Public Charge Webinar

Presented by Foreign-born Information and Referral Network (FIRN)
Presenters

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Webinar Introduction

- This webinar will be recorded and posted on our website [www.firnonline.org](http://www.firnonline.org)
- Use the Q&A function to ask questions
- We cannot answer case-specific questions and will only answer general questions.
The Purpose of this Webinar:

**Educate**
- To equip community advocates and community members with accurate information on the public charge rule.

**Refer individuals**
- To refer individuals for legal advice and counsel.

**Combat misinformation and fear**
- To combat misinformation and fear caused by the new rule which has caused a “chilling effect” on the use of public benefits.
1. Intro to FIRN
2. What is public charge?
3. Who does this effect?
4. What is the public charge test?
5. Breaking down public charge factors
6. COVID-19 and Public Charge
ABOUT FIRN

FIRN is a Department of Justice accredited nonprofit organization based in Howard County, Maryland that empowers immigrants, asylum seekers, refugees, and other foreign-born community members by giving them access to resources and opportunities including legal/immigration counseling.
What is Public Charge?
**Lawful Permanent Resident (LPR):**
A non-citizen who is allowed to live and work in the U.S. permanently. Also previously referred to as a green card holder, a term that is still used frequently today.

**United States Citizenship and Immigration Services (USCIS):**
An agency within the Department of Homeland Security that adjudicates applications for immigration benefits in the U.S. Formerly known as INS.

**US Consulates:**
Department of State entities outside of the U.S. that review applications for permanent residence or temporary stays (immigrant and non-immigrant visas) for individuals outside of the U.S.
Public Charge Rule

• Public Charge defined: an individual who is likely to receive one or more benefits for more than 12 months in a 36 month period.
• Public Charge - gets a whether or not the individual at question will be self-sufficient or reliant on the government for their financial support.
• The concept of Public Charge has existed for decades (1882), but the way it is measured and determined changed significantly on February 24, 2020.

Immigration officer determines you’re likely to become a Public Charge in the future = Can be denied green card or entry into U.S.
Who is Subject to Public Charge and Who Isn’t?
1. **US Citizens or immigrants that are already permanent residents**
   - Those applying to renew their 10-year permanent resident card (green card)
   - Those applying to change a conditional residence (2-year permanent residence issued for some marriage-based cases) to a permanent residence.
   - Permanent residents applying for US Citizenship

**NOTE: If a permanent resident spends more than 6 months outside the U.S., they can be subject to Public Charge rule.**
The new rule **does not** apply to:

2. **Immigrants that are applying for the following statuses:**

   - Refugee
   - Asylee
   - Special immigrant juvenile status (SIJS)
   - U visa
   - T visa
   - DACA (Deferred Action for Childhood Arrivals)
   - TPS (Temporary Protected Status)
   - LRIF (Liberian Refugee Immigration Fairness Act)
   - VAWA
What is the Public Charge Test?
Public Charge Test

- Public Charge defined: an individual who is likely to receive one or more benefits for more than 12 months in a 36 month period
- Public Charge test is a test that the government uses to determine whether an individual is going to become dependent of public benefits.
- Totality of the Circumstances test – multiple factors must be considered in evaluating whether an individual is likely to become dependent on public benefits.

- Age and Health
- Credit report and Score
- Previous use of immigration fee waivers
- Affidavit of Support
- Employment status/history
- Income and assets
- Family status
- Current and past use of certain public benefits
- Education and skills and language proficiency

*Some factors are “weighed” as positive, negative, heavily positive or heavily negative but there is no point system that can provide assurance to applicants prior to applying
Overview of Public Benefits Considered
Public Benefits That Are Considered

- Any federal, state, local, or tribal cash assistance (SSI, TANF)
- Food stamps/SNAP
- Long term institutionalized care paid by Medicaid
- Section 8 project-based rental assistance
- Section 8 housing assistance vouchers
- Federal Public Benefits Used Under other Names (state specific)
- Medicaid – with exceptions
- Federal public housing
- Federally-funded state Medicaid programs
Federal, State, Local, and Tribal Cash Benefits

- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF), which may be provided under another state name
- General Assistance programs
- Federal, state, or local cash assistance for income maintenance:
  - Cash or cash equivalent (such as a debit card or check);
  - For a non-specific purpose in which the cash or cash equivalent may be used for food and nutrition, housing, or healthcare;
  - Means-tested (requirement based on income)
Excluded Benefits – earned benefits:

- Federal Old-Age, Survivors, and Disability Insurance Social Security benefits (SSDI);
- Social Security;
- Veteran’s benefits including but not limited to HUD-VASH, and medical treatment through the Veteran’s Health Administration;
- Government (including federal and state) pension benefits and healthcare;
- Unemployment benefits;
- Worker’s compensation;
- Medicare; or
- Federal and state disability insurance.
Excluded Benefits- Medicaid exception

