



## 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  
and Immigration  
Services

[Home](#) > [Policy Manual](#)

## Chapter 9 - Assets, Resources, and Financial Status

### [Guidance](#)

[Resources \(75\)](#)

[Appendices \(7\)](#)

[Updates \(4\)](#)

### **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](#).

Officers must consider an applicant's assets, resources, and financial status when determining whether an alien is likely to become a public charge at any time in the future.<sup>[1]</sup> All else being equal, the more assets and resources an alien has, the more self-sufficient the alien is likely to be, and the less likely the alien is to receive public benefits. Conversely, an alien's lack of assets and resources, including income, makes an alien more likely to receive public benefits. An applicant capable of sustaining him or herself without the use of public benefits is less likely to become a public charge at any time in the future.

These factors are weighed in the totality of the circumstances when determining whether the applicant is likely at any time to become a public charge in the future. Poverty alone is insufficient to establish a

person is likely at any time to become a public charge in the future.<sup>[2]</sup>

As part of the assets, resources, and financial status factor, USCIS reviews the following:

- The alien's household gross income;
- The alien's household assets;
- The alien's credit report and score;
- The alien's request or receipt of fee waivers for immigration benefits;
- The alien's financial means to pay for reasonable medical costs; and
- The alien's application for, receipt of, or certification for public benefits.

## A. Standard

USCIS considers whether assets, resources, and financial status, excluding any income from illegal activities or sources and income from receipt of public benefits, make the alien more likely than not to become a public charge at any time in the future. This consideration includes:

- Whether the alien's household income meets the designated threshold or the equivalent asset threshold;
- Whether the alien has sufficient assets and resources to cover any reasonable foreseeable medical costs;
- The alien's financial liabilities; and
- Whether the alien has applied for, been certified to receive, or received public benefits.

## 1. Income and Percent of the Federal Poverty Guidelines

USCIS reviews the annual household gross income of the applicant and the number of household members to determine whether he or she may have sufficient financial resources to support the household.

### *125 Percent of the Federal Poverty Guidelines*

Generally, the applicant must demonstrate an income of at least 125 percent of the [Federal Poverty Guidelines](#) (FPG) based on his or her household size for the household income to be considered a positive factor. The higher the income, the more positive the factor. Alternatively, the lower the income, the more negative the factor.

The FPG is based on household size and the monetary amount to reach 125 percent increases with each additional person that is counted in the household.<sup>[3]</sup> Therefore, an applicant with a large household needs to show more income to rise above the 125 percent of the FPG and count as a positive factor in the totality of the circumstances than an applicant with a smaller household.

### *Standard for Active Duty Military*

For an alien on active duty, other than active duty for training, in the U.S. armed forces, the income threshold for the alien's household's annual gross income is at least 100 percent of the FPG.<sup>[4]</sup>

The term active duty means:<sup>[5]</sup>

- Full-time duty in the armed forces, other than active duty for training;
- Full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service;
- Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration; or
- Full-time duty as a cadet or midshipman at the U.S. Military Academy, U.S. Naval Academy, U.S. Air Force Academy, or the U.S. Coast Guard Academy.

Any alien who is in active duty for training in the U.S. armed forces would be required to meet an income threshold of 125 percent of the FPG and not 100 percent of the FPG.

The term active duty for training means:<sup>[6]</sup>

- Full-time duty in the armed forces performed by Reserves for training purposes;
- Full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service;
- Full-time duty as a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises; or
- In the case of members of the National Guard or Air National Guard of any State, full-time duty members included under 32 U.S.C. 316, 502, 503, 504, or 505.

An applicant can establish military service with Uniformed Services ID card (DD Form 2 or DD Form 2765). An officer should look at the ID card to determine the type of service.<sup>[7]</sup>

### *250 Percent of the Federal Poverty Guidelines*

The alien's household has income, assets, or resources, and support of at least 250 percent of the FPG for a household of the alien's household size is a heavily weighted positive factor in the totality of the circumstances.<sup>[8]</sup>

## 2. Basis for Determining Income

### *Annual Gross Income*

Annual gross income is the total income before any adjustment, taxes, or deductions. This includes wages from employment. This is line 6 "total income" on the 1040 Internal Revenue Service (IRS) form. On a Wage and Tax Statement, Form W-2, the total income is in line 1 "Wages, tips, other compensation." However, a W-2 does not include income from bank account interest, stocks and bond interest, or other income a person may be receiving outside of employment. If a person has multiple jobs with multiple corresponding Forms W-2, the income is added to find the total gross income.

