

USCIS Response to Coronavirus 2019 (COVID-19)



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Injunction of the Inadmissibility on Public Charge Grounds Final Rule

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 the Department of Homeland Security (DHS) from enforcing, applying, implementing, or treating as effective the Inadmissibility on Public Charge Grounds Final Rule for any period during which there is a declared national health emergency in response to 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 Jan. 31, 2020, the Secretary of Health and Human Services [declared a public health emergency, effective Jan. 27, 2020](#), under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. On Feb. 24, 2020, DHS implemented the Public Charge Rule to be applied prospectively to any application or petition postmarked, or if applicable, submitted electronically on or after that date. On March 13, 2020, the President issued [Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease \(COVID-19\) Outbreak](#). On the same day, USCIS issued an alert addressing COVID-19 and public charge determinations under the Public Charge Rule.

As long as the July 29, 2020, SDNY decision is in effect, USCIS will apply the 1999 [public charge guidance](#) that was in place before the Public Charge Rule was implemented on Feb. 24, 2020 to the adjudication of any application for adjustment of status on or after July 29, 2020. In addition, USCIS will adjudicate any application or petition for extension of nonimmigrant stay or change of nonimmigrant status on or after July 29, 2020, consistent with regulations in place before the Public Charge Rule was implemented; in other words, we will not apply the public benefit condition.

For applications and petitions that USCIS adjudicates on or after July 29, 2020, pursuant to the SDNY injunction, USCIS will not consider any information provided by an applicant or petitioner that only relates to the evidence required by the Public Charge Rule, including information provided on the Form I-944 or any supporting documentation included with that form, or information on the receipt of public benefits in Part 5 on Form I-539, Part 3 on Form I-539A, Part 6 on Form I-129, or Part 6 on Form I-129CW, or any additional documentation pertaining to the public benefit condition. Applicants and petitioners whose applications or petitions are postmarked on or after July 29, 2020, should not include the Form I-944 or provide information about the receipt of public benefits on Form I-485, Form I-129, Form I-129CW, Form I-539, or Form I-539A.

USCIS will issue guidance regarding the use of affected forms. In the interim, USCIS will not reject any Form I-485 on the basis of the inclusion or exclusion of Form I-944, nor Forms I-129 and I-539 based on

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whether Part 6, or Part 5, respectively, has been completed or left blank.

In any public charge inadmissibility determination, USCIS will consider the receipt of public benefits consistently with prior public charge guidance – the [1999 Interim Field Guidance \(PDF\)](#) and [AFM Ch. 61.1. \(PDF, 77.92 KB\)](#)

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