

The Public Charge Rule in U.S. Immigration Policy

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NOVEMBER 18, 2025

Background: What is “Public Charge”?

Under Immigration and Nationality Act (INA) § 212(a)(4), a non-citizen may be found inadmissible if they are “likely at any time to become a public charge” (i.e., primarily dependent on the government for subsistence).

The test involves a “totality of the circumstances” evaluation: age, health, family status, assets/resources/financial status, education and skills.

In practical terms, it affects those applying for admission, or adjustment of status (green card) from within the U.S., and in some cases nonimmigrant status changes.

Public Charge Rule under the Trump Administration

In 2020, Department of Homeland Security (DHS) under the Trump Administration implemented a final rule on public charge (originally proposed in 2018) which defined “public charge” to mean someone who receives **one or more** designated public benefits for more than 12 months in aggregate within any 36-month period.

The “public benefits” definition in the Trump rule included cash benefits for income maintenance, Supplemental Security Income (SSI), TANF, most forms of Medicaid, certain housing programs, SNAP, etc.

Transition to the Biden Administration

When the Biden Administration came into office, it took steps to roll back or revise the Trump-era rule. For example, in September 2022 DHS issued a new final rule described as “fair and humane,” restoring the historic standard of public charge, focusing only on cash assistance and long-term institutionalization for purposes of the test, and excluding most non-cash benefits like Medicaid, CHIP, SNAP, housing aid.

Under the 2022 rule: only cash income-maintenance benefits and long-term institutionalization at government expense count.

Trump 2.0: September 2025 USCIS Policy Memo

Key takeaways from the memo:

- No change in which benefits are considered in the public charge test. The memo did *not* expand the benefits list.
- The current Biden-era public charge rule remains in place.
- The memo that adjudicating officers should ensure applicants complete all relevant public-charge-related questions (e.g., on Form I-485) and enforce sponsor/declaration obligations (e.g., Affidavit of Support) where applicable.
- The memo signals intensified scrutiny—not via rule change, but via officer guidance—to apply the existing public charge ground more strictly. For example, verifying household size, eligibility of claimed exemptions, completeness of responses.

Implications of the September 2025 Memo

- Applicants and sponsors should ensure full and accurate completion of forms (especially public charge-related questions).
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- Sponsors should verify they meet income thresholds (e.g., sponsor's income must be at least 125% of federal poverty guidelines unless special exemptions apply) when submitting the Affidavit of Support.
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- Applicants claiming exemptions (e.g., certain immigrant categories exempt from public charge determinations) should be prepared to demonstrate eligibility.
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- The “totality of the circumstances” test remains central: while the benefits list is unchanged, adjudicators may weigh negative factors (e.g., health issues, insufficient assets) more heavily given the tone of the memo.
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- Advocacy groups warn that the memo may have a “chilling effect” on eligible immigrants or sponsors, as awareness of stricter scrutiny may deter benefit use or family-based sponsorship risk.

Conclusion

The public charge ground remains an important part of U.S. immigration law.

Under Trump era = rule broader and stricter in terms of benefits counted.

Under Biden era = rule narrowed (in terms of benefits considered); remains in force.

The September 2025 USCIS memo does *not* change the benefits list but signals stricter enforcement of existing standards.

For applicants, sponsors, and service providers: accuracy in forms, understanding of obligations, and awareness of heightened scrutiny are key.

Legal consultation remains advisable for individual cases, as outcomes depend on many factors.



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