## *Lawful Sources of Income*

USCIS only considers income sources from legal employment or transactions. USCIS does not consider income derived from illegal activities, whether illegal under federal law or state law, in the calculation of gross annual household income. These sources include, but are not limited to income gained illegally from: gambling, drug sales or trafficking, money laundering, prostitution, and alien smuggling.

Any income derived from unlawful sources must be deducted from the applicant's household annual gross income.

However, income from unauthorized employment should be included in the applicant's household annual gross income.<sup>[9]</sup>

## *Children*

Children may or may not have their own income. A child may be working or have a trust fund or bank accounts that would be considered as income and assets within the public charge inadmissibility determination. The child's income would be included as part of the gross household income to meet the threshold.

However, when the child does not have his or her own income or assets, the applicant would include income or support available from the parent(s), legal guardian, or other person providing at least 50 percent of the child's financial support as household annual gross income.<sup>[10]</sup>

## 3. Assets in Lieu of Income

If the applicant's household's annual gross income is less than 125 percent of the most recent FPG (or 100 percent for an alien on active duty, other than active duty for training, in the U.S. armed forces), the applicant may submit evidence of ownership of significant assets. Significant assets may include savings accounts, stocks, bonds, certificates of deposit, real estate, or other assets as described below.<sup>[11]</sup>

In general, the combined cash value of all the assets (the total value of the assets less any offsetting liabilities) should exceed five times the difference between the alien's household income and 125 percent of the FPG (100 percent for those on active duty, other than active duty for training, in the U.S. armed forces) for the alien's household size, unless the applicant is a spouse or child as provided below.

Example: 125 percent of the [FPG for 2020](#) for a household of one is \$15,950. If the applicant has no household income, the total household assets must equal at least \$79,750 (5 x \$15,950).

Example: 125 percent of the [FPG for 2020](#) for a household of 4 is \$32,750. If the applicant's household income equals \$18,000, the total household assets must equal at least \$73,750 (5 x \$14,750). \$14,750 is the difference between \$32,750 and \$18,000.

## *Spouses and Children*

If the applicant is the spouse or child of a U.S. citizen (and the child has reached his or her 18th birthday), he or she must establish three times the difference between the alien's household income and 125 percent of the FPG (100 percent for those on active duty, other than active duty for training, in the U.S. armed forces) for the alien's household size.

Example: 125 percent of the [FPG for 2020](#) for a household of 4 is \$32,750. If an applicant's household income equals \$18,000, the total household assets must equal \$44,250 (3 x \$14,750). \$14,750 is the difference between \$32,750 and \$18,000.

### *Non-Hague Adopted Children*

If the applicant is an orphan who will be adopted in the United States after he or she acquires permanent residence (or in whose case the parents will need to seek a formal recognition of a foreign adoption under the law of the State of the intending immigrant's proposed residence because at least one of the parents did not see the child before or during the adoption), and who will, as a result of the adoption or formal recognition of the foreign adoption, acquire citizenship under INA 320, he or she must establish the difference between the applicant's household income and 125 percent of the FPG (100 percent for those on active duty, other than active duty for training, in the U.S. armed forces) for the alien's household size.

Example: 125 percent the [FPG for 2020](#) for a household of 4 is \$32,750. If applicant's household income equals \$18,000, the total household assets must equal at least \$14,750. \$14,750 is the difference between \$32,750 and \$18,000.

### *Types of Assets and Resources*

Assets and resources that are a positive factor in the totality of the circumstances may include the following:

- Bank accounts, including checking and savings;
- Annuities;
- Stocks, bonds (cash value), or certificates of deposit;
- Retirement accounts and educational accounts;
- Net cash value of real-estate holdings; and
- Any other property or assets that can easily be converted into cash.

### *Bank Accounts*

An applicant may have checking and saving accounts that are considered positively in the public charge inadmissibility determination, depending on the amount. If the applicant uses money in bank accounts to either demonstrate that he or she has household income of at least 125 percent of the FPG or to supplement his or her income to be considered, he or she must submit bank statements to cover 12 months prior to filing the application.<sup>[12]</sup> Some applicants may also have trust accounts or other types of bank accounts that may serve as available assets for the applicant.

An officer should review whether any recent deposits were in the account. Recent deposits may indicate payment of salary and wages but may also indicate that the deposits were recently added for the applicant to meet the income threshold and only for a temporary period. If the source of the amount is unknown, the officer may ask questions, or request additional information through a Request for Evidence (RFE), to determine whether the amounts are only temporarily in the account.

