



# WASHINGTON STATE Department of Children, Youth, and Families

## Public Charge: Proposed Immigration Policy Changes What Families Receiving Birth to Three (ESIT) Services Should Know

### What is a “public charge”?

The “public charge” test has been part of federal immigration law for more than 100 years. It was created to identify people who may depend on government benefits as their main source of income. If the U.S. government determines someone is likely to become a “public charge,” they can deny admission to the U.S. or refuse an application for lawful permanent residency. The Department of Homeland Security is currently proposing changes to the current “public charge” policy.

### Who does the public charge policy apply to?

This policy does not apply to all immigrant families. The current policy applies to:

- Immigrants in the U.S. applying for family-based visa or legal permanent residence (green card)
- Immigrants seeking to legally enter the U.S.

The current policy does not apply to:

- Legal permanent residents applying for U.S. citizenship
- Many immigrants with legal status including refugees, asylum seekers, survivors of domestic violence, T or U Visa applicants and holders, and children seeking Special Immigrant Juvenile Status

### What could change?

Under the current policy:

- The only benefits considered in determining who is likely to become a “public charge” are
  - Cash assistance such as **Supplemental Security Income (SSI)** and **Temporary Assistance for Needy Families (TANF)**
  - Government-funded **long-term care**

The proposed rule would allow the government to also consider the use of other types of benefits that help individuals meet basic needs. These include:

- Non-emergency Medicaid
- Supplemental Nutrition Assistance Program (SNAP)
- Medicare Part D Low Income Subsidy
- Housing assistance, such as public housing or Section 8 housing vouchers and rental assistance

Additionally, the proposed rule includes a new income threshold that may impact low-income households.

## Important information for families to know:

- **The proposed rule is not current law.** The rule has not been finalized, which can take months. If the rule is finalized, it may not take effect until several weeks or months after the final version is published.
- **The rule will not be retroactive.** This means that benefits -- other than cash or long-term care at government expense -- that are used before the rule is final and effective will not be considered in the public charge determination.
- **The public charge test considers both positive and negative factors.** Even if the law changes, receiving a public benefit does not automatically mean a denial of an immigration application. Immigration officials must look at all factors in determining whether you are likely to become a public charge in the future. This includes your age, health, income, assets, resources, education/skills, family to support, and family who will support you.
- **Birth to Three or Early Supports for Infants and Toddlers (ESIT) services are not considered in a public charge test.** Even if the proposed rule is finalized, services provided under the Individual with Disabilities Education Act, including ESIT services, will not be considered as part of a public charge test, including those that are billed to Medicaid.
- **Get help deciding what's best for your family, and if you can, consult with an immigration attorney about your own situation.** To find organizations in your area that offer low-cost immigration legal services, visit: <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>. A trusted service provider may also be able to access this list of local resources, if you need assistance.