



Alert

On Nov. 2, 2020, the U.S. District Court for the Northern District of Illinois vacated the Inadmissibility on Public Charge Grounds final rule, 84 Fed. Reg. 41,292 (Aug. 14, 2019), as amended by Inadmissibility on Public Charge Grounds; Correction, 84 Fed. Reg. 52,357 (Oct. 2, 2019) (“Public Charge Final Rule”) nationwide. That decision was stayed by the U.S. Court of Appeals for the Seventh Circuit. On Mar. 9, 2021, the Seventh Circuit lifted its 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. USCIS continues to apply the public charge inadmissibility statute, including consideration of the statutory minimum factors in the totality of the circumstances, in accordance with the 1999 [Interim Field Guidance](#) that was in place before the Public Charge Final Rule was implemented on Feb. 24, 2020, to the adjudication of any application for adjustment of status. In addition, USCIS will no longer apply the separate, but related, “public benefits condition” to applications or petitions for extension of nonimmigrant stay and change of nonimmigrant status.

On or after Mar. 9, 2021, applicants and petitioners should not provide information required solely by the Public Charge Final Rule. That means that applicants for adjustment of status should not provide the Form I-944, Declaration of Self-Sufficiency, or any evidence or documentation required on that form with their Form I-485. Applicants and petitioners for extension of nonimmigrant stay and change of nonimmigrant status should not provide information related to the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If an applicant or petitioner has already provided such information, and USCIS adjudicates the application or petition on or after Mar. 9, 2021, USCIS will not consider any information provided that relates solely to the Public Charge Final Rule, including, for example, information provided on the Form I-944, evidence or documentation submitted with Form I-944, or information on the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If you received a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) requesting information that is solely required by the Public Charge Final Rule, including but not limited to Form I-944, and your response is due on or after Mar. 9, 2021, you need not provide the information solely required by the Public Charge Final Rule. You do, however, need to respond to the aspects of the RFE or NOID that otherwise pertain to the eligibility for the immigration benefit sought. If USCIS requires additional information or evidence to make a public charge inadmissibility determination under the statute and consistent with the 1999 [Interim Field Guidance](#), it will issue a subsequent RFE or NOID. or information about the relevant court decisions, please see the [litigation summary](#).

USCIS will issue additional 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, and will not reject Form I-129, Form I-129CW, Form I-539, or Form I-539A based on whether the public benefits questions (Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3) have been completed or left blank.



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Chapter 14 - Heavily Weighted Factors

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On Sept. 11, 2020, the U.S. Court of Appeals for the Second Circuit issued a decision that allows DHS to resume implementing the [Public Charge Ground of Inadmissibility final rule](#) nationwide, including in New York, Connecticut and Vermont. The decision stays the July 29, 2020, [injunction](#), issued during the coronavirus (COVID-19) pandemic, that prevented DHS from enforcing the public charge final rule during a national health emergency.

Therefore, we will apply the public charge final rule and [related guidance](#) in the USCIS Policy Manual, Volumes [2](#), [8](#) and [12](#), to all applications and petitions postmarked (or submitted electronically) on or after Feb. 24, 2020. If you send your application or petition by commercial courier (for example, UPS, FedEx, or DHL), we will use the date on the courier receipt as the postmark date.

For information about the relevant court decisions, please see the public charge injunction [webpage](#).

There are a number of factors or factual circumstances that are generally weighted heavily when determining whether an alien is likely to become a public charge at any time in the future. There are two types of heavily weighted factors:

- Heavily weighted negative factors – These factors weigh heavily in favor of a finding that the alien is likely at any time in the future to become a public charge.
- Heavily weighted positive factors – These factors weigh heavily in favor of a finding that the alien is not likely to become a public charge at any time in the future.

The mere presence of any one heavily weighted factor, by itself, does not determine whether an alien is or is not inadmissible as likely at any time to become a public charge. The officer must still determine the alien's likelihood to become a public charge under the totality of the circumstances framework.

