



December 19, 2022

PA-2022-27

Policy Alert

SUBJECT: Public Charge Ground of Inadmissibility

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to address the public charge ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (INA).

Background

Under [INA 212\(a\)\(4\)](#), an applicant for a visa, admission, or adjustment of status who is likely at any time to become a public charge, is inadmissible. The INA does not define public charge. It does, however, specify that, at a minimum, certain factors must be considered when determining whether a noncitizen is likely at any time to become a public charge.

On September 9, 2022, DHS published a final rule that, among other provisions, defines “likely at any time to become a public charge” as “likely at any time to become primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or long-term institutionalization at government expense.”¹

Like the final rule, this guidance, contained in Volume 8 of the Policy Manual, will be implemented beginning on December 23, 2022, and applies prospectively to applications for adjustment of status postmarked (or submitted electronically, if applicable) on or after that date. On that date, the final rule and this policy update will supersede the public charge inadmissibility guidance found in the 1999 Interim Field Guidance and any related guidance addressing public charge inadmissibility.² For applications postmarked (or submitted electronically, if applicable) before December 23, 2022, USCIS will continue to apply the public charge ground of inadmissibility consistent with the statute and the 1999 Interim Field Guidance. The guidance contained in the Policy Manual supersedes any related prior guidance on the topic.

Policy Highlights

¹ See [8 CFR 212.21\(a\)](#). See Public Charge Ground of Inadmissibility, [87 FR 55472](#) (Sept. 9, 2022) (final rule).

² See Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, [64 FR 28689](#) (May 26, 1999) (notice). Due to a printing error, the Federal Register version of the field guidance appears to be dated “March 26, 1999” even though the guidance was actually signed May 20, 1999, became effective May 21, 1999, and was published in the Federal Register on May 26, 1999.

- Describes the regulatory definitions, including “likely at any time to become a public charge” for purposes of inadmissibility determinations under [INA 212\(a\)\(4\)](#).
- Reiterates the categories of applicants who are exempt from, or may obtain a waiver of, the public charge inadmissibility ground.
- Reiterates the minimum factors USCIS considers in a public charge inadmissibility determination.
- Reiterates that the types of public benefits that USCIS considers in the public charge inadmissibility determination are limited to public cash assistance for income maintenance and long-term institutionalization at government expense, and provides a non-exhaustive list of the types of programs that are not considered in the public charge inadmissibility determination.
- Describes how USCIS considers long-term institutionalization at government expense.
- Reiterates that no one factor, other than the lack of a sufficient Affidavit of Support Under Section 213A of the INA ([Form I-864](#) or [Form I-864EZ](#)), if required, can be the sole basis for determining whether a noncitizen is likely at any time to become a public charge.
- Provides scenarios to illustrate the practical application of the totality of the circumstances analysis used in the public charge inadmissibility determination.
- Describes the public charge bond process for an applicant who files an Application to Register Permanent Residence or Adjust Status ([Form I-485](#)) with USCIS and who has been found inadmissible only on the public charge ground and invited to post a public charge bond.

Summary of Changes

Affected Section: Volume 8 > Part G, Public Charge Ground of Inadmissibility

- Adds new Chapters 1-12 and removes obsolete historical appendices.

Citation

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