



April 12, 2021

Dear Interagency Partners:

This letter provides key information about a change in the way the Department of Homeland Security (DHS) is administering the public charge ground of inadmissibility. My message to you is simple: The 2019 public charge rule is no longer in effect, and we are seeking your support in communicating this change to the public.

On February 2, 2021, the President issued Executive Order 14012, directing, among other things, the Secretary of Homeland Security, along with the Secretary of State and the Attorney General, to review their respective agencies' actions related to the public charge grounds of inadmissibility and deportability. Consistent with the Executive Order, DHS has begun its review, as well as its consultation with other relevant agencies.

As part of its review, DHS determined that continuing to defend the 2019 Public Charge Rule<sup>1</sup> (2019 Rule)—pursuant to which the lawful receipt of Medicaid, public housing, or Supplemental Nutrition Assistance Program (SNAP) could lead to a finding of inadmissibility—was neither in the public interest nor an efficient use of limited government resources.

As Secretary of Homeland Security Alejandro Mayorkas said in a statement on March 9, 2021, “The 2019 public charge rule was not in keeping with our nation’s values. It penalized those who access health benefits and other government services available to them.” The 2019 Rule created confusion and fear that may have prevented immigrants and their families, including their children, from accessing critical government services available to them. It is critical that immigrants and their families, many of whom are essential workers, are able to access necessary government services for which they may be eligible to keep their families safe and healthy.

Consistent with that decision, the Department of Justice (DOJ) decided it would no longer pursue appellate review of judicial decisions invalidating or enjoining enforcement of the 2019 Rule. On March 9, 2021, DOJ filed motions to dismiss its appeals of rulings invalidating the 2019 Rule, including in both the Supreme Court and the Seventh Circuit. The result: A U.S. District Court judgment vacating the 2019 Rule is now in effect.

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<sup>1</sup> Inadmissibility on Public Charge Grounds, *84 Fed. Reg. 41,292 (Aug. 14, 2019)*.

In compliance with this judgment, DHS is no longer applying the 2019 public charge rule and has removed it from the *Code of Federal Regulations*.<sup>2</sup> DHS has instead reverted to the 1999 interim field guidance issued by the former Immigration and Naturalization Service.<sup>3</sup> This is the policy that was in effect prior to the 2019 Rule.

Under the 1999 interim field guidance, DHS will not consider a person's receipt of Medicaid (except for Medicaid for long-term institutionalization), public housing, or SNAP benefits as part of the public charge inadmissibility determination. In addition, medical treatment or preventive services for COVID-19, including vaccinations, will not be considered for public charge purposes. This policy will help ensure that noncitizens are able to access important government services for which they may be eligible.

DHS notes that in October of 2019, the Department of State issued a rule to conform its standards to those contained in DHS's 2019 Rule.<sup>4</sup> That rule is also presently enjoined and has no current legal effect.

We intend to work with you, our federal partners, as well as state and local governments and non-governmental stakeholders, to communicate this information widely to ensure applicants and the public are aware of this change. We thank you for all your work to support the health, well-being and safety of Americans and immigrant communities.

Respectfully,



Tracy L. Renaud  
Senior Official Performing the Duties of the Director

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<sup>2</sup> Inadmissibility on Public Charge Grounds; Implementation of Vacatur, 86 *Fed. Reg.* 14,221 (Mar. 15, 2021).

<sup>3</sup> See Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 *Fed. Reg.* 28,689 (May 26, 1999).

<sup>4</sup> See Visas: Ineligibility Based on Public Charge Grounds, 84 *Fed. Reg.* 54,996 (Oct. 11, 2019).