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Food Research & Action Center

Implementation of the New Public Charge Rule: FAQs for Anti-Hunger and Nutrition Stakeholders

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With the implementation of the new Department of Homeland Security (DHS) Public Charge Ground of Inadmissibility final rule beginning September 18, 2026, anti-hunger and nutrition stakeholders have important roles to play in explaining how federal nutrition programs interact with public charge and in referring people to reliable legal resources.

This FAQ does not constitute legal advice or take the place of legal advice from an immigration attorney.

Public Charge Basics

What Is Public Charge?

Public charge is a long-standing doctrine that can affect an immigrant's ability to be admitted into the U.S. or obtain permanent legal status. Some people who apply for a green card (lawful permanent residence) or a visa to enter or remain in the U.S. must pass a "public charge" test, which looks at whether the person has become or is likely to become "primarily dependent on the government for subsistence".

In making this determination, immigration officials review all of a person's circumstances (often called the totality of circumstances), including their age, income, health, education, or skills (including English language skills), and their sponsor's affidavit of support.

They can also consider whether a person has used certain public benefit programs. Until recently, only the use of cash assistance (such as Temporary Assistance for Needy Families, TANF, Supplemental Security Income, and State/local cash assistance programs) and long-term institutional care that was paid for by the government counted as factors in a public charge determination. This is no longer the case. The new DHS rule, published alongside supporting guidance, changes the longstanding rule to now include a broader test by expanding it to cover means-tested programs.

Which Immigrants Are Subject to Public Charge?

- An immigrant seeking to obtain a green card (Lawful Permanent Residency) through family sponsorship.
- A legal permanent resident who leaves the country for **more than 180 days** may be subject to a public charge determination when they seek to re-enter the country.

Are All Immigrants Subject to the Public Charge DHS Rule?

No. Many immigrants are not subject to a DHS public charge determination, including refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); Violence Against Women Act (VAWA) self-petitioners; special immigrant juveniles; certain people paroled into the U.S.; and other humanitarian immigrants.

Legal permanent residents (green card holders) are not subject to a DHS public charge determination when they renew their green card or when they apply for U.S. citizenship. U.S. citizens are not subject to public charge determinations.

Does the New Public Charge Rule From DHS Change Which Immigrants Are Subject to the Public Charge?

No. The category of immigrants did not change.

Is Someone Automatically a Public Charge if They Use Means-Tested Public Benefit Programs?

No. When making a DHS public charge determination, an immigration official must consider the totality of the applicant's life circumstances. Use of a public benefit program listed in the rule is one factor the official can consider, but a public charge determination cannot be made on this factor alone.

Can Benefits Received in the Past Be Considered?

Benefits that were excluded under the previous policy will not be considered if they were received **before September 18, 2026**, when the new rule takes effect. Income-based benefits received on or after that date may be considered later when someone applies for adjustment of status.

Means-Tested Public Benefit Programs

What Is a Means Test?

A means-tested benefit is a government aid program available only to individuals or families whose income and assets fall below certain thresholds. The term "means" refers to financial resources such as income, savings, and other assets. Eligibility often depends on income and assets. Unlike universal benefits such as Social Security and Medicare, individuals must apply and demonstrate that they meet the criteria, as there is no automatic access.

What Is Included as a Means-Tested Public Benefit Program?

The previous rule limited public charge to two specific public benefits: cash assistance and government-funded long-term medical care.

The new rule and guidance provide no statutory or regulatory definition of excluded or included means-tested programs, but states that participation in any means-tested public benefits program would be considered. The guidance identifies food assistance as a category of means-tested programs, and the guidance's hypothetical scenarios include school lunch and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) as benefits that could be considered in public charge determinations.

Benefit Usage by Families

If Parents Receive Benefits for Their Eligible Children, Could That Affect the Parents' Green Card Application?

The guidance states that U.S. Citizenship and Immigration Services (USCIS) will not treat benefits received by a U.S. citizen or lawful permanent resident child as benefits received by the parent. However, if a child or another household member receives income-based benefits tied to the applicant's income or assets, USCIS may look more closely at whether the applicant meets the required financial threshold. This may not come up at the application stage, but it may come up at the interview stage.

School Meals

What Happens When a School Offers Free Meals to Every Student, Regardless of Family Income?

If a school offers free meals to all students (for example through the Community Eligibility Provision), a child's eligibility or participation does not automatically count as a means-tested public benefit for the child or parent. In one of the guidance's scenarios, it says that officers may look at school meal participation, but they should also consider why the meals were provided. For example, were meals available to every student, or did the student qualify through SNAP or another income-based program?

This Guidance Seems to Cover Cash Payments, not Meals. Does That Mean School Meals Should Still Be Excluded?

The guidance does not specifically mention cash payments. It specifies participation in means-tested public benefit programs. The 2022 rule explicitly excluded school lunch and breakfast programs as food-based, noncash benefits. The 2026 rule, however, rescinds that policy and gives officers broader discretion to consider means-tested benefits.

Impacted Programs and State Funding

Could State-Funded Benefit Programs Be Included in Public Charge Determinations?

USCIS says it may consider state, Tribal, territorial, and local cash assistance intended to help cover basic living costs. Some state-run benefits, including Medicaid and Children's Health Insurance Program (CHIP), are specifically excluded. For other state-funded programs, the answer will depend on how the program works and whether USCIS has said it may be considered.

Could This Affect Child and Adult Care Food Program (CACFP) or Senior Meal Programs Determinations?

The new rule and guidance provide no statutory or regulatory definition of excluded or included means-tested programs. However, they do indicate that receipt of **food assistance after September 18, 2026,** may be considered as part of the totality of the circumstances in a public charge determination. The federal nutrition programs are not categorically excluded.

Could the Commodity Supplemental Food Program (CSFP) Be Included in Public Charge Determinations?

The Commodity Supplemental Food Program is means-tested, meaning applicants must meet specific low-income requirements to qualify. The new rule and guidance provide no statutory or regulatory definition of excluded or included means-tested programs. However, they do indicate that receipt of **nutrition benefits after September 18, 2026,** may be considered as part of the totality of the circumstances in a public charge determination.

Chilling Effect

Will the New Rule Discourage Many Families From Using Benefits?

Yes. The new rule gives immigration officers more discretion, which creates uncertainty. DHS has acknowledged that some people — including U.S. citizens in mixed-status families — may leave benefit programs or avoid applying because they are worried about immigration consequences.

Past changes to public charge policy also caused eligible families to avoid benefits. Because the 2026 rule covers more types of benefits and makes outcomes less predictable, fear and confusion are likely to reduce enrollment and participation.

Public Charge Legal Support and Guidance

Where Can Someone Get Help With a Confusing or Difficult Public Charge Question? Is There a National Hotline?

People should speak with a qualified immigration attorney or accredited representative rather than trying to make this decision on their own. FRAC is not aware of a single national public charge hotline. The National Immigration Legal Services Directory can help people find free or low-cost legal help.

Advocacy

What Is the Timeline for H.R. 10045 and S. 5331, and When Should Advocates Send Letters?

The Protect American Values Act was introduced in the House and Senate on August 6, 2026. No hearing, committee vote, or floor vote has been announced. Advocates should contact Members of Congress now and ask them to cosponsor the bills.