A heavily weighted factor could be outweighed by countervailing evidence in the totality of the circumstances.^[1] There is no requirement to specifically “balance out” a heavily weighted negative factor with a heavily weighted positive one. Rather, officers must consider the alien's specific circumstances within the totality of the circumstances framework when assessing the alien's likelihood of becoming a public charge. Officers afford specific facts the weight they are due in the context of the public charge framework.^[2]

For example, a heavily weighted negative factor could be outweighed by positive factors demonstrating that the alien has the potential ability to be self-sufficient. Conversely, a heavily weighted positive factor could be outweighed by negative factors that, in the totality of the circumstances, indicate that the alien is more likely than not to become a public charge.

A. Heavily Weighted Negative Factors

The following are heavily weighted negative factors that weigh heavily in favor of a finding that an applicant is likely to become a public charge at any time in the future:

- The alien is not a full-time student and is authorized to work, but is unable to demonstrate current employment, recent employment history, or a reasonable prospect of future employment;^[3]
- The alien has received or has been certified or approved to receive one or more public benefits,^[4] for more than 12 months, in the aggregate, within any 36-month period, beginning no earlier than 36 months before the alien's application for admission or adjustment of status, starting on or after February 24, 2020;^[5]
- The alien has been diagnosed with a medical condition that is likely to require extensive medical treatment or institutionalization or that will interfere with the alien's ability to provide and care for him or herself, to attend school, or to work; and the alien is uninsured and has neither the prospect of obtaining private health insurance, nor the financial resources to pay for reasonably foreseeable medical costs related to such medical condition;^[6] or
- The alien was previously found inadmissible or deportable based on the public charge ground by an immigration judge or the Board of Immigration Appeals.^[7]

The existence of any one of the enumerated heavily weighted negative factors are particularly indicative of the likelihood that the alien would become a public charge.

However, the mere presence of any one heavily weighted negative factor does not, alone, make the alien inadmissible based on the public charge ground.^[8]

1. Lack of Employability^[9]

Standard

USCIS considers the ability to be employed and past employment to be directly indicative of whether an alien is likely to become a public charge. DHS generally believes that a person who is capable and able to work but does not work lacks self-sufficiency.^[10] DHS recognizes, however, that not everyone authorized to work needs to work. Some aliens may have sufficient assets and resources, including a household member's income and assets, which may overcome any negative factor related to lack of employment. USCIS reviews those considerations in the totality of the circumstances.^[11]

This factor assesses whether an alien who is not a full-time student and who has work authorization has worked, or can demonstrate the ability to work in the future.

If the evidence in the record establishes that an alien is not a full time student and is authorized to work, but is unable to demonstrate current employment, recent employment history, or a reasonable prospect of future employment, this is a heavily weighted negative factor in the totality of the circumstances.^[12]

As indicated above, USCIS recognizes, however, that not everyone authorized to work needs to work. USCIS reviews all considerations applicable to the alien in the totality of the alien's circumstances. The presence of this heavily weighted negative factor, alone, is not outcome determinative.

Students

This heavily weighted negative factor does not apply to full-time students. Full-time students are working toward a degree that makes them more employable in the future. For this reason, students have a reasonable prospect of being employed.^[13]

The term "full course of study" is defined in 8 CFR 214.2(f)(6) for F-1 nonimmigrants; and in 8 CFR 214.2(m)(9) for M-1 nonimmigrants.^[14] USCIS interprets the term "full-time" based on these definitions for purposes of this exemption. Additionally, for purposes of the public charge inadmissibility determination, USCIS also considers children enrolled in public or private elementary, middle, and high school (secondary school) full-time students.