### *Annuities*

An annuity is a contract between a person and an insurance company that requires the insurer to make payments to the person, either immediately or in the future<sup>[13]</sup> which may be considered positively in the public charge inadmissibility determination. The person buys an annuity by making either a single payment or a series of payments. Similarly, the payout may come either as one lump-sum payment or as a series of payments over time.<sup>[14]</sup>

The officer should review the contract of the annuity and determine whether the applicant has access to the full amount.

### *Stocks and Bonds*

In addition to annuities, there are many investments a person can make, including stocks,<sup>[15]</sup> mutual funds,<sup>[16]</sup> corporate and municipal bonds,<sup>[17]</sup> exchange-traded funds (ETFs),<sup>[18]</sup> money market funds,<sup>[19]</sup> and U.S. Treasury securities,<sup>[20]</sup> which may be considered positively in the public charge inadmissibility determination.

The officer should review the investment statement, including the total amount, and determine whether the applicant has access to the full amount. Some investments may not be available to the person until a certain period. Some investments may be available if the person pays a penalty fee or additional taxes, which should be discounted from the total of any investment amount available.

### *Retirement and Educational Accounts*

An applicant may have employer-sponsored retirement plans,<sup>[21]</sup> or self-directed plans, which decrease the applicant's likelihood of becoming a public charge.<sup>[22]</sup> In addition, a person employed by the government may have federal government retirement plans.<sup>[23]</sup>

These plans may provide income to the person after retiring from work. In addition, the person may have access to the amount. The officer should review the retirement plan statement, including the total amount, and determine whether the applicant has access to the full amount.

### *Real Estate*

An alien may include the net value of his or her home or other realty, including commercial property, as an asset, which is a positive factor. The net value of the realty is the appraised value of the home, minus the sum of any and all loans secured by a mortgage, trust deed, or other lien on the home. If the applicant wishes to include the net value of the real estate property, then he or she must include:

- Proof of ownership;
- Documentation of the location and value;
- A recent appraisal by a licensed appraiser; and
- Evidence of the amount of any and all loans and liens secured by a mortgage, trust deed, or other lien on the home.

### *Other Property or Assets Easily Convertible into Cash*

Officers may consider any property assets that can be easily converted into cash within 12 months that may be used to support the applicant and the household. When assessing property the applicants seeks to

use to meet the income threshold or provide as an addition to the income threshold, officers should review the:

- Nature or type of property;
- Monetary value of the property; and
- Availability of the asset or resource.

An officer should not consider a property to be an asset if it has full liens or full mortgage on the property. Liens on property are claims against the property because a debt is owed. The person who owns the property may or may not have access to sell or use the property and would have to pay off the debt to fully secure the property.

The applicant may not include the net value of an automobile unless the applicant shows that he or she has more than one automobile, and at least one automobile is not included as an asset. Other property may include commercial property, vacant land, boats or other vehicles.

For art, collectibles, and jewelry to be treated as positive factors in the totality of the circumstances, the applicant needs to submit a recent appraisal, which indicates the value meets the assets threshold to be considered in the public charge inadmissibility determination.

## 4. Financial Means to Pay for Reasonably Foreseeable Medical Costs

USCIS also reviews whether the alien has sufficient household income, assets, and resources to cover any reasonably foreseeable medical costs, including 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. If an applicant has assets and resources to pay for such medical costs, it is a positive factor in the totality of the circumstances, as this decreases the likelihood that the applicant will become a public charge at any time in the future.

### *Reasonably Foreseeable Medical Costs*

The costs of medical care can vary by state and medical condition. Health insurance helps cover the cost of medical care and being covered by health insurance programs, other than the health insurance programs considered public benefits for public charge purposes,<sup>[24]</sup> is a positive factor in the totality of the circumstances, as it decreases the likelihood of the applicant receiving a public benefit in the future.

Having private health insurance, such as through employment, is a heavily weighted positive factor as it significantly decreases the likelihood of the applicant receiving a public benefit in the future.

An alien may have other assets and resources as described above that may provide for foreseeable medical costs, which are a positive factor in the totality of the circumstances.

Not all health insurance programs plans provide for adequate coverage. An officer should generally consider whether a plan meets the requirements under the Affordable Care Act in limiting cost-sharing, including deductible, copayments, and out of pocket maximum amounts.<sup>[25]</sup> The health insurance Summary of Benefits and Coverage<sup>[26]</sup> should provide sufficient information of the costs and coverage of the insurance. A health insurance with a high deductible or other cost-sharing costs would carry less positive weight in the totality of the circumstances consideration.

