



Washington Health Benefit Exchange

Public Charge Update

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Public Charge Background

- Most immigrants who are otherwise eligible for green cards and most nonimmigrants seeking admission to the United States on a temporary basis must show that they are not likely to become a “public charge”
- Over the past five years, an annual average of roughly 900,000 people seeking immigrant visas have been subject to the public charge test, in addition to roughly 10 million people seeking non-immigrant visas



Current Public Charge Test

- Under the current public charge test, potential immigrants and nonimmigrants must show that they are not likely in the future—after receiving a green card or other visa—to end up in a long-term care institution, such as a nursing home, subsidized by the federal government
- They must also show that they are not likely to become “primarily dependent” on forms of “public cash assistance for income maintenance” such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or General Assistance



Proposed Expansion of Public Charge Test

- Under the proposed rule, the public charge test would be expanded to include consideration of the following factors:
 - Medicaid
 - Medicare Part D premium and cost-sharing subsidies
 - Supplemental Nutrition Assistance Program (SNAP)
 - Housing assistance
 - Income under 250% of FPL (up from 125% FPL)
 - Pre-existing health conditions
- Applicability of test would also be expanded to nonimmigrants seeking an extension of stay or change of status (e.g., visitors with a work or student visa)



Applicability of Public Charge Test

Estimated number of people who would be subject to new test, by category

Category of people subject to new test	Estimated number of people subject to new test annually	Agency/official applying the test
Seeking an immigrant visa		
Applying for adjustment of status to lawful permanent resident	382,264	Department of Homeland Security/ immigration officials
Applying for admission to United States as lawful permanent resident	529,247	State Department/ consular officials
Total	911,511	
Seeking a nonimmigrant visa		
Applying for a nonimmigrant visa to temporarily stay in the United States	10,010,396	State Department/ consular officials
Applying for an extension of stay or change of nonimmigrant status	517,508	Department of Homeland Security/ immigration officials
Total	10,527,904	

Source: CAP report available [here](#)



Public Charge Test: Additional Details

- The public charge test **does not** apply to refugees, asylees, and people who have received humanitarian visas (Special Immigrant Juvenile, VAWA self-petitioners, U visas, T visas). It does not apply to legal permanent residents applying for citizenship.
- Immigration officials look at “the totality of circumstances” to determine if an applicant is likely to become a public charge
 - Past and current use of public benefits is only one of many factors that can prove an immigrant may become a public charge, and no one factor is definitive



Impacts on Exchange Consumers

- ~25,000 QHP enrollees are lawfully present
 - 84% APTC eligible
- Receipt of premium tax credits (APTC) was not included in the proposed rule as a factor to be considered
 - An earlier “leaked” draft had included APTC as a factor
- Receipt of Medicaid (Washington Apple Health) is included in the proposed rule to be considered
- Hearing from in-person assisters that individuals/family members are dropping coverage or opting not to maintain or apply for coverage as a result of this rule
 - This is being referred to as the “chilling effect”
 - Tracking disenrollment carefully



Rulemaking Process

- The rule was published in the Federal Register on October 10th and is now open to public comment
- The Exchange is working in coordination with the Governor's office and impacted state agencies on a response to this proposed rule
- Comments are due by December 10th



Key Take-Aways

- It is important to remind consumer that this rule has not been finalized - the current test remains in effect
- Nationally and locally a coalition of advocacy organizations have compiled resources for consumers
- The Exchange has utilized the messaging and resources developed by Protecting Immigrant Families for call center and in-person assister resources on this rule
- If any additional information or resources would be helpful, please let us know