A full-time student includes persons enrolled and working toward completion of the following:

- Postgraduate or post-doctoral studies at a university, college, religious seminary, or a conservatory, certified by the institution as a full course of study;
- Undergraduate studies at a community college, college, or university consisting of at least 12 semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a minimum of 12 semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent, as certified by the institution;
- Study in a post-secondary language, liberal arts, fine arts, or other non-vocational program at a school, which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning,^[15] and which the institution certifies to consist of at least 12 clock hours of instruction per week, or its equivalent;
- Study at a post-secondary vocational or business school, other than in a language training program, which confers upon the graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning,

[\[16\]](#) and which the institution certifies to consist of at least 12 hours of instruction per week, or its equivalent as certified by the institution;

- Study in a vocational or other nonacademic curriculum other than in a language training program, certified by the institution to consist of at least 18 clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or at least 22 clock hours a week if the dominant part of the course of study consists of shop or laboratory work;
- Study in any other language, liberal arts, fine arts, or other non-vocational training program, certified by the institution to consist of at least 18 clock hours of attendance a week, if the dominant part of the course of study consists of classroom instruction, or to consist of at least 22 clock hours a week if the dominant part of the course of study consists of shop or laboratory work;
- Study in a curriculum at an approved private elementary or middle school or public or private academic high school, which is certified by the institution to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal programs toward graduation; or
- Study at a public elementary or public middle school, as certified by the school to be considered full-time.

For purposes of being considered a full course of study, and for purposes of classes for credit or classroom hours, or studies in public elementary or middle school, no more than the equivalent of one class or three credits per session, term, semester, trimester, or quarter may be counted toward the full course of study requirement if the class is taken online or through distance education [\[17\]](#) and does not require the student's physical attendance for classes, examination, or other purposes integral to the completion of the class. If the alien is a language student or a vocational student, no online or distance education classes may be considered to count toward a student's full course of study requirement.

On-campus employment according to the terms of a scholarship, fellowship, or assistantship is generally deemed to be part of the academic program of a student otherwise taking a full course of study.

Evidence

Officers review the information and documentation provided by the applicant in the relevant forms, including information about the alien's education and skills in the Declaration of Self-Sufficiency ([Form I-944](#)). [\[18\]](#) Additionally, Application to Register Permanent Residence or Adjust Status ([Form I-485](#)) requires the applicant to provide information about employment, including federal income tax returns transcripts. [\[19\]](#) If the officer has remaining questions about the alien's employment history or current and future prospects for employment, or about the alien's student status, the officer may issue a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) based on current USCIS policy.

2. Receipt of Public Benefits [\[20\]](#)

Standard

USCIS views the past receipt of (or certification or approval to receive) public benefits in the 36 months immediately before the alien's application for admission or adjustment of status as an indicator that the alien will continue to receive (or again receive) public benefits and therefore, may be likely to become a public charge.

If the evidence indicates that the alien has received, or has been certified or approved to receive, one or more public benefit(s),^[21] for more than 12 months in the aggregate within the 36-month period immediately before the application is filed, starting on or after February 24, 2020,^[22] this weighs heavily in favor of a finding that the alien is more likely than not to become a public charge at any time in the future.^[23]

This heavily weighted factor only applies to:

- Applications postmarked (or, if applicable, submitted electronically) on or after February 24, 2020;^[24] and
- Public benefits received on or after February 24, 2020.

When considering whether this heavily weighted factor applies, officers should assess the following:

- Whether, within the time period starting 36 months before receipt of the application, the alien has received public benefits, or has been certified or approved to receive public benefits into the future;^[25] and
- Whether, during that period, the alien has received or is certified or approved to receive the public benefit(s) for more than 12 months, in the aggregate, within any 36-month period starting on or after February 24, 2020.^[26]

Officers only count public benefits^[27] that the alien received, has been certified to receive, or has been approved to receive, on or after February 24, 2020.^[28] Officers must not count public benefits for which the alien received before February 24, 2020, for purposes of this heavily weighted negative factor.

When evaluating this heavily weighted negative factor, officers should consider public benefits received in the past, as well as certification or approval for public benefits to be received in the future if the alien received, has been certified to receive, or has been approved to receive the public benefit on or after February 24, 2020.

For example, if at the time of adjudication, the adjustment applicant has received two public benefits for the past 2 months (4 months in the aggregate), and is approved to receive those same public benefits for the next 10 months, then the total in the aggregate would be 24 months within a 36-month period. The heavily weighted negative factor would apply so long as the receipt of the public benefits occurs on or after February 24, 2020.

