

**Assistor Webinar  
Public Charge – October 30, 2019  
Updates – January 28, 2020  
Q & A**

**Updated following the U.S. Supreme  
Court ruling on January 27, 2020**

- 1. How should Assistors bring up the subject of Public Charge when we want to make sure people know that the current set of rules are still in effect and the new rules have been blocked?**

*On January 27, 2020 the Supreme Court ruled that the federal government may implement the new Public Charge rule. On January 30, 2020, the Department of Homeland Security (DHS) announced that the new rule will apply to benefits received on or after February 24, 2020.*

*Enrollment in Essential Plan (any level – 1, 2, 3, or 4), Child Health Plus, Qualified Health Plans or Premium Tax Credits is not a factor under the new rule. Enrollment in state-funded Medicaid is also not a factor. 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 trafficking and other crimes. 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.*

- 2. How should an Assistor respond when an individual tells them that their immigration attorney advised them to disenroll from their medical insurance?**

*Assistors should explain very few immigrants are impacted by the new federally-funded Medicaid factor. Enrollment in Essential Plan (any level – 1, 2, 3, or 4), Child Health Plus, Qualified Health Plans or Premium Tax Credits is not a factor under the new rule. Enrollment in state-funded Medicaid is also not a factor.*

*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 trafficking and other crimes. 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.*

*If you are not sure what type of coverage the individual has, call the NY State of Health helpline at 1-855-355-5777.*

- 3. When the new Public Charge rules go into effect, will they be retroactive?**

*No. DHS announced that the new rule will only apply to benefits received on or after February 24, 2020.*

- 4. If an individual is enrolled in Medicaid Managed Care (MMC), could they become subject to the new Public Charge rules due to their enrollment in MMC?**

*Enrollment in non-emergency federally-funded Medicaid, whether it is MMC or Fee-For-Service (FFS), will not impact the following groups of immigrants: pregnant women, children under 21, and people in certain immigration categories, such as asylees, refugees and victims of violence. Current green card holders who are receiving federally-funded Medicaid will only be subject to a Public Charge determination if they leave the country for more than 6 months.*

- 5. If an individual is enrolled in Emergency Medicaid only, could they become subject to the new Public Charge rules due to their enrollment in Emergency Medicaid?**

*No. Emergency Medicaid is not included as a benefit under the new rule.*

- 6. If an individual is enrolled in Family Planning Benefits (FPBP) only, could they become subject to the new Public Charge rules due to their enrollment in FPBP?**

*Most immigrants in FPBP will not be subject to the new rule because they are under the age of 21, not in federally-funded FPBP or they are in one of the excluded immigration categories. Only certain immigrants with non-emergency federally-funded Medicaid or FPBP may be subject to the new rule.*

- 7. If an individual is enrolled in Essential Plan (EP) (any variation of EP), could they become subject to Public Charge under the new rules due to their enrollment in EP?**

*No. Essential Plan (EP 1, 2, 3 and 4) is not included as a benefit under the new Public Charge rule.*

- 8. Do individuals become subject to Public Charge rules when applying for citizenship?**

*No. The Public Charge inadmissibility test is not applied when an individual is applying for citizenship.*

- 9. Do individuals become subject to Public Charge rules when they are renewing their Permanent Resident Card (Green Card)?**

*No. Immigration officials only apply the Public Charge test while considering an original application for a Green Card. People renewing a Green Card do not undergo a Public Charge test.*

*Certain individuals are NOT subject to the Public Charge test at any time, even when applying for a Green Card. This includes:*

- *Refugees and asylum applicants*
- *Refugees and asylees applying for adjustment to permanent resident status*

- *Amerasian Immigrants (for their initial admission)*
- *Individuals granted relief under the Cuban Adjustment Act (CAA)*
- *Individuals granted relief under the Nicaraguan and Central American Relief Act (NACARA)*
- *Individuals granted relief under the Haitian Refugee Immigration Fairness Act (HRIFA)*
- *Individuals applying for a T Visa*
- *Individuals applying for a U Visa*
- *Individuals who possess a T Visa and are applying for adjustment to permanent resident status may apply for a waiver*
- *Individuals who possess a U Visa and are applying for adjustment to permanent resident status*
- *Individuals with Special Immigrant Juvenile status*
- *VAWA self-petitioners*

**10. Do individuals become subject to Public Charge rules when they are applying for their work permit?**

*No. There is no Public Charge test during the process of applying for a work permit.*

**11. If a consumer receives SNAP benefits, when should they cancel those benefits in order to avoid becoming subject to the new Public Charge rules?**

*Consumers should be referred to the immigration experts listed below for assistance. Assistors should not provide immigration advice or advise consumers on whether to discontinue or cancel benefits.*