Generally, the following plans do not provide adequate coverage for reasonable foreseeable medical costs:<sup>[27]</sup>

- Plans that only provide for vision and dental care;
- Worker's compensation;
- Plans that only provide for specific diseases or conditions; and
- Plans that only provide for discounts on medical services.

Lack of health insurance is a negative factor in the totality of the circumstances. Officers must not speculate as to the cost of an applicant's medical conditions. In addition, officers must not speculate as to what medical conditions a person may be diagnosed with in the future. For example, an officer must not assume that a person will need long term care or institutionalization with increasing age.

### *Private Health Insurance*

For purposes of the public charge inadmissibility determination, private health insurance is considered a heavily weighted positive factor in the totality of the circumstances and includes, but is not limited to:

- Any employer-provided health insurance, including federal government employment-provided healthcare including Tricare<sup>[28]</sup> (for military members and their families);<sup>[29]</sup>
- Private health insurance provider through the Patient Protection and Affordable Care Act (ACA) Health Marketplace without a subsidy;<sup>[30]</sup>
- Medicare;
- Other health insurance sold by the private industry and bought or purchased for or by the person;<sup>[31]</sup>
- Medicaid for children under the age of 21 or pregnant women (and women for up to 60 days after giving birth);
- Children's Health Insurance Plan (CHIP);
- State-only subsidized health insurance, including state-based exchange; and
- Health Insurance subsidized by foreign country.

### *Medicaid, CHIP, ACA Subsidy*

While having health insurance would generally be a positive factor in the totality of the circumstances, recent (within the past 36 months) or current receipt of Medicaid that constitutes a public benefit,<sup>[32]</sup> is a heavily weighted negative factor.

Health insurance that is not considered a public benefit under the definition<sup>[33]</sup> but may be considered a public benefit in other contexts unrelated to public charge, would be considered a positive factor, but not a heavily weighted positive factor. For example:

- Medicaid for applicants under the age of 21;
- Medicaid for pregnant women (including 60 days after pregnancy);

- CHIP/State Children’s Health Insurance Plan (SCHIP); and
- Health Marketplace subsidized insurance.

**Summary of Health Insurance Consideration and Weight**

Health Insurance	Positive Weight	Heavily Weighted Positive <sup>[34]</sup>	Negative Weight	Heavily Weighted Negative <sup>[35]</sup>
Employer-Based Health Insurance (including Tricare and insurance through government employment)		X		
Private Health Insurance through Health Marketplace (with subsidy)	X			
Private Health Insurance through Health Marketplace (without subsidy)		X		
Medicare		X		
Private Health Insurance bought or paid for (outside of Health Marketplace)		X		
Medicaid for applicant under 21	X			
Medicaid for applicant over 21				X
Medicaid for pregnant women (including 60 days after pregnancy)	X			
CHIP	X			
State only subsidized Health Insurance		X		
Foreign Health Insurance		X		

In reviewing whether the alien has sufficient household income, assets, and resources to cover any reasonably foreseeable medical costs including medical costs associated 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, officers defer to the Report of Medical Examination and Vaccination Record ([Form I-693](#)) (or the applicable DOS medical examination report) and do not assume that certain medical conditions will require extensive medical treatment, institutionalization, or that the condition will interfere with the alien's ability provide and care for him or herself, to attend school, or to work.<sup>[36]</sup>

An officer may send an RFE to the applicant for additional information on the [Form I-693](#) or report from panel physician or any other licensed medical professional, if necessary.<sup>[37]</sup>

### *Institutionalization*

The applicant should have sufficient household assets and resources to cover any reasonably foreseeable medical costs, including those associated with a medical condition that is likely to require institutionalization. This may include either short term or long-term institutionalization in the form of rehabilitation, nursing home or facilities, respite services, hospice, institutional care programs, or intermediate care facilities for persons with intellectual disabilities. This may also include institutionalization for drug or alcohol abuse.

When evaluating whether the applicant has sufficient household income, assets, and resources to pay for reasonable foreseeable costs related to institutionalization, an officer should consider whether:<sup>[38]</sup>

- The applicant was employed and has sufficient resources, such as insurance, to cover the cost of the institutionalized care;
- The applicant is recovering and not likely to return to institutionalization for care at government expense;<sup>[39]</sup> and
- The applicant has friends or relatives in the United States who have covered the cost of the institutionalized care or indicated the ability and willingness to assist the applicant financially and repay the expenses for institutionalization as established by a payment plan, contract, or Affidavit of Support Under Section 213A of the INA ([Form I-864](#)).