Even if this heavily weighted negative factor applies to an applicant, the factor is not, by itself, outcome determinative, and does not change the fact that the applicant may now also have, for instance, income over 125 percent of the [Federal Poverty Guidelines](#) (FPG). The officer must still review all factors in the applicant's totality of the circumstances.

Example

The applicant's Form I-485 is postmarked on February 28, 2020, and the evidence indicates the applicant received Supplemental Security Income (SSI) from January 1, 2017 until February 28, 2020. USCIS considers the receipt of SSI from January 1, 2017 until February 28, 2020, as a negative factor but not a heavily weighted negative factor because the applicant did not receive the public benefit for more than 12 months during the relevant time period (on or after February 24, 2020).^[29]

Example

The applicant's Form I-485 is postmarked on February 28, 2020, and the evidence indicates that the alien received Supplemental Nutrition Assistance Program (SNAP) benefits from January 1, 2019 and continues to receive SNAP. The alien is certified to receive SNAP until April 15, 2021. USCIS considers the receipt of SNAP from February 24, 2020, until April 2021. USCIS does not consider the receipt of SNAP from January 1, 2019 to February 23, 2020. Since the alien received or is certified to receive over 15 months of SNAP during the relevant time period, USCIS considers this factor a heavily weighted negative factor.

Evidence

Officers review the information and documentation provided by the applicant in the relevant forms including information about public benefit receipt on the Form I-944.^[30] Officers may also review any available systems for information about the alien's receipt of public benefits. If the officer has remaining questions, he or she may issue an RFE or NOID based on current USCIS policy.

3. Diagnosis of a Significant Medical Condition and a Lack of Private Health Insurance^[31]

Standard

Certain medical conditions may be costly to treat and may adversely affect an applicant's ability to provide and care for him or herself, to attend school, or to work. Other conditions may result in long-term institutionalization in a health care facility at government expense. Those in poor to fair health are more likely to access public benefits to treat their medical conditions.^[32]

If the following facts are present, this heavily weighted negative factor applies in favor of a finding an alien more likely to become a public charge in the future:

- The alien has been diagnosed with a medical condition that is likely to require extensive medical treatment or institutionalization or that will interfere with the alien's ability to provide and care for him or herself, to attend school, or to work;
- The alien is uninsured; and
- The alien has neither the prospect of obtaining private health insurance, nor the financial resources to pay for reasonably foreseeable medical costs related to the medical condition.^[33]

Evidence

The officer should rely on the panel physician or the civil surgeon's medical examination report, or any other documentation from a licensed medical professional, to determine whether this heavily weighted negative factor applies to an applicant.^[34] Officers must not speculate as to the cost of medical conditions or the ability of a person to provide and care for him or herself, to attend school, or to work.

USCIS may also consider evidence of a medical condition provided by the applicant. If the evidence submitted by the applicant, including the findings of the panel physician or civil surgeon, is insufficient to establish whether or not the heavily weighted negative factor applies, the officer should address the deficiency with an RFE or a NOID in accordance with USCIS policy.^[35]

4. Previously Found Inadmissible or Deportable Based on the Public Charge Ground in Removal Proceedings^[36]

Standard

USCIS considers an alien who was previously found inadmissible or deportable based on the public charge grounds in removal proceedings to be at high risk of becoming a public charge in the future.^[37]

The fact that an immigration judge (IJ) or the Board of Immigration Appeals (BIA) has previously found an alien to be inadmissible or deportable based on the public charge grounds in removal proceedings weighs heavily in favor of finding that the alien is likely to become a public charge in the future in the totality of the circumstances.^[37]

Even if this heavily weighted negative factor applies to an applicant, this factor is not, by itself, outcome determinative, and does not change the fact that the applicant may now have, for instance, income over 125 percent of the FPG. The officer must still review all factors in the applicant's totality of the circumstances.

