

NY State of Health
Medicaid and Public Charge - Q&As for Assistors

UPDATE (10/11/19): A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.

General script for everyone who has a question about public charge or how receiving health benefits could affect their immigration options:

- It sounds like you have a question about the rule changes on "public charge."
- Public charge is an immigration law issue that applies to only certain people.
- The federal Department of Homeland Security released a new rule in August 2019 about immigrants who apply for Medicaid and other help from the government. **A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.**
- NY State of Health believes that only a small group of immigrant New Yorkers who are enrolled in NY State of Health benefits are affected by this rule.
- The federal Public Charge rule **does not** include Essential Plan, Child Health Plus or Qualified Health Plans. Therefore, getting these health benefits will not affect a person's immigration options. Enrollment in federally-funded Medicaid will not impact the following groups of immigrants: pregnant women, children under 21, and people in immigration categories like asylees, refugees and victims of violence.
- Current green card holders who are receiving Medicaid will only be subject to a public charge determination if they leave the country either (a) for more than 6 months or (b) with certain criminal convictions, and then want to come back to the United States.
- The new rules were scheduled to begin on October 15, 2019, but a Federal Judge has blocked the Final Public Charge Rule from going into effect. Until the lawsuit is resolved, the new rules will not apply. They do not apply to most benefits you received in the past.
- I can try to answer some of your general questions, but if you are worried about whether public charge applies to you or your family specifically, we recommend you speak to an immigration expert.
- If you have your own immigration lawyer already, you can speak to them. If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

General Questions

Q. I'm an immigrant and I have Medicaid, should I close my case?

A. You should not close your case without speaking with an immigration expert. Enrollment in federally-funded Medicaid will not impact the following groups of immigrants: pregnant women, children under 21,

and people in immigration categories like asylees, refugees and victims of violence. Current green card holders who are receiving Medicaid will only be subject to a public charge determination if they leave the country either (a) for more than 6 months or (b) with certain criminal convictions, and then want to come back to the United States. To find out if the Public Charge rule applies to you specifically, speak with an immigration expert. If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

Q. I'm an immigrant and I have Essential Plan/Child Health Plus/Advance Premium Tax Credits/Qualified Health Plans; should I close my case?

A. No. Receiving Advance Premium Tax Credits or enrolling in Essential Plan or Child Health Plus does not make you a "public charge." If you are still concerned about whether the Public Charge rule applies to you, speak with an immigration expert. If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

Q. I received a Medicaid card with my Essential Plan enrollment. Does this make me a "public charge?"

A. No. Only federally-funded Medicaid counts toward public charge. The benefits you receive with Essential Plan are paid for by New York State and do not count toward public charge.

Q. I'm a lawful permanent resident (have a green card) and I have Medicaid, should I close my case?

A. No. The rule only applies to certain Lawful Permanent Residents (LPR), who, in limited circumstances, may be treated as seeking admission when they are coming back to the U.S. from abroad. This includes LPRs who are returning to the U.S. after spending more than six months abroad, are otherwise found to have given up their LPR status, or who have departed the US after committing certain crimes. If they are treated as seeking admission, they could be subject to a public charge screening.

Public charge is not a consideration when green card holders apply to become U.S. citizens. To find out if the rule applies to you, contact an immigration expert. If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

Q. What about me? Am I subject to public charge?

A. We cannot answer that question. You should speak to an immigration expert. **A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.** If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

Q. When do the changes to the public charge definition go into effect?

A. The changes were scheduled to go into effect on October 15, 2019, but a Federal Judge has blocked the Final Public Charge Rule from going into effect. Until the lawsuit is resolved, the new rules will not apply. Unless you are receiving Medicaid-funded nursing facility or long-term care services, the Department of Homeland Security will not look at whether you had Medicaid coverage prior to that date.

Q. I saw or heard on the news that the US Department of Homeland Security issued new regulations for immigrants who receive government benefits. Should I close my NY State of Health account?

A. You should not close your case without speaking with an immigration expert. The rule does not impact all immigrants. Receiving Advance Premium Tax Credits or enrolling in Essential Plan or Child Health Plus does not make you a “public charge” under the new rule. Enrollment in federally-funded Medicaid will not impact the following groups of immigrants: pregnant women, children under 21, and people in immigration categories like asylees, refugees and victims of violence. There are other categories of immigrants who are also not impacted by the rule. Current green card holders who are receiving Medicaid will only be subject to a public charge determination if they leave the country either (a) for more than 6 months or (b) with certain criminal convictions, and then want to come back to the United States. To find out if the Public Charge rule applies to you specifically, speak with an immigration expert. **A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.** If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

Q. Does the Public Charge rule mean immigrants can't get health insurance through a NY State of Health Account?

A. No. The Public Charge rule does not change the eligibility rules for health insurance and you can still get health insurance through NYSOH if you otherwise qualify. The rule also does not apply to all immigrants. Receiving Advance Premium Tax Credits or enrolling in Essential Plan or Child Health Plus does not make you a “public charge” under the new rule. Enrollment in federally-funded Medicaid will not impact the following groups of immigrants: pregnant women, children under 21, and people in immigration categories like asylees, refugees and victims of violence. There are other categories of immigrants who are also not impacted by the rule. Current green card holders who are receiving Medicaid will only be subject to a public charge determination if they leave the country either (a) for more than 6 months or (b) with certain criminal convictions, and then want to come back to the United States. To find out if the Public Charge rule applies to you specifically, speak with an immigration expert. **A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.** If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

Questions about Children Receiving Health Benefits

Q. I'm an immigrant. I do not have health insurance through NY State of Health, but my US citizen children have Medicaid/CHP. Should I end their coverage?

A. No. The Public Charge rule applies only to immigrant applicants themselves; use of coverage of other family members does not count against the applicant. If your children are US citizens, you should keep them enrolled, and they should continue to seek all necessary medical care. **A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.**

Q. I'm an immigrant. I do not have health insurance through NY State of Health, but my children, who are also immigrants, have Medicaid. Will their coverage affect me? Will it affect my children? Should I end their coverage?

A. No. Benefits used by your children do not affect you. The Public Charge rule will not “count” use of Medicaid by children under age 21. If you are still concerned, you should not close your children’s case but speak with an immigration expert. **A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.** If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.

Q. I'm an immigrant. I do not have health insurance through NY State of Health, but my children, who are also immigrants, have Child Health Plus. Will their coverage affect me? Will it affect them? Should I end their coverage?

A. No. Benefits used by your children do not affect you. The Public Charge rule will not “count” use of Child Health Plus. If you are still concerned, you should not close your childrens’ case but speak with an immigration expert. **A Federal Judge has issued a nationwide ruling blocking the Final Public Charge Rule from going into effect on October 15, 2019, as originally scheduled. Until the lawsuit is resolved, the new rules will not apply.** If you need immigration assistance, please call the Office for New Americans at 1-800-566-7636 to be connected to free or low-cost, high-quality legal representation/counseling services. New York City residents may also call The Legal Aid Society at 1-844-955-3425.