



MICHELLE BAASS  
DIRECTOR

State of California—Health and Human Services Agency  
Department of Health Care Services



GAVIN NEWSOM  
GOVERNOR

December 22, 2022

TO: ALL COUNTY WELFARE DIRECTORS Letter No.: 22-34  
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS  
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS  
ALL COUNTY HEALTH EXECUTIVES  
ALL COUNTY MENTAL HEALTH DIRECTORS  
ALL COUNTY MEDS LIAISONS

SUBJECT: FEDERAL PUBLIC CHARGE RULE

This letter informs counties of the final rule entitled "[Public Charge Ground of Inadmissibility](#)" (2022 Final Rule), published by the U.S. Department of Homeland Security (DHS) on September 9, 2022. The 2022 Final Rule is effective December 23, 2022, and will apply to applications for visas, admission, and adjustment of status postmarked on or after the effective date.

### Background

Per [Section 212\(a\)\(4\) of the Immigration and Nationality Act \(INA\)](#), a non-citizen applying for a visa to enter the United States or for adjustment of status to lawful permanent resident (also known as a green card holder) may be found inadmissible (have their application denied and/or be denied entry) if they are found likely at any time to become a public charge. Under the INA, immigration officers must, at a minimum, consider a non-citizen applicant's age, health, family status, education and skills, financial status, assets, resources, and, when applicable, a supporting document from a sponsor (affidavit of support) when determining whether the non-citizen is likely to become a public charge. It is longstanding federal policy that immigration officers will also consider the non-citizen's receipt of cash assistance for income maintenance and long-term institutionalized care at government expense.

On August 14, 2019, the Department of Homeland Security (DHS) published the Inadmissibility on Public Charge Grounds Final Rule, 84 Fed. Reg. 41,292 (2019 Public Charge Rule). This rule sought to make substantial changes to longstanding public charge policy and increase the number of public benefits considered in a public charge determination. Following nationwide litigation, DHS chose to stop applying the 2019

Public Charge Rule and reverted to its prior [1999 Interim Field Guidance](#). The 1999 Interim Field Guidance remains in effect until the 2022 Final Rule takes effect. Under the 1999 Interim Field Guidance, immigration officers may consider cash assistance for income maintenance and long-term institutionalized care at government expense, but no other public benefits may be considered. Please visit the [US Citizenship & Immigration Services \(USCIS\) website](#) for updated information.

### **2022 Final Rule “Public Charge” Policy**

The final public charge rule limits the types of public benefits considered. The new policy does not change whether individuals can apply for and receive public benefits. DHS must consider other factors such as education, income, and an affidavit of support or posting a bond with the federal government. Therefore, an immigrant’s use of long-term institutional care at government expense or cash assistance for income maintenance will not automatically result in a determination that the applicant is likely to become a public charge. The 2022 Final Rule will allow non-citizens to continue receiving many public benefits without fear of immigration consequences.

**NOTE: The new policy does not change whether individuals can apply for and receive public benefits. The public charge status of a Medi-Cal applicant or beneficiary has no impact on their eligibility for Medi-Cal benefits.**

The final rule clarifies that use of most public benefits programs will NOT be considered in making a public charge inadmissibility determination. These benefits include, but are not limited to:

- CalFresh or SNAP
- School meals
- Medi-Cal (both restricted and full scope benefits) or Medicaid (except in the case of long-term institutionalized care at government expense, such as in a skilled nursing home)
- Covered California subsidies
- Medicare
- Immunizations or testing/treatment for communicable diseases such as COVID-19
- In-Home Supportive Services Program
- Federal Public Housing and Section 8 Assistance
- Woman, Infant & Children’s Program (WIC)
- Disaster assistance, pandemic assistance, utility assistance, childcare assistance
- Child Tax Credit (CTC) or Earned Income Tax Credit (EITC)

## **Exempt Immigrant Groups**

Under both the 1999 Interim Field Guidance and the 2022 Final Rule, immigrant groups who are exempt from Public Charge include, but are not limited to:

- Refugees
- Asylees
- Special Immigrant Visa Holders
- Applicants or registrants for Temporary Protected Status
- Special Immigrant juveniles
- T and U nonimmigrant visa holders (victims of human trafficking and other serious crimes)
- Self-petitioners under Violence Against Women Act (VAWA)
- Cuban and Haitian entrants

Change from the 1999 Interim Field Guidance: Under the 2022 Final Rule, certain individuals eligible for “refugee benefits” (resettlement assistance, entitlement programs, and other benefits available to refugees) to the same extent as refugees, are exempt from public charge. Groups impacted by this exemption may include certain humanitarian parolees, including those from Afghanistan and Ukraine, as well as certain unaccompanied undocumented minors.

### **Every Case is Different, Reach out for Qualified Legal Advice.**

As stated in [ACWDL 21-05](#), county staff, including but not limited to eligibility workers, can share official (i.e., guidance and materials issued by the State of California or the Federal Government) handouts and other written materials about public charge with applicants and/or beneficiaries, including the information in this ACWDL and [CDSS ACWDL dated November 10, 2022](#), but should **not** provide legal advice about the immigration consequences of receiving public benefits. There are many factors that affect whether a person may be considered a public charge, and every person’s case is unique and requires review by a qualified legal professional.

A list of nonprofit organizations qualified to assist individuals is available on the [California Department of Social Services website](#). County staff may provide this contact information to applicants and/or beneficiaries who have questions regarding public charge. An immigration or public benefits attorney can provide the immigrant advice based on the specific facts of their situation.

All County Welfare Directors Letter No.: 22-34  
Page 4  
December 22, 2022

To learn more about Public Charge please visit the [California Health and Human Services Public Charge Guide](#). The California Health and Human Services Public Charge Guide is available in 21 languages.

If you have any questions or require additional information, please contact Jillian Davis by phone at (916) 345-8172 or via email at [Jillian.Davis@dhcs.ca.gov](mailto:Jillian.Davis@dhcs.ca.gov).

Original Signed By:

Yingjia Huang, Acting Chief  
Medi-Cal Eligibility Division