An applicant's institutionalization at his or her own expense, indicates that the applicant is not likely to depend on government benefits for that care in the future and therefore is self-sufficient.

Incarceration related to an arrest or conviction does not constitute institutionalization for purposes of public charge inadmissibility determinations.<sup>[40]</sup>

If the applicant does not have sufficient household income, assets, and resources to pay for the institutionalization expense, it is a negative factor in the totality of the circumstances.

Institutionalization for care at government expense alone, however, is not sufficient to find an applicant inadmissible on the public charge ground. Officers review all of the factors and in the totality of the circumstances.

## 5. Additional Income or Resources

Any additional income that is received on a continuing weekly, monthly, or annual basis that is not included as part of the income tax return, may be added to other income or assets to meet the income threshold or may be considered as a positive factor in the totality of the circumstances.

There is specific income that must be reported to the IRS.<sup>[41]</sup> Income that must be reported to the IRS is not considered additional income.<sup>[42]</sup>

Additional income that is nontaxable includes but is not limited to the following:

- Consistent and regular support from adult children, parents, dependents, or other people living in the household or not living in the household;
- Gifts received under \$15,000;
- Child support;
- Educational assistance up to \$5,250;
- Social Security Benefits depending on income level;<sup>[43]</sup> and
- Veteran's disability benefits.

This is income that continues on a weekly, monthly, or annual basis during the most recent tax year. The officer should review how long the applicant expects to receive the income. For example, additional income that would only be received for 2 more months is not as probative as additional income received every year for multiple years and therefore not given as much positive weight.

## 6. Financial Liabilities

USCIS considers an alien's liabilities and information of such liabilities in a U.S. credit report and score as part of the financial status factor.

### *Credit Report*

Credit reports contain information about an applicant's bill payment history, loans, current debt, and other financial information. Credit reports may also provide information about work, residences, lawsuits, arrests, and bankruptcies.

USCIS may review an applicant's U.S. credit reports and score, if available, to determine if the applicant is able to support him or herself and his or her household.<sup>[44]</sup> A good credit report is a positive consideration, while a poor credit report is a negative factor.

Not everyone has a credit history or may be able to transfer credit history from country to country. A person generally establishes credit history by opening bank accounts, receiving loans, and using credit cards. Therefore, an officer must not consider the fact that an applicant does not have an established credit history as a negative factor in reviewing the totality of the circumstances.

Negative credit history is a negative factor in the totality of the circumstances and may include:

- Delinquent accounts;

- Foreclosures;
- Debt collections;
- Charge-offs (delinquent accounts deemed unlikely to be collected);
- Repossession;
- Foreclosure;
- Judgments;
- Tax liens; or
- Bankruptcies.

If the applicant does not have a credit report, he or she may provide documentation that demonstrates that he or she does not have a credit report or score with a credit bureau and evidence of continued payment of bills. Younger applicants and recently arrived aliens may not have a credit history or score and therefore would provide a letter from one of the major credit agencies indicating that no credit report is available. Applicants who do not have a credit score may nevertheless establish financial status through other means, as explained in this section.

An officer must not consider any verified errors on a credit report or score in the public charge inadmissibility determination. Any information revealed as part of an erroneous credit score or report is not considered as part of the totality of the circumstances.<sup>[45]</sup>

### *Credit Score*

A credit score is a number that rates a person's credit risk at one point in time. It can help creditors determine whether to give the person credit, decide the terms the person is offered on a loan, or the interest rate the person will pay for the loan.<sup>[46]</sup>

Banks and other entities use credit scores to determine whether a person is likely to repay any loan or debt. A credit report takes into account a person's bill-paying history, the number and type of accounts, overdue payments, collection actions, outstanding debt, and the age of the accounts.<sup>[47]</sup>

A good credit score in the United States indicates a person is likely to be self-sufficient and support the household. Conversely, a lower credit score indicates that a person's financial status is weak and that he or she may not be self-sufficient.

A good to exceptional credit score is a positive factor in the totality of the circumstances. Poor credit score is a negative factor, which may indicate the applicant is incapable of supporting him or herself and any dependents.

However, officers should give positive weight to an applicant who can show little to no debt, and a history of paying bills, regardless of the applicant's credit score (if one is available).

The following table provides an example of how officers should review an applicant's credit score.

