

Northwest Immigrant Rights Project - Community Advisory – 11/19/18 Advisory Regarding Trump Administration Proposal Regarding Public Charge

Background: Over the past few months, the Trump Administration has announced proposals to change federal regulations regarding the interpretation of “public charge” and also began to implement some changes. “Public charge” is a concept under our immigration laws that allows the federal government to reject some types of applications for “green card” status (lawful permanent residence) or certain visas if it finds that the person is likely to become dependent on government support. Until recently, “public charge” has been interpreted narrowly and only blocked certain green card or visa applicants if they accepted cash assistance or long-term care at government expense. The Trump Administration’s changes and proposals would expand the definition and application of public charge such that it could potentially block some immigrants from obtaining green cards because they received other forms of government benefits or because of other factors.

Key Messages About the Changes and Proposals Regarding “Public Charge”:

- Changes that have already gone into effect **only** apply to people who have to apply for visas/green cards **outside the U.S.**, but this could include some people who currently live in the U.S. but must leave to legalize their status
- Proposals to change the rules for people applying for green cards **inside** the U.S. have NOT gone into effect
- The proposals and changes do not apply to immigrants applying for green cards through asylum, refugee status, U & T visas, VAWA & SIJS protections
- It’s important that individuals get legal advice specific to their case before making decisions about benefits or applications for immigration status

Will using benefits hurt my chances of getting a “green card” if I’m applying through a family member or an employer?

Right Now:



It depends on whether you can get the green card within the U.S. or have to go abroad to get it:

- Many people who entered the U.S. without permission but who otherwise qualify for a “green card” will need to leave the U.S. in order to complete the process. If you are in this situation, the consulate/embassy may apply tougher rules now, and past use of public benefits may be a factor.
- If you entered the country on a visa (with permission), even if you overstayed that visa, if you now qualify for an immigrant visa petition you may be able to obtain the “green card” here in the U.S. and so the tougher rules now in effect will not apply to you. You may still have a problem under current rules if:
 - **YOU get CASH benefits:** TANF/welfare, Supplemental Security Income (SSI), State Family Assistance
 - **OR your family’s only income is cash benefits**
 - **OR you’re in nursing home/long-term care paid by Medicaid**
- It is VERY important to get good legal advice before applying

Will using benefits hurt my chance of getting a “green card” if I’m applying as a refugee or asylee, or through VAWA, SIJS, U or T visa?



You can use ANY benefits for which you are eligible, including cash assistance, health care, food programs and other non-cash programs, without hurting your chance of getting a green card if you are applying through these statuses.



But keep in mind that your use of benefits could be considered and make it more difficult if you try to “sponsor” family members outside the U.S. using the “family visa” process

What if I already have a green card?



Immigration officials cannot cancel your green card just because YOU or your children or other family members use government benefits **for which you are eligible**.



You CANNOT be denied citizenship for lawfully receiving benefits, including cash assistance, health care, food programs and others.



BUT you might have a problem if you leave the U.S. for more than 6 months: If you have a green card and anticipate leaving the U.S. for more than 6 months, talk to an immigration attorney before you leave.

What if I want to sponsor a relative for a green card?



Right now: Using benefits, including cash assistance, health care and food programs should NOT make it more difficult for you to sponsor a relative who is in the U.S.

But it might affect your ability to sponsor a relative if that person has to leave the U.S. in order to get status. You must show that you or a co-sponsor have enough money to support the relative. Consult a lawyer about your own situation.

We do NOT recommend that you or family stop receiving benefits you are entitled to receive unless you have obtained individualized advice

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