**12. If an individual receives financial aid to enroll in a college or university, could they become subject to Public Charge rules due to receiving this financial aid?**

*No. Financial aid at a college or university is not a benefit that is part of the current or new Public Charge test.*

**13. The Public Charge test involves looking at certain factors to decide if a person is likely to rely on government support in the future. How many negative factors can a person have to disqualify them from applying for the Green Card?**

*There is no formula to determine whether or not a person will pass or fail the Public Charge test. There are certain factors that will be weighed more positively or negatively to make the determination, but no one factor will cause someone to pass or fail the test. Immigration officials look at multiple factors in a person's life to decide if a person is likely to rely on the government for support.*

**14. If an individual is already enrolled in Medicaid, will they be able to avoid becoming subject to the new Public Charge rules if they simply do not use their benefits or refuse services in the hospital?**

*Enrollment in federally-funded Medicaid could be a factor regardless of whether the individual refuses services or does not use their benefits. But it is very important to remember that most people's health coverage will not be impacted by the new rule. Enrollment in federally-funded Medicaid will not impact the following groups of*

*immigrants: pregnant women, children under 21, and people in certain immigration categories, such as asylees, refugees and victims of violence.*

- 15. If an individual has been an LPR for ten (10) years and then they leave the country for more than 6 months, could they be evaluated for Public Charge upon their return?**

*Yes. Green Card holders are only subject to a Public Charge determination if they leave the country for more than 6 months.*

- 16. If a consumer has Medicaid in NY State of Health, how can an Assistor help them to identify whether their coverage had federal funding or is state only?**

*Consumers can call customer service to verify whether their Medicaid is federally-funded.*

- 17. I have heard that effective November 3, 2019, President Trump is making it a requirement that any new green card holder cannot get any subsidized health insurance through the Marketplace. Is this true, and will it impact consumers enrolled in programs other than Medicaid?**

*No. There is no rule from the Trump administration related to green card holders' access to subsidized health insurance through the Marketplace. The administration did issue a Health Insurance Proclamation related to people seeking entry to the U.S. that was scheduled to go into effect November 3, but a Federal Judge has issued a nationwide ruling blocking the Presidential Proclamation from going into effect. Until the lawsuit is resolved, the Proclamation is not in effect. The Proclamation would have only applied to people living outside of the U.S., who are seeking visas to enter the country. The proclamation would deny entry into the U.S. if they are unable to show that they will be covered by private health insurance coverage. It would not affect Green Card holders or other visa holders already living in the U.S.*

- 18. If a pregnant visa holder gets Medicaid for her prenatal services, delivery, and 2 months post-partum period, and then leaves the country, will she become subject to Public Charge if she tries to return?**

*Under the new rule, benefits received by pregnant and post-partum women are not subject to Public Charge consideration.*

- 19. Consumers get continuous coverage under Medicaid. How does this affect pregnant women who would otherwise be eligible for EP or Emergency Medicaid only? Will the continuous coverage which outlasts the 60 days post-partum period affect their status under Public Charge rules?**

*The Essential Plan and Emergency Medicaid are not included in the new Public Charge rule.*

*Pregnant women who would otherwise be eligible for Emergency Medicaid only, or Essential Plan (if they were not pregnant) do not receive twelve (12) months of continuous coverage in NY State of Health. After their two (2) month post-partum period, they will be re-determined and dis-enrolled from Medicaid (if no longer eligible*

*due to no longer being pregnant).*

**20. Essential Plan 3 and 4 consumers are often fearful of Public Charge rules because they get a Medicaid (CBIC) card. What can we tell them to help alleviate this concern?**

*Under the new rule, the federal government added federally-funded Medicaid to the list of benefits that can be considered in a person's Public Charge determination. The benefits consumers receive with Essential Plan are paid for by New York State and would not count in a person's Public Charge determination. In this scenario, their CBIC card is provided to access two (2) specific sets of services: non-emergency transportation and out-of-network family planning services.*

*NY State of Health notices are being modified in an effort to eliminate confusion about the Essential Plan 3 and 4 benefits, and avoid members taking negative actions for fear the Essential Plan benefits will count against them.*

**21. Some visa holders who are students are under 21 and therefore get Medicaid instead of Essential Plan. Will they be subject to the new Public Charge rules?**

*No. Visa holders under the age of 21 (if otherwise eligible) are not subject to public charge under the new rule.*

***If you have consumers who are still worried about whether Public Charge applies to them or their family specifically, we recommend that they speak with an immigration expert.***

***For immigration assistance call:***

- ***Office for New Americans at 1-800-566-7636 - free or low-cost, high-quality legal representation/counseling services.***
- ***The Legal Aid Society at 1-844-955-3425 (New York City residents only).***