

“Public Charge” Rule Updates

Updated Feb. 5, 2020

Previous federal law required people who had certain types of immigration statuses to prove that they would not become a “Public Charge”, a term used to describe an individual who is (or is likely to become) primarily dependent on government assistance. An applicant’s participation in a defined list of government assistance programs made it less likely that their immigration application would be approved. New rules approved in 2019 broaden the Public Charge program list, making it increasingly difficult to enter the United States or become a Legal Permanent Resident if an applicant has used, or might use, a wider set of public assistance types.

The new rules were anticipated to come into effect October 2019. Many states, including Colorado, joined in the effort to block them in a series of court cases. These court cases initially froze implementation of this rule. However, the Supreme Court lifted the last remaining nationwide temporary injunction on January 27, 2020 allowing the Trump administration to begin implementation.

Depending on the final outcome of the court cases, the new set of rules may be enforced in their current form, an alternate form, or may not be considered enforceable at all. The Supreme Court may also weigh in on this issue again. However, until those court cases and any appeals move forward, the rule can be implemented in its current form in Colorado. We will continue to update this document as those court cases proceed.

We encourage anyone who believes they may be impacted by this set of rules to consult with an attorney with expertise in this area. We have provided the names and contact information of attorneys at the end of this document should you need further assistance.

Summary of “Public Charge” Changes

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 positive 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.

Immigration Law Resources

The below law offices can assist individuals and families in any area of the state.

James S. Lamb Chan Law Firm 1900 Grant St., Ste. 750 Denver, CO 80203 (303) 586-5555	Tiago Guevara McKinley Law Group, LLC 829 Main Street, Unit 1 Longmont, CO 80501 (720) 386-4500	Hans Meyer Meyer Law Office, P.C. 1029 Santa Fe Denver, CO 80204 (303) 831-0817
Alexander McShiras Joseph Law Firm, PC 12203 E. Second Ave. Aurora, CO 80011 (303) 297-9171	Andrés Murguía Lichter Immigration 1601 Vine Street Denver, CO 80206 (303) 554-8400	Jennifer Kain-Rios KainRios Immigration LLC 901 W. 10th Avenue #2A Denver, CO 80204 (303) 455-2125

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Find additional immigration attorneys and support organizations at:

- Colorado Bar Association's [Licensed Lawyer Page](#)
- American Immigration Lawyers Association [Colorado Chapter Referral List](#)
- National Lawyers Guild [National Immigration Project Colorado Attorney List](#)
- [Immigration Legal Support Organizations in Colorado](#)

This document is for informational purposes only and does not constitute legal advice. Seek the advice of a professional immigration attorney if you have further questions. Please be cautious about providing unqualified information.