

## USCIS Response to Coronavirus 2019 (COVID-19)



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# Injunction of the Inadmissibility on Public Charge Grounds Final Rule

**i Alert:** On Sept. 11, 2020, the U.S. Court of Appeals for the Second Circuit issued a decision that allows DHS to resume implementing the [Public Charge Ground of Inadmissibility final rule](#) nationwide, including in New York, Connecticut and Vermont. The decision stays the July 29, 2020, [injunction](#), issued during the coronavirus (COVID-19) pandemic, that prevented DHS from enforcing the public charge final rule during a national health emergency.

Therefore, we will apply the public charge final rule and [related guidance](#) in the USCIS Policy Manual, Volumes [2](#), [8](#) and [12](#), to all applications and petitions postmarked (or submitted electronically) on or after Feb. 24, 2020. If you send your application or petition by commercial courier (for example, UPS, FedEx, or DHL), we will use the date on the courier receipt as the postmark date.

For information about the relevant court decisions, please see the public charge injunction [webpage](#).

## *Stay of the July 29, 2020, Injunction of the Inadmissibility on Public Charge Grounds Final Rule*

## Summary

A Sept. 11, 2020, court decision allows the U.S. Department of Homeland Security (DHS) to resume implementing the Inadmissibility on Public Charge Grounds Final Rule nationwide. The decision stays an earlier injunction, issued during the coronavirus (COVID-19) pandemic, that prevented DHS from enforcing the rule during a national health emergency. For a history of the relevant court decisions, see below.

Therefore, we will apply the public charge final rule to all applications and petitions postmarked or submitted electronically on or after Feb. 24, 2020, including pending applications and petitions. If you send your application or petition by commercial courier (for example, UPS, FedEx, or DHL), we will use the date on the courier receipt as the postmark date.

We will not re-adjudicate any applications and petitions that were approved following the issuance of the July 29, 2020, injunction continuing until the date of this notice.

## Filing

If you filed your Form I-485, Application to Register Permanent Residence or Adjust Status, after Feb. 24, 2020, you may be required to file Form I-944, Declaration of Self-Sufficiency. If we receive a Form I-485 on or before Oct. 13, 2020, that does not have all required forms and evidence, we will request any missing forms and evidence. After Oct. 13, 2020, we will reject your Form I-485 if you do not include the required forms and evidence with Form I-485 at the time of filing.

We will also ask for any missing evidence for Form I-129, Petition for a Nonimmigrant Worker; Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker; Form I-539, Application to Extend/Change Nonimmigrant Status; and Form I-539A, Supplemental Information for Application to Extend/Change Nonimmigrant Status.

[Read the Final Rule \(PDF\)](#). For additional information, see the related guidance in the [Policy Manual](#), Volumes [2](#), [8](#) and [12](#).

## History of Court Decisions

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

On July 30, 2020, we announced that we would apply the [1999 public charge guidance](#) when adjudicating any application for adjustment of status on or after July 29, 2020, and while the injunction was in place. We also announced that we 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, we would not apply the public benefit condition while the injunction remained in place).

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

On Sept. 11, 2020, the U.S. Court of Appeals for the Second Circuit, in *State of New York, et al. v. DHS, et al. and Make the Road NY et al. v. Cuccinelli*, granted a full stay of the July 29, 2020, injunction pending the government's appeal. This full stay allows DHS to resume implementing the public charge final rule nationwide, including in New York, Connecticut and Vermont.

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