFd0jVetKMM4eXSog/edit?usp=sharing>

COVID testing and treatment

- For uninsured and Medicaid:
 - COVID testing and almost all hospital-based treatment should be free
- The state will cover **all testing and testing related services** (e.g. office/telehealth visit that leads to a referral for a test) for all **uninsured** residents *regardless of immigration status*.
- If an individual is uninsured and undocumented, the provider can bill HRSA for **COVID-19 treatment costs**. HRSA has confirmed to states verbally and in writing that a specific citizenship or immigration status is not required for reimbursement.
 - HFS Provider notices:
<https://www.illinois.gov/hfs/MedicalProviders/notices/Pages/prn200518a.aspx>
 - and <https://www.illinois.gov/hfs/MedicalProviders/notices/Pages/prn200717a.aspx> that discusses options for reimbursement.

What if your family member receives a bill from the ER?

- ✓ Unless the treated individual refused to apply for [Emergency Medicaid](#) when in the ER, a first step could be to call the billing office:
 - ✓ See if an Emergency Medicaid application was submitted and if not, why not, and
 - ✓ If the application was denied by the state, ask why.
- ✓ Regardless of an application for Emergency Medicaid:
 - ✓ Ask the billing office to explain how to apply for the hospital's charity care/financial assistance program (this discount can be up to 100% of all charges over \$300),
 - ✓ To send you an application or direct you to it on the internet,
 - ✓ Not bill you further until you have completed the application and submitted it,
 - ✓ Timely submit it, and then follow up with the billing office after it has been submitted to confirm the status of the bill.
 - ✓ If they deny charity care, then ask for a reason (at least orally but at least ask for it in writing) and follow up with an organization such as **Legal Aid Chicago** or the **Illinois Coalition for Immigrant and Refugee Rights** if you think the denial was wrong.

Noteworthy change to Medicaid program due to federal waivers and bills during public health emergency

- HFS has stated that:
 - Pregnant women (on Moms & Babies) will **not** be terminated at 60 days postpartum even if they do not meet income or immigration requirements for continuing Medicaid.
 - Postpartum women will continue to receive Medicaid coverage until the end of the COVID-19 crisis period.
- All Kids enrollees when they turn 19 will remain covered on Medicaid regardless of income or immigration status.

Resources

Protecting Immigrant Families-Illinois (PIF-IL)

Protectingimmigrantfamiliesillinois.org



**PROTECTING
IMMIGRANT
FAMILIES
ILLINOIS**



**Shriver
Center on
Poverty
Law**

Convened By: **ICIRR, Latino Policy Forum, Legal Council for Health Justice, Shriver Center on Poverty Law**

Steering Committee Members:

- AIDS Foundation of Chicago
- Asian Human Services
- Catholic Diocese of Joliet
- Elevate Energy
- Erie Family Health Center
- Greater Chicago Food Depository
- Health & Medicine Policy Research Group
- Healthy Illinois Campaign
- Housing Action Illinois
- Illinois Coalition for Immigrant and Refugee Rights (ICIRR)
- Illinois Chapter of the American Academy of Pediatrics
- Legal Aid Society of Metropolitan Family Services
- Legal Council for Health Justice
- National Immigrant Justice Center
- Shriver Center on Poverty Law
- The DuPage Federation
- The Latino Policy Forum
- The Ounce of Prevention Fund
- YMCA of Champaign

For economic and racial justice

Documentation from IDHS/HFS to satisfy I-944

- IDHS/HFS working group to problem solve this
- PIF-IL working with immigration attorneys to provide nuanced advice on public benefits

HelpHub

HelpHub is an online community where enrollment assisters in Illinois can share their experiences, ask questions and troubleshoot problems they are having helping consumers enroll into affordable, comprehensive health care options. We also answer questions on immigrant eligibility for public benefits and on the intersection of public benefits and public charge.



How Do I Sign Up for HelpHub?

<http://helphub.povertylaw.org>

HelpHub

Sign in

Email
stephanibecker@povertylaw.org

Password
.....

