



CALIFORNIA
HIV / AIDS POLICY
RESEARCH CENTERS

Understanding Public Charge for People Living with or at Risk for HIV

The U.S. government recently proposed changes to its public charge rule. Because of these changes, you may be concerned that using public benefits, including HIV services, could put you or your family at risk for deportation or hurt your chances of getting legal status. This fact sheet is designed specifically to help people living with HIV and at risk for HIV to better understand the potential impact of the proposed changes.

The 5 most important things to know right now are...

1. **HIV treatment and prevention is vital.** Any disruption to your care may cause significant health problems. Before you make any decisions not to access HIV prevention or treatment services or discontinue services you currently receive, get help to understand how this rule may apply to you and how it may apply to the public benefits and services you may receive. *For more information on resources, see question 3.*
2. **Public charge may not apply to you!** If the rule does not apply to you, you do not need to worry about using public benefits and HIV services. *For more information, see questions 2 and 4.*
3. **The public benefits and services you use may not be included in the current nor the proposed rule.** This means you do not need to stop using these programs. *For more information, see questions 5 through 8.*
4. **Nothing has changed yet!** The proposed rule has not yet been implemented and even if it is implemented, it will not be retroactive, meaning the government will not consider any use of public benefits before the rule's implementation. This means you do not need to make any changes to how you access the public benefits and services in the proposed rule. *For more information, see question 9.*
5. **Federal and state laws protect the privacy of those who seek help from public programs.** Benefit agencies may only share information with other government agencies to administer their programs, with limited exceptions. If you are asked for information regarding your immigration status, follow 2 rules: (a) only provide information that is required; and (b) never misrepresent anything when completing public benefit applications or dealing with any government agency.

For more details about public charge, please see below:

<p>1. What is public charge?</p>	<p>Public charge is the language used by the government to describe someone who they think will become dependent on government assistance for their primary source of support to live in the U.S. Immigration officials apply a public charge rule to help decide whether to approve an application for a green card (i.e. legal permanent residence or LPR status) or when deciding who they will allow to enter into the U.S.</p>			
<p>2. Does the public charge rule apply to me?</p>	<p>The current public charge rule and the proposed changes to the rule makes clear that the rule applies only to some people. These categories remain the same.</p> <table border="1" data-bbox="505 604 1421 1587"> <tr> <td data-bbox="505 604 971 1587"> <p>Yes, the public charge rule may apply to you if you fall into one of categories below:</p> <ul style="list-style-type: none"> • You are currently applying for your green card in the U.S.(<i>but see exceptions</i>)* • You currently have a green card but have been out of the country for more than 6 months • You have a nonimmigrant visa (e.g. student, tourist, temporary work) that you wish to extend • You want to change between one nonimmigrant visa to another • You are outside of the U.S. and trying to enter the U.S. lawfully </td> <td data-bbox="971 604 1421 1587"> <p>No, the public charge rule does not apply to you if you fall into one of the categories below:</p> <ul style="list-style-type: none"> • You are a U.S. citizen • You have a green card (LPR status) • You have a green card and are applying for citizenship • You were granted Withholding of Removal, Convention Against Torture, or your case was administratively closed by the Department of Justice • You are applying for the following status: Refugee, Asylum, T Visa, U Visa, VAWA self-petitioner, SIJS (Special Immigrant Juvenile Status), renewal for DACA, TPS (Temporary Protected Status) and other special categories. • You are applying for your green card and currently have the following status: Refugee, Asylum, T Visa, U Visa, and VAWA </td> </tr> </table>		<p>Yes, the public charge rule may apply to you if you fall into one of categories below:</p> <ul style="list-style-type: none"> • You are currently applying for your green card in the U.S.(<i>but see exceptions</i>)* • You currently have a green card but have been out of the country for more than 6 months • You have a nonimmigrant visa (e.g. student, tourist, temporary work) that you wish to extend • You want to change between one nonimmigrant visa to another • You are outside of the U.S. and trying to enter the U.S. lawfully 	<p>No, the public charge rule does not apply to you if you fall into one of the categories below:</p> <ul style="list-style-type: none"> • You are a U.S. citizen • You have a green card (LPR status) • You have a green card and are applying for citizenship • You were granted Withholding of Removal, Convention Against Torture, or your case was administratively closed by the Department of Justice • You are applying for the following status: Refugee, Asylum, T Visa, U Visa, VAWA self-petitioner, SIJS (Special Immigrant Juvenile Status), renewal for DACA, TPS (Temporary Protected Status) and other special categories. • You are applying for your green card and currently have the following status: Refugee, Asylum, T Visa, U Visa, and VAWA
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<p>3. What if I don't know my current immigrant status?</p>	<p>Knowing your current immigrant status is the first step to knowing if the public charge rule does or does not apply to you. If you have any questions about how to find out more information about your immigration status, contact an immigration attorney or Department of Justice-accredited representative. Click here or go to http://www.cdss.ca.gov/Benefits-Services/More-Services/Immigration-Services/Immigration-Services-Contractors to find a California state-funded resource near you.</p>			

