

**ALERT:** On Nov. 2, 2020, the U.S. District Court for the Northern District of Illinois vacated the Public Charge Final Rule nationwide. The U.S. Court of Appeals for the Seventh Circuit later issued a stay of the U.S. District Court for the Northern District of Illinois' Nov. 2, 2020 decision. On Mar. 9, 2021, the U.S. Court of Appeals for the Seventh Circuit lifted the stay and the U.S. District Court for the Northern District of Illinois' order vacating the Public Charge Final Rule went into effect. USCIS immediately stopped applying the Public Charge Final Rule to all pending applications and petitions that would have been subject to the rule.

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U.S. Citizenship  
and Immigration  
Services

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## Policy Alert

SUBJECT: Implementation of Guidance on Inadmissibility on Public Charge Grounds

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating the [USCIS Policy Manual](#) to implement the Inadmissibility on Public Charge Grounds Final Rule nationwide.<sup>1</sup>

### Background

Under section 212(a)(4) of the Immigration and Nationality Act (INA), an alien who is likely at any time to become a public charge is inadmissible.<sup>2</sup> The public charge inadmissibility ground and the Final Rule reflect Congress' longstanding national immigration policy that aliens seeking to enter or remain in the United States either temporarily or permanently are self-sufficient and will not rely on public benefits, as defined in the Final Rule.

On February 5, 2020, USCIS published Policy Manual guidance on the Final Rule with an implementation date of February 24, 2020, applying nationwide except for the State of Illinois because of a continuing injunction. On February 21, 2020, the Supreme Court of the United States stayed the injunction in the State of Illinois, allowing the Department of Homeland Security (DHS) to implement the Final Rule and Policy Manual guidance nationwide, including in the State of Illinois.<sup>3</sup>

Therefore, the Final Rule and Policy Manual guidance, contained in Volumes 2, 8, and 12, will apply to all applications and petitions postmarked (or, if applicable, submitted electronically) on or after February 24, 2020 (including in Illinois).<sup>4</sup>

<sup>1</sup> See [84 FR 41292](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357](#) (Oct. 2, 2019) (final rule; correction).

<sup>2</sup> See [INA 212\(a\)\(4\)](#).

<sup>3</sup> See *Wolf v. Cook County*, 589 U. S. \_\_\_\_ (2020).

<sup>4</sup> For applications and petitions that are sent by commercial courier (for example, UPS, FedEx, or DHL), the postmark date is the date reflected on the courier receipt.

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 February 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 February 24, 2020 in a public charge inadmissibility determination. Additionally, applicants and petitioners submitting applications and petitions for extension of stay and change of status do not need to report the receipt of any public benefits received before February 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.

### **Policy Highlights**

- Confirms nationwide implementation of the Inadmissibility on Public Charge Grounds Final Rule and related Policy Manual guidance.
- Confirms that the Final Rule and Policy Manual guidance will apply to all applications and petitions postmarked (or, if applicable, submitted electronically) on or after February 24, 2020 (including in Illinois).

### **Citation**

Volume 2: Nonimmigrants, Part A, Nonimmigrant Policies and Procedures, Chapter 4, Extension of Stay and Change of Status [[2 USCIS-PM A.4](#)];

Volume 8: Admissibility, Part G, Public Charge Ground of Inadmissibility [[8 USCIS-PM G](#)];

Volume 12: Citizenship and Naturalization, Part D, General Naturalization Requirements, Chapter 2, Lawful Permanent Resident Admission for Naturalization [[12 USCIS-PM D.2](#)].