Remember me

Sign in [Forgot your password?](#)

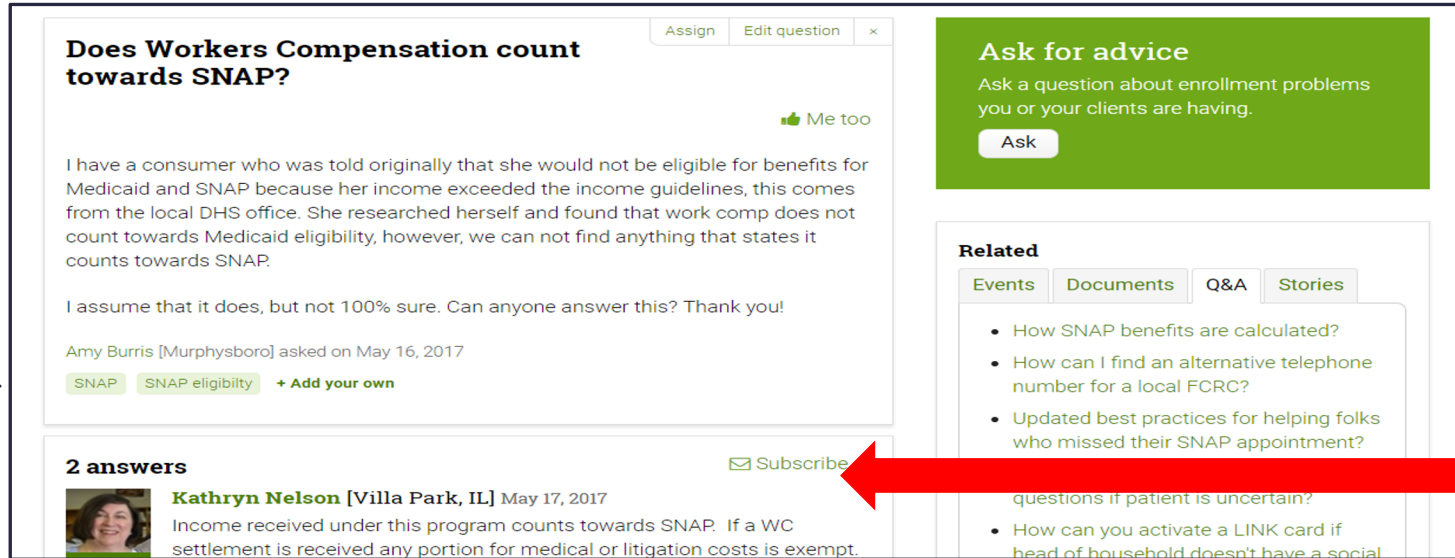
HelpHub is an online community where enrollment and outreach specialists in Illinois can share their experiences helping consumers enroll into new health care options under the Affordable Care Act (also known as Obamacare).

Please complete [this short form](#) to sign up for HelpHub.

Click Here!

How To Ask a Question on HelpHub

2. Select tags



The screenshot shows a HelpHub question page. The question is titled "Does Workers Compensation count towards SNAP?". The user, Amy Burris, asks if workers compensation counts towards SNAP eligibility. The page shows two answers, with the first by Kathryn Nelson. A green box on the right says "Ask for advice" with an "Ask" button. A "Related" section lists other questions. Red arrows point to the "Ask" button and the "Add your own" tag button.

Does Workers Compensation count towards SNAP? Assign Edit question x

Me too

I have a consumer who was told originally that she would not be eligible for benefits for Medicaid and SNAP because her income exceeded the income guidelines, this comes from the local DHS office. She researched herself and found that work comp does not count towards Medicaid eligibility, however, we can not find anything that states it counts towards SNAP.

I assume that it does, but not 100% sure. Can anyone answer this? Thank you!

Amy Burris [Murphysboro] asked on May 16, 2017

SNAP SNAP eligibility + Add your own

2 answers Subscribe

Kathryn Nelson [Villa Park, IL] May 17, 2017
Income received under this program counts towards SNAP. If a WC settlement is received any portion for medical or litigation costs is exempt.

Ask for advice
Ask a question about enrollment problems you or your clients are having.
Ask

Related
Events Documents Q&A Stories

- How SNAP benefits are calculated?
- How can I find an alternative telephone number for a local FCRC?
- Updated best practices for helping folks who missed their SNAP appointment?
- questions if patient is uncertain?
- How can you activate a LINK card if head of household doesn't have a social

1. Click "Ask" to type your question

3. An expert or other assister will answer

Get Care Illinois. org

- ***Get Care Illinois.org***: **Community facing**, available in 5 languages, will help you get healthcare coverage if you need it; If you already have healthcare coverage, this site will help you understand how to use your coverage to go to the doctor: <https://getcareillinois.org/>

