



U.S. Citizenship
and Immigration
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Inadmissibility on Public Charge Grounds Final Rule: Litigation

Alert

USCIS stopped applying the Public Charge Final Rule to all pending applications and petitions on March 9, 2021. USCIS removed content related to the vacated 2019 Public Charge Final Rule from the affected USCIS forms and has posted updated versions of affected forms.

Form Editions

The current edition date for the following forms is 03/10/21. Starting April 19, we will accept only the 03/10/21 edition. Until then, you can use the prior editions specified on each form webpage.

- I-864, I-864A, I-864EZ, I-864W
- I-539, I-539A
- I-129CW, I-129CWR
- I-129
- I-485, I-485A, I-485J
- I-912

For information about the relevant court decisions, please see the [litigation summary](#).

Current Status

On Nov. 2, 2020, the U.S. District Court for the Northern District of Illinois vacated the Inadmissibility on Public Charge Grounds final rule, 84 Fed. Reg. 41,292 (Aug. 14, 2019), as amended by Inadmissibility on Public Charge Grounds; Correction, 84 Fed. Reg. 52,357 (Oct. 2, 2019) (“Public Charge Final Rule”) nationwide. That decision was stayed by the U.S. Court of Appeals for the Seventh Circuit. On March 9,

2021, the Seventh Circuit lifted its stay and the U.S. District Court for the Northern District of Illinois' order vacating the Public Charge Final Rule went into effect.

In light of the decision vacating the Public Charge Final Rule, USCIS immediately stopped applying the Public Charge Final Rule to all pending applications and petitions that would have been subject to that rule. USCIS is applying the 1999 [Interim Field Guidance](#), which was in place before the Public Charge Final Rule was implemented, to the adjudication of any application for adjustment of status that was pending or received on or after March 9, 2021. In addition, USCIS will no longer apply the separate, but related, "public benefits condition" to applications or petitions for extension of nonimmigrant stay and change of nonimmigrant status.

As of March 9, 2021, applicants and petitioners should not provide information related solely to the Public Charge Final Rule. That means that applicants for adjustment of status should not provide the Form I-944, Declaration of Self-Sufficiency, or any evidence or documentation required on that form with their Form I-485. Applicants and petitioners for extension of nonimmigrant stay and change of nonimmigrant status should not provide information related to the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If an applicant or petitioner has already provided information related solely to the Public Charge Final Rule, and USCIS adjudicates the application or petition on or after March 9, 2021, we will not consider any information that relates solely to the Public Charge Final Rule, including, for example, information provided on the Form I-944, evidence or documentation submitted with Form I-944, or information on the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If you received a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) requesting information that is solely required under the Public Charge Final Rule, including but not limited to Form I-944, and your response is due on or after March 9, 2021, you do not need to provide that information, but you do need to respond to other aspects of the RFE or NOID that otherwise pertain to the eligibility for the immigration benefit sought. If USCIS requires additional information or evidence to make a public charge inadmissibility determination under the statute and consistent with the 1999 [Interim Field Guidance](#), we will issue a subsequent RFE or NOID. For information about the relevant court decisions, please see the [litigation summary](#).

USCIS published new form editions for affected forms. Starting April 19, 2021, we will only accept the 03/10/21 editions. Until then, you can also use the prior editions specified on each form webpage.

History of Court Decisions

On March 9, 2021, the U.S. Court of Appeals for the Seventh Circuit lifted its stay of the U.S. District Court for the Northern District of Illinois' Nov. 2, 2020, decision vacating the Public Charge Final Rule nationwide. USCIS immediately stopped applying the Public Charge Final Rule to all pending applications and petitions that would have been subject to the rule. In turn, USCIS is applying the [1999 Interim Field Guidance](#), which was in place before the Public Charge Final Rule was implemented, to the adjudication of any application for adjustment of status that was pending or received on or after March 9, 2021. In addition, USCIS is adjudicating any application or petition for extension of nonimmigrant stay or change of nonimmigrant status pending or received on or after March 9, 2021, consistent with regulations

in place before the Public Charge Rule was implemented; in other words, USCIS is not applying the “public benefits condition.”

On Nov. 19, 2020, the U.S. Court of Appeals for the Seventh Circuit granted a stay pending appeal of the U.S. District Court for the Northern District of Illinois’ Nov. 2, 2020, decision that vacated the Public Charge Final Rule. The Nov. 19 stay replaced an administrative stay that had been issued on Nov. 3. The stays allowed DHS to resume implementing the Public Charge Final Rule nationwide.

On Nov. 2, 2020, the U.S. District Court for the Northern District of Illinois found the Public Charge Final Rule procedurally and substantively invalid under the Administrative Procedure Act and vacated the Public Charge Final Rule nationwide, effective Nov. 2, 2020. USCIS immediately stopped applying the Public Charge Final Rule to all applications and petitions that would have been subject to it. Instead, USCIS applied the [1999 Interim Field Guidance](#) that was in place before the Public Charge Final Rule was implemented on Feb. 24, 2020, to the adjudication of any application for adjustment of status that was pending or received Nov. 2-3, 2020. In addition, on Nov. 2-3, 2020, USCIS adjudicated any application or petition for extension of nonimmigrant stay or change of nonimmigrant status pending or received on Nov. 2, 2020, or Nov. 3, 2020, consistent with regulations in place before the Public Charge Rule was implemented; in other words, the “public benefits condition” was not applied.

On Sept. 11, 2020, the U.S. Court of Appeals for the Second Circuit, in *State of New York v. DHS, and Make the Road NY v. Cuccinelli*, granted a stay of the July 29, 2020, injunction pending the government’s appeal. This stay allowed DHS to resume implementing the Public Charge Final Rule nationwide, including in New York, Connecticut, and Vermont. USCIS did not re-adjudicate any applications and petitions that were approved following the issuance of the July 29, 2020, injunction continuing until Sept. 22, 2020.

On Aug. 12, 2020, the U.S. Court of Appeals for the Second Circuit, in *State of New York v. DHS and Make the Road NY v. Cuccinelli*, granted a temporary stay of the SDNY July 29, 2020, nationwide injunction, limiting the scope of that injunction to states inside the Second Circuit (that is, New York, Connecticut, and Vermont).

On July 30, 2020, USCIS announced that it would apply the [1999 Interim Field Guidance](#) when adjudicating any application for adjustment of status on or after July 29, 2020, and while the injunction was in place. USCIS also announced that it would use the regulations that were in place before the Public Charge Final Rule was implemented on Feb. 24, 2020 to adjudicate applications and petitions for extension of nonimmigrant stay and change of nonimmigrant status (that is, USCIS would not apply the “public benefits condition” while the injunction remained in place).

On July 29, 2020, the U.S. District Court for the Southern District of New York (SDNY), in *State of New York v. DHS and Make the Road NY v. Cuccinelli*, enjoined DHS from enforcing, applying, implementing, or treating as effective the Public Charge Final Rule during a declared national health emergency. The decision was issued during the COVID-19 outbreak. (84 FR 41292 (Aug. 14, 2019); as amended by 84 FR 52357, (Oct. 2, 2019)).

Last Reviewed/Updated: 03/19/2021