# Public Charge Rule Update for Employment-Based Green Card Applicants

Client Information Memo | Updated August 4, 2026

**Important: This memo provides general information for employment-based permanent residence applicants. It is not a substitute for individualized legal advice. Please tell our office before filing if you or any household member has received public benefits, and do not stop, decline, or repay benefits without first consulting qualified benefits and immigration counsel.**

## Executive Summary

The Department of Homeland Security has issued a final rule rescinding the 2022 public charge regulation. The new rule is effective **September 18, 2026** and applies to applications for admission made on or after that date and adjustment applications postmarked or electronically submitted on or after that date. Under the rescission, USCIS officers will have broader discretion to evaluate whether an applicant is likely at any time to become a public charge based on the totality of the circumstances.

For most employment-based green card applicants, the practical focus will be on documenting employability, income, job offer or current employment, health insurance, household resources, education, and professional skills.

## What changed?

DHS is rescinding the 2022 regulation that defined public charge more narrowly and limited the benefits that could be considered. The rule does not create a single automatic denial rule. Instead, it returns adjudicators to a broader, case-by-case public charge review under INA section 212(a)(4).

| Issue | Client-facing explanation |
|---|---|
| **Effective date** | September 18, 2026. Adjustment applications filed before that date are evaluated under the rules applicable at the time of filing, including treatment of pre-effective-date benefits under the 2022 framework. |
| **Scope** | Public charge inadmissibility can apply to most employment-based adjustment applicants and immigrant visa applicants, unless a specific exemption applies. |
| **Review standard** | USCIS will consider the totality of the circumstances, including statutory factors such as age, health, family status, assets, resources, financial status, education, and skills. |
| **Public benefits** | USCIS may consider receipt of means-tested public benefits and other individualized, case-specific factors relevant to self-sufficiency. This is a broader approach than the 2022 rule. |
| **Forms** | USCIS has announced that it will publish a revised Form I-485, and older I-485 editions will not be accepted for filings on or after the effective date. |

## Why employment-based applicants often have strong public charge facts

Employment-based applicants frequently have positive factors that should be documented carefully. These may include:

- A permanent job offer or ongoing qualifying employment;
- Current salary, wages, or compensation from the sponsoring or current employer;
- Professional education, specialized training, licenses, or credentials;
- Employer-provided or private health insurance;
- A history of lawful employment and tax filings in the United States;
- Savings, assets, or other household resources; and
- Skills and experience that support future employability.

## What if a U.S. citizen child receives Medicaid or CHIP?

A U.S. citizen child receiving Medicaid or CHIP is not the same as the foreign national parent personally receiving a public benefit. However, because the new rule allows a broader review of the applicant and household circumstances, clients should disclose any household public benefits to our office so we can evaluate the facts and decide what documentation is appropriate.

**Practical point:** A child's Medicaid enrollment should not be treated as an automatic bar to the parent's green card. The stronger the applicant's employment, income, health insurance, and resources, the more those positive facts should be emphasized.

## Recommended documents to keep available

| Category | Recommended records |
|---|---|
| **Employment** | Recent pay statements, employment verification letter, offer letter, job title and salary documentation. |
| **Taxes** | Most recent federal tax returns, W-2s, 1099s, or other proof of income as applicable. |
| **Health insurance** | Proof of employer-sponsored, private, or other qualifying health coverage for the applicant and dependents when available. |
| **Assets/resources** | Bank statements, investment statements, real estate or other asset documentation where helpful. |
| **Education and skills** | Diplomas, transcripts, professional licenses, certifications, CV/resume, or evidence of specialized experience. |
| **Public benefits** | Any notices or records showing who received the benefit, what type of benefit it was, the dates received, and whether the recipient was the applicant or another household member. |

## When to contact our office

Please contact Gunn Menefee before filing if any of the following apply:

- You, your spouse, or a household member receives Medicaid, SNAP, TANF, SSI, housing assistance, or another means-tested public benefit;
- You have a significant gap in employment or reduced income;
- You do not currently have health insurance;
- Your household income is close to or below the federal poverty guidelines;
- You have significant medical expenses, debt, or other financial concerns; or
- You are unsure whether a benefit belongs to you, a child, or another household member.

## Bottom line for employment-based cases

The public charge analysis remains individualized. Employment-based applicants should not assume that any single fact will automatically result in denial. The best approach is to disclose benefits-related facts early, gather strong evidence of employment and self-sufficiency, and ensure the adjustment filing presents a clear, accurate financial picture.

### Sources and authority

DHS Final Rule, Public Charge Ground of Inadmissibility, 91 Fed. Reg. 45324 (July 20, 2026), effective September 18, 2026.

USCIS News Release, U.S. Citizenship and Immigration Services Rescinds 2022 Public Charge Regulation (July 16, 2026).

INA section 212(a)(4), listing public charge inadmissibility factors including age, health, family status, assets, resources, financial status, education, and skills.