

“Public Charge” Policy Change

Previous federal law required people who had certain types of immigration statuses to prove that they would not become dependent on government assistance, often called “Public Charge”. The government previously defined a list of applicable programs. An applicant’s participation in (or receipt of benefits from) these programs made it less likely that their immigration application would be approved. The new rules approved in 2019 broaden the Public Charge program list, making it increasingly difficult to become a Legal Permanent Resident if an applicant has used or might use a wider set of public assistance types.

The new Public Charge rules are anticipated to come into effect mid-October 2019. However, many states have joined in the effort to stop these rules with a series of court cases, including Colorado. Depending on the outcome of those cases, the new set of rules may be enforced in the current form, an alternate form, or may not be considered enforceable at all.

Use of one of the assistance programs on the expanded list is not determinative; it is just one factor in a “**totality of the circumstances**” test. This test includes an individual’s health, age, family status, financial status, and education, among other factors. The new rule expands the list of assistance programs that would hurt an applicant’s chances of obtaining an immigration status. **These new programs will be weighted on a scale of positive and negative factors.**

Regarding health care programs:

- Advance Premium Tax Credits and Cost-Sharing Reductions are **NOT** on the expanded list, and **receipt of these benefits alone does not** weigh negatively against an applicant.
 - Enrollment in private health insurance can be a heavily weighted positively factor. However, receipt of Advance Premium Tax Credits to reduce the cost of a private plan can neutralize this positive factor.
- Medicaid is currently on the expanded list and **will be weighted negatively** against the applicant. **Some key exceptions are:**
 - Women who receive Medicaid or Child Health Plan *Plus* (CHP+) while pregnant (and for 60 days after giving birth) are **not included** on the expanded list, and receipt of these benefits **will not be weighted negatively** against the applicant.
 - Medicaid benefits received by children up to age 21 are not on the expanded list and **will not be weighted negatively** against the applicant.

- Any use of benefits by refugees, asylees, and people granted other immigration statuses for humanitarian reasons are exempt from this rule.

We encourage anyone who believes they may be impacted to consult with an attorney with expertise in this area.

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The above law offices can assist individuals and families in any area of the state. Find additional immigration attorneys and support organizations at:

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- American Immigration Lawyers Association [Colorado Chapter Referral List](#)
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