

Advisory Regarding Trump Administration Rule Regarding Public Charge

Community Advisory January 2020

Will using benefits hurt my chances of getting a “green card” if I’m applying through a family member or employer?

Right now, It depends on whether you can get the green card within the U.S. or have to go abroad to get it:



Many people who entered the U.S. without permission but who otherwise qualify for a “green card” will need to leave the U.S. in order to complete the process. If you are in this situation, the consulate/embassy may apply tougher rules now, and past use of public benefits may be a factor.

If you entered the country on a visa (with permission), even if you overstayed that visa, and you now qualify for an adjustment of status to permanent resident in the USA, you may be able to obtain the “green card” here in the U.S.

Beginning February 24, 2020, the final rule will consider the following in the public charge determination:

*If YOU receive the following public benefits for more than an aggregate of 12 months over any 36-month period of time: local, state, tribal, or federal cash benefits (TANF/welfare), Supplemental Security Income (SSI), State Family Assistance, Medicaid (if not for people under 21, for emergency services, or during and for 60 days after pregnancy), Supplemental Nutrition Assistance Program (SNAP), Section 8 housing assistance, or federally subsidized housing.

*Several factors will be considered to determine if you are likely, in the future, to use those public benefits: YOUR financial status, size of family, age, education, skills and employment, English proficiency, medical condition, health insurance enrollment, past use of immigration fee waivers, among others.

It is VERY important to get good legal advice before applying for a green card.

Background: Recently, the Trump Administration has finalized the rule changing federal regulations regarding the interpretation of “public charge” and also began to implement some changes. “Public charge” is a concept under our immigration laws that allows the federal government to reject some types of applications for “green card” status (lawful permanent residence) or certain visas if it finds that the person is likely in the future to become dependent on government support. Until recently, “public charge” has been interpreted narrowly and only blocked certain green card or visa applicants if they accepted cash assistance or long-term care at government expense. The Trump Administration changes and expands the definition and application of public charge, which could potentially block some immigrants from obtaining green cards because they received other forms of government benefits or because of other factors.

Key Messages About the Changes and Proposals Regarding “Public Charge”:

- Changes that have already gone into effect only apply to people who have to apply for visas/green cards outside the U.S., but this could include some people who currently live in the U.S. and must leave to get the green card.
- Rules for people applying for green cards inside the U.S. have been finalized but will NOT go into effect until February 24, 2020. Legal challenges may delay the implementation of the changes.
- The changes do not apply to immigrants applying for green cards through asylum, refugee status, U & T visas, VAWA & SIJS protections, the majority of permanent residents, U.S. citizens.
- It’s important that individuals get legal advice specific to their case before making decisions about benefits or applications for immigration status.

Can I continue using benefits without hurting my chance of getting a “green card” if I’m applying as a refugee or asylee, or through VAWA, SIJS, U or T visa?



You can use ANY benefits for which you are eligible, including cash assistance, health care, food programs and other non-cash programs, without hurting your chance of getting a green card.



But keep in mind that your use of benefits could be considered and make it more difficult if you try to “sponsor” family members outside the U.S. using the “family visa” process in the future.

What if I already have a green card?



Immigration officials cannot cancel your green card just because YOU or your children or other family members use government benefits for which you are eligible.

You CANNOT be denied citizenship for lawfully receiving benefits, including cash assistance, health care, food programs and others.



BUT you might have a problem if you leave the U.S. for more than 6 months: If you have a green card and anticipate leaving the U.S. or have already been outside the USA for more than six months in any single trip since becoming a permanent resident, talk to an immigration attorney before you leave.

What if I want to sponsor a relative for a green card?



Right now: Using benefits, including cash assistance, health care and food programs should **NOT** make it more difficult for you to sponsor a relative who is in the U.S. provided a sufficient affidavit of support (I-864) is submitted.

But it might affect your ability to sponsor a relative if that person has to leave the U.S. in order to get status even if you can show that you or a co-sponsor have enough money to support the relative. **Consult a lawyer about your situation.**

We do NOT recommend that you or your family stop receiving benefits you are entitled to receive until you have obtained legal individualized advice.

NWIRP offices: Seattle – 206-587-4009
Tacoma - 253-383-0519 (for those detained at the NWDC Only)
for Southwestern WA - 206-816-3893
Yakima Valley (Granger) – 888-756-3641
Wenatchee – 866-271-2084
For a searchable database of private attorneys, please visit: www.aialawyer.com

Protecting Immigrant Families - Washington State is a broad coalition of more than 30 nonprofit, public, and private sector organizations working to address the impact of potential changes to the public charge rule. The steering committee which helps coordinate the coalition’s activities is comprised of Children’s Alliance, OneAmerica, Northwest Health Law Advocates, and Entre Hermanos. We are part of the national Protecting Immigrant Families, Advancing Our Future Campaign, co-chaired by the Center for Law and Social Policy and the National Immigration Law Center.

