

Information on Public Charge

Important Information on Public Charge Announcement

For Visa Applicants

The Department of State began implementing its amended regulation regarding the public charge grounds of visa ineligibility starting February 24, 2020. Visa applicants should attend their visa interviews as scheduled. Certain applicants may be asked to present or complete a DS-5540 at the visa interview. Immigrant visa applicants are encouraged to complete the DS-5540 in advance and may find more information about the DS-5540 [here](#). If a consular officer can assess public charge favorably for the applicant without a form, then the applicant will not be required to present the form. If a consular officer determines that he or she needs information collected in a DS-5540 and the visa applicant does not have that information readily available, then the applicant will be given an opportunity to provide the needed information. We will inform applicants of any changes to current visa application procedures.

Background

The Department of Homeland Security (DHS), which promulgated a final public charge rule in August 2019, [intends to implement its public charge rule starting February 24, 2020](#).

On October 11, 2019, the Department of State (Department) published an interim final rule that amended 22 CFR 40.41, Ineligibility Based on Public Charge Grounds, to add certain definitions, including definitions of public charge, public benefit, alien's household, and receipt of public benefit. This interim final rule reflects the Department's interpretation of the pertinent section of INA 212(a)(4) as it applies to visa

applicants. Although the rule was effective on October 15, 2019, it could not be implemented until the Department obtained approval from the Office of Management and Budget (OMB) for a new information collection, the DS-5540, Public Charge Questionnaire. On February 12, 2020, the Department published a notice of intent in the *Federal Register* seeking emergency OMB processing and approval for the DS-5540 in order to implement the Department's interim final rule by February 24, 2020.

Although the rule provides that consular officers will consider listed public benefits received on or after October 15, 2019, when determining whether an alien is likely to become a public charge, due to litigation-related delays in the implementation of DHS's final rule on public charge, and in order to align the Department's approach with that of DHS, consular officers will be instructed not to consider an alien's application for, certification or approval to receive, or receipt of defined non-cash public benefits before February 24, 2020. Consular officers will be instructed to consider forms of assistance received prior to February 24, 2020, only if such assistance would have been considered in the public charge determination between May 25, 1999 and January 2, 2018 (i.e., cash assistance for income maintenance or institutionalization for long-term care at government expense). The Department plans to amend 22 CFR 40.41 to codify the change from October 15, 2019, to February 24, 2020.

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