



DHS Announces New Proposed Immigration Rule to Enforce Long-Standing Law that Promotes Self-Sufficiency and Protects American Taxpayers

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WASHINGTON – Today, the Department of Homeland Security (DHS) announced a proposed rule that will clearly define long-standing law to ensure that those seeking to enter and remain in the United States either temporarily or permanently can support themselves financially and will not be reliant on public benefits.

The term “public charge” as applied to admission of aliens to the United States has a long history in U.S. immigration law, appearing at least as far back as the [Immigration Act of 1882](#). In the late 19th and early 20th centuries public charge was the most common ground for refusing admission at U.S. ports of entry.

“Under long-standing federal law, those seeking to immigrate to the United States must show they can support themselves financially,” said Secretary Nielsen. “The Department takes seriously its responsibility to be transparent in its rulemaking and is welcoming public comment on the proposed rule. This proposed rule will implement a law passed by Congress intended to promote immigrant self-sufficiency and protect finite resources by ensuring that they are not likely to become burdens on American taxpayers.”

Inadmissibility based on the public charge ground is determined by looking at the mandatory factors set forth in section 212(a)(4) of the Immigration and Nationality Act and making a determination of the applicant’s likelihood of becoming a public charge at any time in the future. The proposed regulation defines a public charge to be a person who receives certain public benefits above certain defined threshold amounts or for longer than certain periods of time. Importantly, by law, the public charge inadmissibility determination is a *prospective* determination based on the totality of the circumstances, which includes statutorily required factors such as age, health, family status, assets, resources, financial status, education and skills.

In making this determination, DHS is proposing to consider current and past receipt of designated public benefits above certain thresholds as a heavily weighed negative factor. The rule would also make nonimmigrants who receive or are likely to receive designated public benefits above the designated threshold generally ineligible for change of status and extension of stay.

The public benefits proposed to be designated in this rule are federal, state, local, or tribal cash assistance for income maintenance, Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Medicaid (with limited exceptions for Medicaid benefits paid for an "emergency medical condition," and for certain disability services related to education), Medicare Part D Low Income Subsidy, the Supplemental Nutrition Assistance Program (SNAP, or food stamps), institutionalization for long-term care at government expense, Section 8 Housing Choice Voucher Program, Section 8 Project-Based Rental Assistance, and Public Housing. The first three benefits listed above are cash benefits that are covered under current policy.

The United States continues to be a global leader in humanitarian protection. In calendar year 2017, the United States granted asylum and refugee status to more individuals than Canada, Australia, and the United Kingdom combined. By statute, asylees, refugees, and other categories of vulnerable individuals are not subject to the public charge ground of inadmissibility and as such are not impacted by this rule. When considering receipt of public benefits in the public charge inadmissibility determination, DHS would also not consider any public benefits received by aliens serving in active duty or in the Ready Reserve component of the U.S. Armed Forces, or the spouse or child of the service member. Additionally, DHS would not consider disaster relief, emergency medical assistance, benefits received by an alien's U.S. citizen children, and Medicaid benefits received by children of U.S. citizens and potential adoptive children of U.S. citizens.

The proposed rule will be officially published in the Federal Register in the coming weeks. Once the proposed rule is officially published, the public will be able to comment on the proposed rule. The comment period will last 60 days, starting on the day the proposed rule is published in the *Federal Register*. The official version in the *Federal Register* will contain information about how to submit comments.

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