Example

The alien's file contains the following information: The alien originally entered on a nonimmigrant visa as a temporary visitor for pleasure and remained in the United States beyond the authorized period of admission. A copy of the Notice to Appear (NTA) (Form I-862) reflects that the alien was charged with the public charge ground of deportability in removal proceedings, as well as some other charges.^[39] The record shows that the IJ sustained all of the charges on the NTA, including deportability on the public charge ground, but also granted relief from removal in the form of asylum based on past persecution. The alien lived in the United States as an asylee for 10 years, but then returned to the home country. Seven years later, the alien was admitted as an H-1B nonimmigrant worker. Two years later, the alien applied for adjustment of status based on an approved Petition for Alien Relative (Form I-130), filed on the alien's behalf by the alien's U.S. citizen spouse. The record also contains the spouse's sufficient Form I-864; evidence of a household income of 225 percent of the FPG for the household size; health insurance with a premium tax credit; no medical conditions; and assurance by the H-1B employer of continued employment for the alien upon obtaining lawful permanent resident (LPR) status.

The record demonstrates that the IJ sustained the finding of deportability on account of public charge. This circumstance therefore weighs heavily in the public charge inadmissibility determination. However, the removability finding was more than 10 years ago, and the alien's financial circumstances and employment situation have since changed. The alien's current circumstances and employment are positive factors likely to outweigh this heavily weighted negative factor in the totality of the circumstances.

Evidence

To determine whether the alien was previously found inadmissible or deportable based on public charge in removal proceedings, the officer should review the information provided by the alien with the application, any evidence in the A-file, and evidence available in electronic systems to USCIS officers.

The information in the record must reflect that:

- The alien was charged with either inadmissibility or deportability on the public charge ground;

- The charging document was properly filed with the immigration court so that the immigration court could assume jurisdiction over the alien's proceedings;^[40] and
- The IJ or the BIA sustained the public charge ground of inadmissibility or deportability.

It is not necessary for this heavily weighted factor to apply that the IJ's or the BIA's order reflects that the alien was actually ordered removed or that public charge was the only reason for removal.^[41]

B. Heavily Weighted Positive Factors

The following are heavily weighted positive factors that weigh heavily in favor of a finding that the alien is not likely to become a public charge in the future:

- The alien's household has income, assets, or resources, and support (excluding any income from illegal activities, for example, proceeds from illegal gambling or drug sales, and any income from public benefits) of at least 250 percent of the FPG for the alien's household size;^[42]
- The alien is authorized to work and is currently employed in a legal industry with an annual income (excluding any income from illegal activities, such as proceeds from illegal gambling or drug sales) of at least 250 percent of the FPG for the alien's household size;^[43] or
- The alien has private health insurance, except that private health insurance^[44] must be appropriate for the expected period of admission, and does not include health insurance for which the alien receives subsidies in the form of premium tax credits under the Patient Protection and Affordable Care Act (ACA).

1. Household Income, Assets, Resources, or Support of At Least 250 Percent of the Federal Poverty Guidelines^[45]

Standard

Significant income, assets, and resources play a major role in whether a person is likely to become a public charge. Data has shown a relationship between the FPG and public benefit program participation rates among both U.S. citizens and noncitizens. The percentage of people who receive public benefits generally decreases as income increases.^[46] DHS finds that having financial assets, resources, support, or annual household income of at least 250 percent of the FPG are indicative that the alien is not likely to become a public charge at any time in the future, in the totality of the alien's circumstances.^[47]

Therefore, if the alien's household has income, assets, or resources, and support of at least 250 percent of the FPG for the alien's household size, this factor will weigh heavily in favor of a finding that the alien is not likely to become a public charge.

Income from illegal activities, such as proceeds from illegal gambling or drug sales, and any income from public benefits^[48] will not be counted for purposes of this heavily weighted positive factor.^[49]

Evidence

The officer should determine whether the alien's household has income, assets, or resources, and support of at least 250 percent of the Federal Poverty Guidelines for a household of the alien's household size.^[50]

2. Individual Income of At Least 250 Percent of the Federal Poverty Guidelines^[51]

Standard

If the alien is authorized to work and is currently employed in a legal industry with an annual income^[52] of at least 250 percent of the FPG for the alien's household size, this factor will weigh heavily in favor of a finding that the alien is not likely to become a public charge.^[53]

Evidence

Officers will review the information and documentation provided by the applicant in the relevant forms including information about income, assets, and resources in the Forms I-944 and I-485.^[54] If the officer has remaining questions, he or she may issue an RFE or NOID based on current USCIS policy.

