



## 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.



U.S. Citizenship  
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## Chapter 5 - Factors

### Guidance

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### **i** Alert

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](#).

An officer must consider the following set of factors when determining whether an applicant is more likely than not to become a public charge at any time in the future:<sup>[1]</sup>

- The applicant's age;
- The applicant's health;
- The applicant's family status;
- The applicant's assets, resources, and financial status;

- The applicant’s education and skills;
- The applicant’s prospective immigration status and expected period of admission;
- A sufficient Affidavit of Support Under Section 213A of the INA ([Form I-864](#)), when required; and
- The presence of heavily weighted positive and negative factors.

## A. Evidence

An applicant must submit evidence relevant to each factor to establish that, in the totality of his or her circumstances, he or she is not more likely than not to become a public charge at any time in the future.

## B. Declaration of Self-Sufficiency (Form I-944)

Applications for adjustment of status postmarked (or, if applicable, submitted electronically) on or after 12:00 a.m. Eastern Time on February 24, 2020, which are subject to the public charge inadmissibility ground, must contain a Declaration of Self-Sufficiency ([Form I-944](#)), submitted in accordance with the form’s instructions.<sup>[2]</sup> Form I-944 collects the information necessary to address certain factors that officers must consider when determining whether an alien is more likely than not to become a public charge in the future.

An applicant who is required to submit Form I-944 but fails to do so cannot meet his or her burden to establish that he or she is not inadmissible on account of the public charge ground of inadmissibility and is therefore ineligible for adjustment of status.<sup>[3]</sup>

In conjunction with Form I-944, officers must also review information from the Application to Register Permanent Residence and Adjust Status ([Form I-485](#)), Report of Medical Examination and Vaccination Record ([Form I-693](#)), and [Form I-864](#), when required, in making the public charge inadmissibility determination.

## Footnotes

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<sup>[1]</sup> See [INA 212\(a\)\(4\)\(B\)](#). See [8 CFR 212.22\(b\)](#).

<sup>[2]</sup> See [8 CFR 212.20](#) through [8 CFR 212.23](#) and [8 CFR 213.1](#). USCIS implemented the rule at 12:00 a.m. Eastern Time on February 24, 2020. See [84 FR 41292 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction). 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.

<sup>[3]</sup> See [INA 291](#).