Resources

- Latino Policy Forum COVID-19 page: <https://www.latinopolicyforum.org/blog/coronavirus-resources>,
- ICIRR has a webpage dedicated to useful tools and resources for immigrant families: <https://www.icirr.org/community-resources>
- Shriver Center has a comprehensive webpage of resources: <https://www.povertylaw.org/article/covid-19-resources-for-individuals-and-families-in-illinois/>
- Legal Aid Chicago link to UI and paid sick leave flyers (Spanish and English): <https://www.legalaidchicago.org/newsroom/in-the-news/covid-19/>
- A dedicated help line has been created so Child Care Resource and Referral Agencies (CCR&Rs) can help connect essential worker families to emergency childcare. **Call toll-free (888) 228-1146.** The helpline will be available from 9:00 AM - 3:00 PM Monday through Friday to answer calls, but callers will be able to leave a message 24 hours a day.
- To find emergency childcare in your area, visit COVID-19 Emergency Provider Search: <https://emergencycare.inccrra.org/>

Resources continued

- [The Chicago Resiliency Fund](#) is a cash assistance program to support Chicago residents who were excluded from federal stimulus aid in response to COVID-19. The City of Chicago in collaboration with Open Society Foundations and The Resurrection Project (TRP) is launching the fund on June 22nd. The fund will provide \$1,000 per household for eligible Chicagoans, which includes, but is not limited to, undocumented individuals, mixed-status families, dependent adults and returning residents.
- Immigrant Family Resource Program: <https://www.icirr.org/ifrp>
- [This fact sheet](#) is intended to help enrollment assisters and others who work with immigrants better understand the *Illinois Emergency Medical Program for Non-Citizens (also known as Emergency Medicaid)*. Community Facing Emergency Medicaid Community facing fact sheets: [in English](#) and [in Spanish](#).

Resources for People Living with Disabilities

- Access Living Comprehensive List of Resources: <https://www.accessliving.org/our-services/covid-19-resources-for-the-disability-community/>
- COVID-19 Resources for People with Disabilities, Families, and Service Providers – from The Arc. Includes latest national guidance, “plain language” materials on COVID-19, and avenues to advocate in Congress to ensure that individuals with disabilities are included in legislation: Link [here](#)
- [A Fact Sheet from the National Health Law Program](#) discusses options that states have under Medicaid to improve access to services for people with disabilities living at home during the COVID-19 crisis. Possibilities include lifting budget and service limitations, adding services, changing provider qualifications, raising provider rates, and more.
- The [federal government issued a reminder](#) that individuals with disabilities must not be denied care during medical emergencies based on the presence of a disability.

Immigration Enforcement Resources

- [ICIRR Resources on Immigration Enforcement and COVID: https://www.icirr.org/community-resources](https://www.icirr.org/community-resources)
- On its “Guidance on COVID-19” website, ICE has stated, “Individuals should not avoid seeking medical care because they fear civil immigration enforcement.”
- ICE will not carry out enforcement operations “at or near health care facilities such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities, except in the most extraordinary of circumstances,” per the agency’s previously issued sensitive locations memo and reiterated public statement on March 18, 2020. <https://www.ice.gov/coronavirus>
- Sensitive locations memo: <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>
- ICE guidance on COVID: <https://www.ice.gov/coronavirus>
- Illinois Alliance for Welcoming Healthcare:
 - Guidance for health centers to take affirmative steps (internal and external facing) to protect immigrant patients: <https://www.ilalliancehealth.org/policies>

Illinois Worker Guides from UIC

[COVID-19 Guide for Workers in Illinois/ Guía para los trabajadores de Illinois durante la COVID-19](#) has been posted in Spanish. The guide provides information about rights in the workplace, and state and federal benefits available to those employed in Illinois. You are encouraged to share the guide widely with workers, worker advocacy organizations, and allies. The guide was created in partnership with the UIC Center for Healthy Work, Great Lakes Center for Occupational Health and Safety, and the Policy, Practice and Prevention Research Center

View the English and Spanish versions of the guide here: <https://healthywork.uic.edu/response-to-coronavirus-covid-19/>

La Carga Pública: Lo que las familias inmigrantes deben saber

- **Title/Título:** La Carga Pública: Lo que las familias inmigrantes deben saber
- **Description/Descripción:** Los asistentes comprenderán lo que las familias inmigrantes de Illinois necesitan saber sobre la regla de carga pública y cómo puede o no afectar el acceso de beneficios y programas públicos. También se presentarán recursos para las familias inmigrantes durante la pandemia de COVID.
- **Date & Time/ Fecha y Hora:** August 13, 2020 11:00am CST
- **Registration link/Enlace de Registro:** https://us02web.zoom.us/meeting/register/tZwsduqvrvjwuHdwliL828E_yWOVDbqdB-NON

Public Charge 201 webinar

- More details on the totality of the circumstances factors and sub-factors
- More details on immigrant eligibility for the public benefits included on the I-944
- More details on recent changes to Medicaid program due to federal bills and waivers

**Thank you!
Questions?**

andreakovach@povertylaw.org