Information about an alien's employment authorization should also be contained in the alien's file and related to the applicant's status.

For more information on assessing the alien's income, the officer should refer to Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)], to determine whether the alien's household has income, assets, or resources, and support of at least 250 percent of the FPG for the alien's household size.

3. Private Health Insurance

Standard

Having private health insurance^[55] is a strong indicator of self-sufficiency.^[56] Therefore, having private health insurance is a heavily weighted positive factor in favor of a finding that the alien is not likely to become a public charge.

USCIS considers having private health insurance a heavily weighted positive factor if:

- The private health insurance is appropriate for the expected period of admission;^[57] and
- The alien is not receiving subsidies in the form of premium tax credits under the ACA, as amended, for this private health insurance.

Insurance obtained from a private health insurance provider through the ACA marketplace is considered private health insurance for the purpose of this heavily weighted factor if the alien does not receive premium tax credits under the ACA.^[58]

Evidence

Officers review the information and documentation provided by the applicant in the relevant forms including information about whether he or she has private health insurance and whether he or she receives an ACA premium tax credit in the Form I-944 and Form I-485.^[59] If the officer has remaining questions, he or she may issue an RFE or NOID based on current USCIS policy.

C. Summary of Heavily Weighted Factors

Heavily Weighted Factors

Heavily Weighted Negative Factors	Heavily Weighted Positive Factors
<ul style="list-style-type: none"> • No current employment, recent employment history, or a reasonable prospect of future employment;^[60] • Public benefit receipt at the threshold;^[61] • Medical condition and is uninsured and either lacks prospect of obtaining private health insurance or lacks the financial resources to pay for foreseeable medical costs related to such medical condition;^[62] or • The alien was previously found inadmissible or deportable based on public charge ground by an Immigration Judge or the Board of Immigration Appeals.^[63] 	<ul style="list-style-type: none"> • Household has income, assets, or resources, and support of at least 250 percent of the FPG for the alien's household size;^[64] • Authorized to work and is currently employed with an annual income of at least 250 percent of the FPG for the alien's household size;^[65] or • Has private health insurance^[66]

Footnotes

^[^ 1] See [84 FR 41292, 41397 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

^[^ 2] See [84 FR 41292, 41446 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

^[^ 3] See [8 CFR 212.22\(c\)\(1\)\(i\)](#).

^[^ 4] See Chapter 10, Public Benefit [[8 USCIS-PM G.10](#)].

^[^ 5] See [8 CFR 212.22\(c\)\(1\)\(ii\)](#).

^[^ 6] See [8 CFR 212.22\(c\)\(1\)\(iii\)](#).

^[^ 7] See [8 CFR 212.22\(c\)\(1\)\(iv\)](#).

^[^ 8] See [8 CFR 212.22\(c\)](#).

^[^ 9] See [8 CFR 212.22\(c\)\(1\)\(i\)](#).

^[^ 10] See [83 FR 51114, 51198 \(PDF\)](#) (Oct. 10, 2018) (proposed rule). Various studies have established that a person's education and skills may be a positive factor in evidencing self-sufficiency and that those who work full-time are less likely to receive means-tested benefits.

[^11] See [83 FR 51114, 51198 \(PDF\)](#) (Oct. 10, 2018) (proposed rule).

[^12] See [8 CFR 212.22\(c\)\(1\)\(i\)](#).

[^13] See [83 FR 51114, 51198 \(PDF\)](#) (Oct. 10, 2018) (proposed rule).

[^14] See [8 CFR 214.2\(f\)\(6\)\(i\)](#) and [8 CFR 214.2\(m\)\(9\)\(iv\)-\(v\)](#).

[^15] An institution of higher learning is either (1) a school (or school system) owned and operated as a public educational institution by the United States or a state or a political subdivision thereof; or (2) a school accredited by a nationally recognized accrediting body.