- Benefits paid for an emergency medical condition (medical treatment administered in an emergency room, critical care unit, or intensive care unit)
- Services or benefits provided under the Individuals with Disabilities Education Act (IDEA)
- Benefits received by an applicant under the age of 21;
- Benefits received by a pregnant applicant, including the period during the pregnancy and 60 days after the end of the pregnancy.
Excluded Benefits

- Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) provided by local communities or through public or private nonprofit organizations;
- Attending public school;
- Benefits through school lunch or other supplemental nutrition programs including:
  - Summer Food Service program;
  - Childcare related services;
  - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC);
  - Children’s Health Insurance Program (CHIP) and State Children’s Health Insurance Program (SCHIP);
  - Health Insurance through the Affordable Care Act;
- Tax Credits
  - Earned Income Tax Credit (EITC);
  - Additional Child Tax Credit (ACTC);
  - Premium Tax Credit (PTC);
  - Advance Payment of Premium Tax Credit (APTC);
- Transportation vouchers or other non-cash transportation services;
- Energy benefits such as the Low Income Home Energy Assistance Program (LIHEAP);
- Educational benefits, including, but not limited to, benefits under the Head Start Act;
- Student loans and home mortgage loan programs; and
- Foster care and adoption benefits.
Excluded Benefits

- Benefits received by members enlisted in the US military (including benefits received by spouses and children).
- Benefits received while in another legal status that is an exempt category (asylee, refugee, U visa, T visa, VAWA, etc.)
- Medicaid, SNAP, Section 8 housing received prior to February 24, 2020 will not be considered (but note: SSI, TANF, cash assistance prior to February 24, 2020 is a negative factor).
- Public Benefits received by family members of the applicant
REMEMBER: Immigration officers must evaluate **ALL factors** to make a decision regarding public charge and ineligibility for a green card.
Factors that Help v. Hurt
Negative Factors

**Age**
Negative if not working age (18-61)

**Health**
Negative if diagnosed with medical condition requiring extensive treatment or interferes with work/study

**Education and skills**
Negative if no HS diploma/GED or no English proficiency

**Family status**
Larger household = requires more income to support all dependents

**Assets, resources, financial status**
Lack of assets; debt; bankruptcy; bad credit

**Other factors**
No health insurance; receipt of certain public benefits
Positive Factors

- Never received public benefits
- Good credit score
- No health problems that interfere with ability to work
- Private/employer provided health insurance
- Retirement benefits
- Savings
- No debt

- Not many dependents to support
- Own your home
- Full time student
- Primary caregiver
- Have job offer
- High school diploma
- Advanced degrees
- Proficient in English
- Proficient in other languages, in addition to English
COVID-19 and Public Charge
COVID-19 and Immigrants

• Low-income immigrants and their families are being disproportionately impacted by COVID-19

• Immigrants are playing important role in the pandemic response, thousand of them are nurses, care givers, farmers and are being largely excluded from federal relief packages.

• It is important to advise that all people should get the care and services they need

• Test, treatment and preventive care for COVID-19 (including immunizations if becomes available) will NOT be considered in the public charge test.
USCIS will **NOT** consider testing, screening, treatment, or preventative care (including vaccines) related to COVID-19 as part of public charge test...even if this treatment is paid for by a public benefit (like federally funded Medicaid)

— U.S. Citizenship and Immigration Services Public Charge
Using Public Benefits As a Result of COVID-19 Policies

• Benefits that qualify as public charge, unless medically related to COVID-19, could still negatively impact an immigrant.

• USCIS is allowing applicants to submit a statement with green card application explaining how COVID-19 impacted their work/studies and caused them to rely on public benefits.
These situations are not part of the Public Charge Test

- If COVID-19 treatment qualifies individual for emergency Medicaid established by the state
- Financial assistance to taxpayers who qualify based on income—this is a tax credit
- Increased amount and duration of unemployment compensation to eligible workers
- WIC, Home Delivery Meal Programs
These situations are not part of the Public Charge Test

• Local emergency relief funds: USCIS has not issued specific guidance on this topic, however, it can be argued that these are NOT public charge benefits.

• Funds considered or associated with the category of “disaster relief” (e.g. California (DRAI) Disaster Relief Assistance for Immigrants Project)

• Children eligible for free or reduced-price meals at school or PANDEMIC EBT benefit to help families buy food when schools are closed due to COVID-19

• Food banks assistance

• Cash assistance provided by community organizations to immigrant communities facing financial hardship (not funded by federal government)
THANKS!

Questions?

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