

Public charge: What you need to know

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This helps you understand what the public charge test is and if the public charge test applies to your immigration status. It can also help you decide whether you and your family should apply for public benefits.

What are the main things I need to know?

- The public charge test **does not** apply to all immigrants. It mainly affects people applying for Green Card status through a family visa petition.
- If the public charge test **does** apply to you because of your immigration status, you can safely use many benefits, including food, housing, and medical assistance (except for long-term institutional care). Your family members can use all benefits safely too.

What is the public charge test?

The public charge test applies to some immigrants when they apply for Green Card status or for a visa to enter the U.S. Under the test, immigration officials can turn down (deny) the Green Card or visa application if it appears likely that the applicant will become dependent on certain government benefits (will

become a “public charge”) in the future.

Does the public charge test affect all immigrants?

No. It mainly affects people applying for Green Card status through the family visa petition (I-130) process.

Many immigrants are **not** subject to the public charge test. These include:

- Asylees
- Refugees
- Self-petitioners under the Violence Against Women Act (“VAWA”)
- Most T and U visa holders and applicants
- Special Immigrants from Iraq and Afghanistan
- People applying for Deferred Action for Childhood Arrivals (<https://www.nilc.org/issues/daca/>) (DACA)
- People applying for Temporary Protected Status (TPS)
- Special Immigrant Juveniles

How do immigration officials decide if someone is likely to become a public charge?

Under the immigration laws and regulations, immigration officials must consider the following factors in the public charge determination:

- The applicant’s income and resources (things the applicant owns)
- The applicant’s age and health
- The applicant's education, training, and skills
- The applicant’s family status
- The affidavit of support filed for the applicant

Immigration officials can't make a decision based on just one of these factors. They must consider all of the factors.

What benefits will immigration officials consider in the public charge test?

Even if the public charge test applies to you, most programs are safe to use. Immigration officials will only consider the applicant's use of:

- **Cash assistance received on an ongoing basis.** This includes TANF, State Family Assistance (SFA), Aged Blind and Disabled (ABD) benefits, or Supplemental Security Income (SSI)
- **Long-term institutionalization** paid for by the government. This includes things like a long-term stay in a nursing home paid for by Medicaid. It does not include incarceration, short-term rehabilitation, or home- and community- based long-term care.

Try to get legal help before you apply for these specific programs if you think the public charge might apply to you.

I am applying for a Green Card through a family visa petition. Are there any benefits I can safely use?

Yes. Immigration officials will **not** consider your use of many benefits, including:

- **Food assistance.** This includes federal food stamps (<https://www.dshs.wa.gov/esa/community-services-offices/basic-food>) (<https://www.dshs.wa.gov/esa/community-services-offices/basic-food>), the state Food Assistance Program (<https://www.dshs.wa.gov/esa/community-services-offices/state-food-assistance-program-fap>), WIC (<https://www.fns.usda.gov/wic/benefits-services>), school meal programs, and pandemic EBT cards.
- **Medical assistance.** This includes Washington Apple Health (<https://www.hca.wa.gov/free-or-low-cost-health-care/i-need-medical-dental-or-vision-care>), Qualified Health Plans, care at community clinics, and Charity Care.

The only medical assistance considered in the public charge test is long-term institutionalization paid for by the government, such as when Medicaid pays for a person to live long-term in a nursing home.

- **Housing assistance.** This includes section 8, public housing, and rental assistance.
- **Benefits used by family members.** Immigration officials will only consider benefits that the immigration applicant has used, not benefits used by members of that person's family.
- **Benefits that are for a special purpose,** such as childcare assistance, Low Income Home Energy Assistance Program (LIHEAP) benefits (<https://www.benefits.gov/benefit/623>), and crime victims' compensation (<https://lni.wa.gov/claims/crime-victim-claims/apply-for-crime-victim-benefits>).

- **Tax-related benefits**, such as the Child Tax Credit (<https://www.irs.gov/credits-deductions/individuals/child-tax-credit>) and the Earned Income Tax Credit (<https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit-eitc>).
- **COVID-19** vaccines, testing and treatment.
- **Benefits that are based on earnings**, including unemployment compensation (<https://esd.wa.gov/unemployment>), worker's compensation (<https://www.lni.wa.gov/claims/for-workers/injured-what-you-need-to-know/>), and Social Security Disability (<https://www.ssa.gov/disability>).
- **One-time emergency cash benefits**, such as FEMA disaster related cash assistance.

Green card holders are still eligible for Medicare, Medicaid and premium tax credits. Green card holders weren't affected by the recent changes to federal benefits eligibility.

I used cash assistance. Does this mean I will be denied a Green Card because of the public charge test?

Not necessarily. The public charge test may not even apply to you. Remember many categories of immigrants are not affected by the public charge test.

Even if the public charge test does apply to you, immigration officials can't deny your application **just** because you have used ongoing cash assistance or government-funded long-term institutionalization. Immigration officials should consider how long you used those benefits for, and how long ago. They must also consider all the other factors that are part of the public charge

determination, including job skills or training you have, your age and health, and the affidavit of support that you filed with your application.

Will immigration officials consider benefits my family members' use?

No. Immigration officials will not consider your family members' use of **any** benefits, including cash, food, and medical. Your family members can use benefits without hurting your immigration case.

Does the public charge test apply to Green Card holders when they apply to become naturalized U.S. citizens?

No. There is no public charge test for Green Card holders when they apply for naturalization or renew their Green Cards.

However, Green Card holders who use benefits should try to limit trips outside the U.S. to less than 6 months (in a single trip). Green Card holders who use benefits and who have taken a trip outside the U.S. of over 6 months should get legal advice before applying for U.S. citizenship.

Get legal advice from an immigration lawyer
(<https://ailalawyer.com/>).

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