*Exceptions: If you are applying for your green card and currently have the following status: Refugee, Asylum, T Visa, U Visa the public charge rule does not apply to you.

<p>4. Does the public charge rule apply to me if I am currently undocumented?</p>	<p>If you are currently undocumented, the most important thing to do is to determine whether you have any opportunity to get legal status. You may be able to apply for asylum, a U visa, a green card through a family member, or some other kind of legal status. If there is no path for you to get any legal status, then you will not be evaluated for public charge at this time. If there is a path to legal status, then you will want to see if the public charge rule will be applied to you. <i>See question 2.</i></p>
<p>5. What is the current public charge rule?</p>	<p>The current public charge rule includes consideration of a variety of factors and looks specifically for the applicant’s use of the following public benefits programs:</p> <ul style="list-style-type: none"> • Cash assistance (e.g. General Relief/Assistance, Supplemental Security Income (SSI), Temporary Assistance for Needy Families (CalWorks)) • Programs paying for institutionalization for long-term care (e.g. nursing home care or mental health institution)
<p>6. What are the proposed changes to the public charge rule?</p>	<p>The proposed changes to the rule includes consideration of the applicant’s use of the following public benefits in addition to the ones listed above:</p> <ul style="list-style-type: none"> • Food stamps or Supplemental Nutrition Assistance Program (CalFresh) • Section 8 Housing Choice Vouchers and subsidized public housing • Non-Emergency Medicaid (Medi-Cal) • Medicare Part D Low-Income Subsidy <p>Under both the current rule and the proposed rule, the individual applicant’s use of public benefits is considered. Use of public benefits by family members (e.g. U.S. citizen children), even those benefits listed above, are and will not be considered to be use of a public benefit(s) by the applicant.</p>
<p>7. What about public services and benefits programs not listed above?</p>	<p>Based on the current rule and proposed rule, use of any public benefits and health services that are <u>not</u> included in questions 5 and 6 above are <u>not</u> considered. This means applicants that are evaluated for public charge do not have to worry about using any public benefits and services that are <u>not</u> listed above. For many people, this means that as long as you are not using federal Medicaid (Medi-Cal) programs, you do not have to worry about getting help with life-saving HIV medications or HIV treatment and prevention services (e.g. AIDS Drug Assistance Program (ADAP) or Ryan White CARE Act programs).</p>

8. Are there any other differences between the current public charge test and the proposed changes?	Yes. There are other ways that the government is proposing to make the public charge rule harsher for some people. While each applicant under the proposed changes would be evaluated under the rule as an individual, the person's circumstances will be looked at carefully. They will look at a person's age, health, family status, financial assets and resources, education, and skills. Additionally, the proposed changes include weighing heavily certain factors such as income, as well as a person's ability to work, go to school or care for themselves. Being unable to do these things would be considered a negative factor.
9. Are the proposed changes to the public charge rule in effect?	No, not yet. The earliest possible date for the proposed changes to be implemented are after (1) the public has had a chance to comment on the proposed rule; (2) the government reviews the comments and responds to them; and (3) 60 days have passed after those two things have happened. Any benefits listed under Question 6 that you use before the rule is finalized and the 60 days have passed will <u>not</u> be considered for public charge. Check here or go to https://protectingimmigrantfamilies.org for updates on the proposed rule.