

Fact Sheet: DHS Public Charge Rule

- On August 14, 2019, the Department of Homeland Security (DHS) published its final rule entitled “Inadmissibility on Public Charge Grounds” (the “Public Charge Rule”). While it does not change HUD assistance programs or directly impact admissions and occupancy at public housing authorities, the Public Charge Rule is directed at non-citizens seeking adjustments to their visa or residency status.
- The Public Charge Rule requires a “totality of the circumstances” evaluation to determine that a non-citizen is likely to become a “public charge,” weighing factors relevant to whether a non-citizen is more likely than not to receive public benefits for more than 12 months in the aggregate within any 36-month period in the future.
- Such factors include:
 - age, including whether a non-citizen is between 18 years old and the minimum retirement age for social security;
 - health, including whether a non-citizen is likely to require extensive medical treatment or institutionalization;
 - family status, including household size;
 - education and skills adequate enough to either obtain or maintain lawful employment, including whether a non-citizen is proficient in English
 - assets, resources, and financial status, including the non-citizen’s credit history and credit score and gross household income.
- The Public Charge Rule includes receipt of Section 8 Housing Assistance under the Housing Choice Voucher Program, Section 8 Project-Based Rental Assistance, and Public Housing in its public benefits evaluation.
- On January 27, the Supreme Court stayed a nationwide injunction that a federal judge in New York had ordered in October 2019, shortly before the public charge rule was set to go into effect. The Supreme Court’s ruling means that the new public charge policy can now go into effect while other litigation continues. There are currently six separate court cases challenging the Public Charge Rule:
 - *City and County of San Francisco and County of Santa Clara v. US Citizenship and Immigration Services; Department of Homeland Security*, 4:19-cv-04717-PJH, filed August 13, 2019;
 - *State of WA; Commonwealth of VA; State of CO; State of DE; State of IL; State of MD; Commonwealth of MA; Attorney General Dana Nessel on behalf of the people of MI; State of MN; State of NV; State of NJ; State of NM; and State of RI vs. US Department of Homeland Security*, 4:19-cv-05210, filed August 14, 2019;
 - *La Clinica de La Raza; California Primary Care Association; Maternal and Child Health Access; Farmworker Justice; Council on American Islamic Relations-California; African Communities Together; Legal Aid Society of San Mateo County; Central American Resource Center, and Korean Resource Center v. Donald J. Trump; United States Department of Homeland Security; United*

States Citizenship and Immigration Services; Kenneth T. Cuccinelli, and Kevin K. McAleenan, 4:19-cv-04980-HSG, filed August 16, 2019;

- *State of California, District of Columbia, State of Maine, Commonwealth of Pennsylvania, and State of Oregon v. US Department of Homeland Security; Kevin McAleenan*, 3:19-cv-04975-JSC, filed August 16, 2019;
 - *State of New York, City of New York, State of Connecticut, and State of Vermont v. United States Department of Homeland Security; Kevin K. McAleenan; United States Citizenship and Immigration Services; Kenneth T. Cuccinelli II; and United States of America*, 1:19-cv-07777-GBD, filed August 20, 2019;
 - *Make the Road New York, African Services Committee, Asian American Federation, Catholic Charities Community Services (Archdiocese of New York), and Catholic Legal Immigration Network, Inc. v. Ken Cuccinelli; United States Citizenship and Immigration Services; Kevin K. McAleenan; and United States Department of Homeland Security*, 1:19-cv-07993, filed August 27, 2019.
- Public housing authorities cannot provide advice as to whether the Public Charge Rule or applications for, or current receipt of, housing assistance will impact an individual's current or future immigration status. Any such questions should be addressed to an attorney or immigration advocacy group.