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U.S. DEPARTMENT OF HOMELAND SECURITY

Office of Public Affairs

DHS Implements Inadmissibility on Public Charge Grounds Final Rule

WASHINGTON—The U.S. Department of Homeland Security today implemented the [Inadmissibility on Public Charge Grounds final rule](#). Under the final rule, DHS will look at the factors required under the law by Congress, like an alien’s age, health, family status, assets, resources, and financial status, education and skills, among others, in order to determine whether the alien is likely at any time to become a public charge. The rule now applies nationwide, including in Illinois.

Self-sufficiency is a long-standing principle of immigration law. Since the 1800s, inadmissibility based on public charge has been a part of immigration law. Since 1996, federal laws have stated that aliens seeking to come to or remain in the United States, temporarily or permanently, must be self-sufficient and rely on their own capabilities and the resources of family, friends, and private organizations instead of public benefits.

“President Trump continues to deliver on his promise to the American people to enforce our nation’s immigration laws. After several judicial victories, DHS will finally begin implementing the Inadmissibility on Public Charge Grounds final rule,” said Ken Cuccinelli, the acting deputy secretary of the Department of Homeland Security. “This rule enforces longstanding law requiring aliens to be self-sufficient, reaffirming the American ideals of hard work, perseverance and determination. It also offers clarity and expectations to aliens considering a life in the United States and will help protect our public benefit programs.”

The final rule defines “public charge” as an alien who has received one or more public benefits (as defined in the rule) for more than 12 months, in total, within any 36-month period.

The final rule defines “public benefits” to include any cash benefits for income maintenance, Supplemental Security Income, Temporary Assistance to Needy Families, Supplemental Nutrition Assistance Program, most forms of Medicaid and certain housing programs.

Applicants for adjustment of status who are subject to the final rule must show that they are not likely at any time to become a public charge by submitting a Form I-944, Declaration of Self-Sufficiency, when they file their Form I-485, Application to Register Permanent Residence or Adjust Status.

AILA Doc. No. 19050634. (Posted 2/24/20)

To determine whether an alien is inadmissible on the public charge grounds, USCIS will not consider, and applicants and petitioners do not need to report, the application for, certification or approval to receive, or receipt of certain previously excluded non-cash public benefits (such as SNAP, most forms of Medicaid, and public housing) before Feb. 24, 2020. Similarly, USCIS will not consider as a heavily weighted negative factor receipt of previously included public benefits (such as SSI and TANF) before Feb. 24, 2020, in a public charge inadmissibility determination.

The final rule requires most aliens seeking to extend their nonimmigrant stay or change their nonimmigrant status to show that, since obtaining the nonimmigrant status they seek to extend or change, they have not received public benefits (as defined in the final rule) for more than 12 months, in total, within any 36-month period beginning Oct. 15, 2019. Due to litigation-related delays in the final rule's implementation, DHS is applying this requirement as though it refers to Feb. 24, 2020 rather than Oct. 15, 2019. Therefore, with respect to applying the public benefits condition to applications and petitions for extension of nonimmigrant stay and change of nonimmigrant status, DHS will not consider, and applicants and petitioners need not report an alien's receipt of any public benefits before Feb. 24, 2020.

Certain classes of aliens are exempt from the public charge ground of inadmissibility (such as refugees, asylees, certain VAWA self-petitioners, U petitioners, and T applicants) and therefore, are not subject to the Final Rule.

After today, USCIS will reject prior editions of affected forms, including in Illinois where the rule remained enjoined until Feb. 21, 2020, when the U.S. Supreme Court granted a stay of the statewide injunction. If USCIS receives an application or petition for immigration benefits using prior editions of the forms postmarked on or after Feb. 24, 2020, then USCIS will inform the applicant or petitioner of the need to submit a new application or petition using the correct forms. For applications and petitions that are sent by commercial courier (such as UPS, FedEx and DHL), the postmark date is the date reflected on the courier receipt.

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