



“Public Charge” and Immigrants with Disabilities What Providers Should Know

“Public charge” makes it harder for immigrants with disabilities to obtain lawful permanent residence (green cards).

What is “Public Charge”?

The term “public charge” is used by federal immigration officials to refer to an individual who is likely to become primarily dependent upon government-funded public benefits for subsistence. If the federal government determines that an immigrant is a “public charge,” immigration officials may deny their green card or visa application.

Who will get a “public charge” test?

Individuals who apply for a green card (lawful permanent residence) or a visa to enter the U.S., or green card holders who leave the U.S. for more than 180 days, are subject to a “public charge” test. “Public charge” tests are **NOT** used for citizenship applications. To read a complete list of immigration statuses and public benefits considered in a “public charge” test visit newamericans.ny.gov.

Immigrants with Disabilities

Just like any immigrant, immigrants with disabilities are seeking a better life and want to contribute to the economy and become part of the New York State family. Immigrants with disabilities should have the same opportunities to obtain lawful permanent residence (green cards) as everyone else. Disabilities are natural and common even amongst the immigrant community. The CDC estimates that one in four adults in the U.S. has a disability and that one in six children has one or more developmental disability.

What factors are considered in a “Public Charge” Test?

In a “public charge” test, a person’s age, income, health, education, career and English language skills are all considered. In addition, their sponsor’s affidavit of support and the individual’s use of public benefits are reviewed to determine whether the immigrant is a “public charge.” No single factor will make an individual a “public charge.”

Health

“Public charge” tests consider if an individual has been diagnosed with a physical or mental medical condition. According to the CDC, individuals with disabilities are more likely to have poorer health overall and have less access to adequate healthcare than individuals without disabilities.

Wealth

Household income will be considered in a “public charge” test. Individuals with disabilities are more likely to experience poverty than individuals without disabilities.

Education & Employment

Full-time enrollment in school, as well as employment history, are factors in a “public charge” test. Individuals with disabilities face complex barriers to obtaining accessible and inclusive education and employment opportunities. Unemployment rates are higher among individuals with disabilities according to the U.S. Bureau of Labor.

Immigrants Under 21 with Disabilities

Immigrants under 21 can be subject to a “public charge” test, but their use of these services are **NOT** considered in their “public charge” determination:

- Individuals with Disabilities Education Act (IDEA) services such as special education and early intervention.
- Use of federally funded Medicaid for an individual under 21 years old.

What should I do?

If you are wondering if you should stop using public benefits, you should first consult an immigration attorney. For information and legal referrals call:

**The New York State New Americans Hotline
1-800-566-7636**

All calls are free and confidential.
Assistance available in 200+ languages
Monday through Friday, 9 a.m.- 8 p.m. (except holidays)
newamericans.ny.gov

Update as of 03/13/20: USCIS has announced that immigrants can seek testing, treatment, and prevention of COVID-19 without fearing immigration consequences due to public charge. Asking for and maintaining records of treatment is strongly recommended.