[^16] An institution of higher learning is either (1) a school (or school system) owned and operated as a public educational institution by the United States or a state or a political subdivision thereof; or (2) a school accredited by a nationally recognized accrediting body.

[^17] An online or distant education course is a course that is offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave or satellite, audio conferencing, or computer conferencing.

[^18] See Chapter 11, Education and Skills [[8 USCIS-PM G.11](#)].

[^19] See Chapter 11, Education and Skills, Section A, Standard, Subsection 1, History of Employment [[8 USCIS-PM G.11\(A\)\(1\)](#)].

[^20] See [8 CFR 212.22\(c\)\(1\)\(ii\)](#).

[^21] As defined in [8 CFR 212.21\(b\)](#).

[^22] If received on or after February 24, 2020.

[^23] See [8 CFR 212.22\(c\)\(1\)\(ii\)](#).

[^24] For applications and petitions that are sent by commercial courier (for example, UPS, FedEx, DHL), the postmark date is the date reflected on the courier receipt.

[^25] As defined in [8 CFR 212.21\(b\)](#).

[^26] If the alien received two public benefits in 1 month, it counts as 2 months; if the alien has received three public benefits in 1 month, it counts as 3 months, and so forth.

[^27] See [8 CFR 212.21\(b\)](#). See Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)]. As explained in Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)], benefits listed in [8 CFR 212.21\(b\)](#) do not include public benefits received from a foreign country. Therefore, officers must not consider any of the foreign public benefits received by the applicant, even if the applicant continues to receive them while present in the United States. Public benefits program in foreign countries have different eligibility standards and may or may not be aligned to a need-based standard. Additionally, the public charge inadmissibility determination addresses whether a person is likely to become a public charge in the United States, and not abroad. See [84 FR 41292, 41443 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

[^28] See [8 CFR 212.22\(c\)\(1\)\(iii\)](#).

[[^ 29](#)] See Chapter 9, Assets, Resources and Financial Status, Section A, Standard, Subsection 8, Application for, Certified to Receive, and Receipt of Public Benefits [[8 USCIS-PM G.9\(A\)\(8\)](#)].

[[^ 30](#)] See Chapter 9, Assets, Resources and Financial Status, Section A, Standard, Subsection 8, Application for, Certified to Receive, and Receipt of Public Benefits [[8 USCIS-PM G.9\(A\)\(8\)](#)] and Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)].

[[^ 31](#)] See [8 CFR 212.22\(c\)\(1\)\(iii\)](#).

[[^ 32](#)] See [83 FR 51114, 51200-201 \(PDF\)](#) (Oct. 10, 2018) (proposed rule).

[[^ 33](#)] See [INA 212\(a\)\(4\)](#) and [INA 237\(a\)\(5\)](#). See [8 CFR 212.22\(c\)\(1\)\(iii\)](#).

[[^ 34](#)] As outlined in Chapter 7, Health [[8 USCIS-PM G.7](#)].

[[^ 35](#)] For purposes of determining the alien's prospect of obtaining private health insurance, the level of coverage of the private health insurance, and the financial resources sufficient to pay for reasonably foreseeable medical costs related to the medical condition, see Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)].

[[^ 36](#)] See [8 CFR 212.22\(c\)\(1\)\(iv\)](#).

[[^ 37](#)] See [83 FR 51114, 51204 \(PDF\)](#) (Oct. 10, 2018) (proposed rule).

[[^ 38](#)] See [8 CFR 212.22\(c\)\(1\)\(iv\)](#).

[[^ 39](#)] See [INA 237\(a\)\(5\)](#).

[[^ 40](#)] See [INA 239](#). See [8 CFR 239](#) and [8 CFR 1003.14\(a\)](#) (Removal proceedings start with the filing of the NTA with the immigration court, which vests jurisdiction with the Executive Office for Immigration Review (EOIR).)

[[^ 41](#)] See [8 CFR 212.22\(c\)\(1\)\(iv\)](#).

[[^ 42](#)] See Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)].

