

Fact Sheet: What you Need to Know About the New Federal Public Charge Rule and Health Insurance

1. When does the new Public Charge rule go into effect?

The Supreme Court decided on January 27, 2020, to allow the rule to take effect. However, the Department of Homeland Security has not announced a timeline for implementation of the new rule and we do not yet know the effective date of the rule.

2. Does enrolling in free or low-cost health insurance make me a Public Charge?

Most health insurance coverage is not a factor in the new Public Charge test. Only federally-funded Medicaid is included, and even for this program there are several exempt groups of people who are excluded under the rule, including pregnant women and children under 21. Additionally, asylees, refugees, and visa holders who are victims of trafficking and other crimes, among others, are entirely exempt from the Public Charge rule.

The following programs are not included in the Public Charge rule:

- Essential Plan - at any level - even if the premium is free
- Child Health Plus at any level - even if the premium is free
- Qualified Health Plan at any level - even if the premium is free with premium tax credits

3. Does enrollment in Medicaid make me a public charge?

It is important to understand that Medicaid coverage for **most** immigrants is **not** included in the new Public Charge test. Only federally-funded Medicaid is included, and many categories are exempt under the rules.

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.

In New York, most immigrants are enrolled in the Essential Plan and are not impacted by the Public Charge test. Of the limited number of immigrants who have Medicaid, most are enrolled in Medicaid that is fully funded by the State, not the federal government. This coverage is also not included as a factor under the new rule. If you are not sure what type of coverage you have, call the NY State of Health helpline at 1-855-355-5777.

4. My children have Medicaid, will that make me a Public Charge?

No. Enrollment of children or other family members in Medicaid does not count as a factor in a Public Charge test.

5. I have Emergency Medicaid. Will using my coverage make me a Public Charge?

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

6. When the Public Charge rule goes into effect, will it be retroactive?

No. Implementation of the rule will not be retroactive. The Department of Homeland Security has not announced a timeline for implementation and benefits used prior to the effective date cannot be held against anyone in a future immigration application.

If you are worried about whether the Public Charge applies to you or your family specifically, speak with an immigration expert.

For confidential, free or low-cost 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).*