

## **HCA FAQs: All Programs and Immigrant Eligibility and Access**

10/29/18 – adapted from NLS FAQ for LA DPSS

### **1. Have the public benefits programs offered to immigrants by the county changed?**

No. If you were eligible to receive public benefits, such as CalFresh, CalWORKs, General Relief, In-Home Supportive Services (IHSS), Medi-Cal, CAPI, and other cash assistance programs, then you are still eligible to receive those public benefits today.

### **2. I am concerned about the privacy of the information I have given to the county. Will the county give my information to immigration enforcement?**

No. The information you share with the county is confidential, and can only be used to confirm eligibility for public benefits. The county does not share personal information with immigration enforcement. The county does need to verify the information you provide on a public benefit application with the federal government, but that information can only be used to confirm your eligibility to receive services. The county does not share any information about family or household members who are not applying for benefits. The federal government does not access the county's systems for immigration enforcement action.

### **3. Do I need to provide immigration information on all family or household members when only some of them are seeking public benefits?**

No. You only need to provide information about immigration or citizenship status for the family members who are applying for public benefits. For example, if only your children want public benefits, you do not need to give the county immigration information or a Social Security number for yourself. You only need to provide this information for people applying for benefits. If you are not applying for benefits for yourself, you are not required to give the county any information about your immigration status.

#### **4. Will cancelling my public benefits today remove my information from California's systems?**

No. Computer systems at the county and the state keep records of cancelled public benefits cases. Choosing to stop your benefits will result in loss of critical health care coverage, cash and food assistance. It is best to continue to receive the assistance you and your family are eligible to receive today.

### **HCA FAQs: Proposed Changes to Public Charge Rule and Participation in Public Benefits**

#### **1. What is public charge?**

Part of federal immigration law for over a hundred years, the “public charge” test identifies people who may depend on the government as their main source of support. If the government determines that a person is likely to become a “public charge,” it can deny admission to the United States (won't let you in), or it can deny your application for Lawful Permanent Residency (LPR), or a “green card”.

The public charge test is not used when a green card holder applies to become a U.S. Citizen, a process known as “naturalization.”

**For people in the United States, the public charge test has not changed as of today**, but the Federal Government is now proposing a change that would expand the types of public assistance the government looks at when deciding if someone might be a “public charge.” **These proposed changes are not yet final.**

#### **2. How does getting public benefits affect my ability to get a green card today?**

Under the current law, USCIS only looks at whether you get these benefits when deciding whether or not they should give you a green card:

- Cash assistance programs that are your primary source of income, including:
  - CalWORKs;
  - Supplemental Security Income (SSI), which helps people with limited income and who have disabilities, are blind, or are age 65 or older;
  - CAPI; and
  - General Relief.
- Long-term institutional care paid by the government (e.g., Medi-Cal to stay at a nursing home).

**Right now, it will not** hurt your chances of getting a green card if you, your family members, or your children get:

- Health Care Programs: Medi-Cal, “Obamacare”, Covered California, Medicare, etc.
- Food programs: CalFresh, WIC, school meals
- Other non-cash programs: public/subsidized housing, childcare, job training, etc.

**3. I already have a green card. How does the public charge test affect me?**

USCIS (the Federal Government) cannot cancel your green card just because you, your family, or children get public benefits. You cannot be denied citizenship for lawfully receiving benefits. But, you might have a problem coming back into the U.S. if you plan to leave the U.S. for more than 6 months. Talk to an immigration attorney before you leave. *[You may refer client or help client find assistance using [www.immigrationlawhelp.org](http://www.immigrationlawhelp.org) or another reputable resource.]*

**4. I have my green card and need to renew it soon. Can the government deny my renewal application because I am receiving Medi-Cal, CalFresh, and/or housing assistance?**

No. The public charge test does not apply when you renew a green card. The renewal application cannot be denied based on your use of programs you are eligible for.

**5. Does the public charge test apply to all immigrants?**

No. The public charge test does not apply to many types of immigrants when they apply for a green card or visa, including: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; and special immigrant juveniles; The proposed rule would also exempt benefits received by active duty service members, their spouses and children, and certain people paroled into the U.S.

**Remember--**lawful permanent residents (green card–holders) are not subject to the public charge test when they apply for citizenship (naturalization).