[[^ 43](#)] See Chapter 11, Education and Skills, Section A, Standard, Subsection 1, History of Employment [[8 USCIS-PM G.11\(A\)\(1\)](#)].

[[^ 44](#)] For more information on how to assess the alien's private health insurance for purposes of this heavily weighted positive factor, see Chapter 9, Assets, Resources, and Financial Status, Section A, Standard, Subsection 3, Financial Means to Pay for Reasonably Foreseeable Medical Costs [[8 USCIS-PM G.9\(A\)\(3\)](#)].

[[^ 45](#)] See [8 CFR 212.22\(c\)\(2\)\(i\)](#).

[[^ 46](#)] See [83 FR 51114, 51204 \(PDF\)](#) (Oct. 10, 2018) (proposed rule).

[[^ 47](#)] See [84 FR 41292, 41447 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

[[^ 48](#)] As defined in [8 CFR 212.21\(b\)](#), and explained in Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)].

[^49] See Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)].

[^50] See Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)].

[^51] See [8 CFR 212.22\(c\)\(2\)\(ii\)](#).

[^52] Any income from illegal activities, such as proceeds from illegal gambling or drug sales, is not income that can be considered toward the annual income. See Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)].

[^53] See [83 FR 51114, 51204 \(PDF\)](#) (Oct. 10, 2018) (proposed rule), explaining that data has shown a relationship between the FPG and public benefit program participation rates among both U.S. citizens and noncitizens. The percentage of people receiving the public benefits generally goes down as the income increases.

[^54] See Chapter 9, Assets, Resources and Financial Status, Section A, Standard, Subsection 8, Application for, Certified to Receive, and Receipt of Public Benefits [[8 USCIS-PM G.9\(A\)\(8\)](#)]; and Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)].

[^55] See Chapter 9, Assets, Resources and Financial Status, Section A, Standard, Subsection 4, Financial Means to Pay for Reasonably Foreseeable Medical Costs [[8 USCIS-PM G.9\(A\)\(4\)](#)].

[^56] See [84 FR 41292, 41449 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

[^57] See Chapter 9, Assets, Resources and Financial Status, Section A, Standard, Subsection 4, Financial Means to Pay for Reasonably Foreseeable Medical Costs [[8 USCIS-PM G.9\(A\)\(4\)](#)], and Section C, Evidence, Subsection 3, Health Insurance [[8 USCIS-PM G.9\(C\)\(3\)](#)].

[^58] Although persons receiving such benefits have significantly lower odds of concurrently receiving the public benefits designated in this rule, they receive government subsidies to fulfill a basic living need, and qualify on a means-tested basis. However, this type of health insurance would generally be considered positively as part of the consideration in the totality of the circumstances. Officers should consider possession of such subsidized health insurance to be a positive, but not heavily weighted positive factor. See [84 FR 41292, 41449 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction). For guidance on what USCIS considers to be private health insurance for the purpose of this heavily weighted negative factor, see Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)].

[^59] See Chapter 9, Assets, Resources, and Financial Status, Section A, Standard, Subsection 8, Application for, Certified to Receive, and Receipt of Public Benefits [[8 USCIS-PM G.9\(A\)\(8\)](#)]; and Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)].

[^60] See [8 CFR 212.22\(c\)\(1\)\(i\)](#).

[^61] See [8 CFR 212.22\(c\)\(1\)\(ii\)](#).

[^62] See [8 CFR 212.22\(c\)\(1\)\(iii\)](#).

[^63] See [8 CFR 212.22\(c\)\(1\)\(iv\)](#).

[^64] See Chapter 9, Assets, Resources, and Financial Status [[8 USCIS-PM G.9](#)].

[^65] See Chapter 11, Education and Skills, Section A, Standard, Subsection 1, History of Employment [[8 USCIS-PM G.11\(A\)\(1\)](#)].

[^66] For more information on how to assess the alien's private health insurance for purposes of this heavily weighted positive factor, see Chapter 9, Assets, Resources, and Financial Status, Section A, Standard, Subsection 4, Financial Means to Pay for Reasonably Foreseeable Medical Costs [[8 USCIS-PM G.9\(A\)\(4\)](#)].

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