

# PUBLICATION

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## Immigration: Inadmissibility on "Public Charge" Grounds

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**On August 12, 2019, the United States Customs and Immigration Service (USCIS) announced a final rule amending how the Department of Homeland Security (DHS) will determine inadmissibility to the U.S. based on an individual's likelihood of becoming a "public charge" at any time in the future, as set forth in the Immigration and Nationality Act. The rule makes nonimmigrants who've received public benefits above a threshold generally ineligible for extension of stay and change of status.**

In the final rule, DHS has revised the definition of "public charge" to incorporate consideration of more kinds of public benefits received, which the Administration believes will better ensure that applicants subject to the public charge inadmissibility ground are self-sufficient. The rule defines the term "public charge" to mean an individual who receives one or more designated public benefits for more than 12 months, in the aggregate, within any 36-month period. The rule further defines the term "public benefit" to include any cash benefits for income maintenance, Supplemental Security Income (SSI), Temporary Assistance to Needy Families (TANF), Supplemental Nutritional Assistance Program (SNAP), most forms of Medicaid, and certain housing programs.

DHS received more than 250,000 public comments on the proposed rule during "notice and comment" before finalizing the regulation as drafted. Attorneys General from 12 states filed suit against DHS on August 14, 2019. The number of states opposing the regulation continues to grow with additional states and advocacy groups joining the original lawsuit. This coalition of plaintiffs asserts that DHS violated federal immigration statutes, the Welfare Reform Act and the Administrative Procedure Act when it unlawfully expanded the definition of public charge.

This final rule supersedes the 1999 Interim Field Guidance on Deportability and Inadmissibility on Public Charge Grounds and goes into effect at on October 15 – 60 days from the date of publication in the Federal Register. The USCIS will apply the public charge inadmissibility final rule only to applications and petitions postmarked (or, if applicable, submitted electronically) on or after the effective date. Applications and petitions already pending with USCIS on the effective date of the rule (postmarked and accepted by USCIS) will be adjudicated based on the 1999 Interim Guidance.

For more information, [click here](#).