**6. Can I be deported because I use public benefits?**

The grounds for deporting an immigrant based on public charge are extremely narrow. They apply only to immigrants who become a public charge during their first five years after admission to the U.S., for reasons that existed beforehand. Under current policy, all three of the following

conditions must also be met: (1) the use of cash assistance or long-term care needs to have created a legal obligation to repay the cost of the benefit; (2) the immigrant or sponsor must have received a notice to repay the debt within the five-year period; and (3) the immigrant or sponsor needs to have refused to repay the debt after the government took legal action and won. In reality, very few people have been deported based on public charge.

**7. I heard there may be changes to how using public benefits can affect my ability to get a green card or become a US Citizen. Is this true?**

There are no proposed changes to how using public benefits can affect your application for citizenship if you already have a green card.

However, there are proposed changes to how using public benefits can affect your ability to get a green card.

**Nothing official has gone into effect. It could take months for something final to go into effect.**

We are closely tracking all actions at the federal level. You will be informed if there are any changes that affect you or your family.

A proposed rule was published on October 10. People have the right to submit comments on the proposal until December 10, 2018. After that the Federal Government has to read and respond to the comments before it can make the rule final. You can submit a comment through <https://protectingimmigrantfamilies.org/>.

**8. What are the proposed changes to how getting public benefits can affect my ability to get a green card?**

The current administration has released a proposal to expand the “public charge” rules to include some “non-cash” assistance programs. **It is not final!**

**If the rule is finalized, these are the programs that would be added to the public charge test**, in addition to the cash and long-term care programs already considered in the public charge test (listed on page 2) are:

- Health coverage through Medi-Cal, except for Medi-Cal covering an “emergency medical condition” and certain disability services offered in schools;
- CalFresh (SNAP, formerly called Food Stamps);
- Low Income Subsidy (LIS) for prescription drug costs under Medicare Part D (also called “Extra Help”); and
- Rental assistance under Section 8 housing vouchers, Project Based Section 8, and Public Housing.

**9. If the new rule goes into effect, what if my family members or children use health care, nutrition, education or other programs, but I don't?**

Generally benefits received by you as the applicant -- not your family members -- are considered. If the proposed rule goes into effect, the government will not consider your children's use of non-cash benefits (e.g., health insurance or food stamps) in your own application for a green card. However, if your children's cash benefits are your only source of support, the public charge test may affect you. Be sure to speak with an immigration attorney about your case.

**10. If I cancel my benefits when the change does happen, will the fact that I got Medi-Cal or CalFresh benefits in the past affect my ability to get a green card?**

The proposed rule will not be retroactive, meaning it will not apply to non-cash benefits that you received in the past. The benefits you received lawfully before the rule becomes final will not affect your ability to get a green card. So there is no advantage to cancelling your Medi-Cal and CalFresh today. And, there certainly is no advantage to cancelling your citizen children's Medi-Cal and CalFresh.

**11. If a change to the public charge test does happen, how much warning will I get to stop my benefits if that's what I choose to do?**

Even if the government makes the proposed rule final, it will be 60 days after that when the rule goes into effect. So you will have 60 days after the rule becomes final to cancel any benefits, other than cash assistance and long-term care, if that is what you decide to do.

**12. Should I stop the benefits we are receiving now?**

If you or your family are getting benefits to go to the doctor, pay for food, or pay rent – you do not need to stop your benefits. The proposed rule is NOT yet final and won't be in effect for months. **The proposed rule says that it will apply to non-cash programs you use only after the rule goes into effect.**

**13. I still have questions about how participating in public benefits programs could affect my immigration status. Can the county provide me with assistance?**

No, the county cannot provide legal advice regarding your immigration status or citizenship specific to you and your family. We encourage you to seek advice from a reputable nonprofit immigration service provider. [You

*may refer client or help client find assistance using [www.immigrationlawhelp.org](http://www.immigrationlawhelp.org) or another reputable resource.]*

**14. What about if I am sponsoring somebody to enter the United States from abroad, or have family seeking to enter the United States from abroad?**

The rules for public charge have already changed for those who are seeking a visa or a green card from abroad. But the same groups of people excluded from public charge in the United States are excluded while abroad: refugees; asylees; survivors of trafficking, domestic violence, or other serious crimes (T or U visa applicants/holders); VAWA self-petitioners; special immigrant juveniles; certain people paroled into the U.S.; and several other categories of immigrants. You should speak with a reputable immigration service provider for more information. *[You may refer client or help client find assistance using [www.immigrationlawhelp.org](http://www.immigrationlawhelp.org) or another reputable resource.]*