What is a “public charge?”

An immigrant who uses certain kinds of benefits from the government might be considered a “public charge” by the government. This can affect your immigration status. Just using government programs does not make you a public charge.

Which programs might put someone at risk of being considered a “public charge”? 

The only programs that the government can currently ask about are:

- Cash assistance (like TANF or SSI)
- SNAP (food stamps)
- Federal Medicaid (NOT New York State Medicaid, the Essential Plan, Emergency Medicaid, H+H Options, NYC Care, Child Health Plus, or Medicaid for pregnant women and children)
- Section 8 and public housing

Being enrolled in these programs does NOT necessarily mean you will be considered a public charge, but they are some of the things the government looks at.

MOST government benefits are not included on this list. If your children are US Citizens you can apply for them to use these programs without putting yourself at risk.

Call the New Americans Hotline at 1-800-566-7636 for suggestions about where to get legal advice. Remember, public charge still doesn’t apply to many people, and most government programs aren’t included in the rules.

When does the government decide if someone is a “public charge”?

It happens when you are applying for a green card. When you apply for citizenship the government does NOT check if you are a “public charge.”

What should I do?

You don’t need to cancel your benefits if you are not at risk of being considered a “public charge.” Even if you are, it is important to think about your and your family’s needs as well as immigration concerns. If you have questions about “public charge” related to an existing or future immigration application, you should consult an immigration legal expert. Call the New Americans Hotline at 1-800-566-7636 for suggestions about where to get legal advice. The hotline is free and anonymous, and help is available in many languages.

Immigrants with some statuses can apply for a green card or visa WITHOUT being considered a “public charge.” These include:

- Refugees and asylees
- Victims of serious crimes (like U visa holders)
- VAWA self-petitioners (for people who are victims of violence committed by family members)
- Special immigrant juveniles (SIJS)
- Some other immigrants

Created by the Center for Urban Pedagogy (CUP), New York Immigration Coalition, and Partner & Partners. © the Center for Urban Pedagogy (CUP), 2020.
Who Are Public Charge?

A total of 283,000 people may be subject to "public charge" deportation. These include:

- Asylum seekers and asylum seekers
- Victims of serious crimes (such as U visa holders)
- Self-payers
- Victims of domestic violence

If you are in the country illegally, you may also be subject to deportation. The government has broad discretion in determining who is subject to deportation. In general, you are subject if you have received government benefits in the past 5 years.

What Does "Public Charge" Mean?

You are subject if the government determines that you are likely to become a public charge in the future. This is based on your income and assets, your medical history, your family history, and other factors.

What Are the Government Benefits That May Make Me Subject to Deportation?

The government benefits that may make you subject to deportation include:

- Medicaid
- Food stamps
- Temporary Assistance for Needy Families
- Supplemental Security Income
- Social Security
- Disability
- Alien Registration
- VAWA
- SJS
- NYIC

What Do I Need to Do If I Am Subject to Public Charge?

If you are subject to deportation, you should consider:

- Applying for legal status
- Applying for a green card
- Applying for citizenship

You may also be able to apply for work authorization or travel permits. Contact a legal aid organization or a legal aid attorney for help.

What Are the Penalties for Violating "Public Charge"?

If you are subject to deportation, you may be subject to fines, loss of citizenship, and other penalties. You may also be subject to deportation if you are a U.S. citizen or a lawful permanent resident.

What Are the Rights of People Subject to "Public Charge"?

People subject to deportation have certain rights, including:

- Right to an attorney
- Right to a hearing
- Right to a court

You should consult a legal aid organization or a legal aid attorney for help.

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