### **Consideration of Credit Scores**

Credit Score (FICO) <sup>[48]</sup>	Rating	Considerations
670 and above	Good to Exceptional	Near or above the average of U.S. consumers. A positive factor as it demonstrates an applicant may be dependable and may be able to support him or herself and any dependents assuming all other financial records are sufficient.
580-669	Fair	No weight given as a factor.
Below 580	Poor	Well below the average score of U.S. consumers. A negative factor as it demonstrates that an applicant may not be able to support him or herself and any dependents, assuming all other financial records are consistent.
No credit score	Not applicable	The lack of a submitted credit score is not considered as a positive or as a negative factor in the totality of the circumstances.

### *Other Liabilities*

USCIS also reviews any other liabilities not reflected in the credit report including, but not limited to:

- Mortgages;
- Car loans;
- Unpaid child or spousal support;
- Unpaid taxes; and
- Credit card debt.

Liabilities may be considered in the totality of the circumstances according to the amount and type. A high amount of unpaid child or spousal support, taxes, or credit cards may be weighted more negatively. A single mortgage and a single car payment may be weighted less negatively as these are long term investments, particularly if the applicant can demonstrate that he or she meets all his or her financial obligations and makes timely payments.

## 7. Fee Waivers for Immigration Benefits

USCIS treats the request or receipt of a USCIS immigration benefit fee waiver on or after February 24, 2020, as a negative factor in the totality of the circumstances if the fee waiver was submitted or granted as part of an immigration benefit to which the public charge ground of inadmissibility applies.<sup>[49]</sup>

Requesting or receiving a fee waiver for an immigration benefit suggests a weak financial status. Since fee waivers are based on an inability to pay, a fee waiver for an immigration benefit suggests an inability to be self-sufficient.

Not previously requesting a fee waiver is a positive consideration in the totality of the circumstances. Although USCIS considers the request for, or receipt of, a fee waiver as a negative factor in the public charge inadmissibility determination, it is but one factor in the totality of the circumstances, and does not alone, form the basis of an inadmissibility determination.

An officer also, in the totality of the circumstances, considers how long ago the fee waiver was received. If the fee waiver was received recently, it would have more relevance to the public charge determination, whereas if the fee waiver was received some time ago, for example, before the alien obtained new, steady employment, the relevance of the fee waiver in the totality of the circumstances is given less negative weight.

The only fees waivers that are to be considered are USCIS-granted fee waivers. USCIS does not consider a fee waiver granted by an immigration judge. USCIS also does not consider a fee exemption as part of the determination of whether an alien is likely to become a public charge,<sup>[50]</sup> as such exemption would have no bearing on whether an alien would be likely to become a public charge in the future. Fee exemptions are not fee waivers and generally, are not affirmatively requested by an alien based on an inability to pay. Instead, fee exemptions are provided either to specific forms or nonimmigrant or immigrant categories based on statutory authority, regulations, or agency policy.

## 8. Application for, Certified to Receive, and Receipt of Public Benefits<sup>[51]</sup>

Generally, in the totality of the circumstances, USCIS considers the public benefits for any amount or time period when the applicant:

- Applied for the public benefit on or after February 24, 2020;
- Received the public benefit on or after February 24, 2020, and certain benefits received before February 24, 2020; or
- Is certified or approved to receive the public benefit on or after February 24, 2020.

Such application for receipt, or certification, or approval is considered negatively in the totality of the circumstances.

USCIS outlines in its guidance the public benefits considered in the public charge inadmissibility determination.<sup>[52]</sup>

### *Heavily Weighted Negative Factor*

Receipt, or application or certification for receipt, of one or more public benefits for longer than 12 months in the aggregate within the 36-month period immediately before filing the application for adjustment of status, which begins no earlier than February 24, 2020, is considered a heavily weighted negative factor.

### *Receipt of Public Benefits*

Past or current receipt of any public benefit<sup>[53]</sup> is a negative factor when determining whether the applicant is likely at any time to become a public charge. However, the past or current receipt of public benefits, by itself, does not establish that an applicant is likely at any time to become a public charge.<sup>[54]</sup>

An officer must not find an applicant inadmissible based on the public charge ground solely based on the receipt of a public benefit in the United States.<sup>[55]</sup> An officer should consider:

- The length of time that the applicant previously received the benefits; and
- How recently the applicant received the benefits in relation to the application for admission or adjustment of status.

The longer an applicant has been receiving public benefits or assistance, the greater the weight as a negative factor. The fact that an applicant is currently receiving public benefits is given greater weight as a negative factor in the totality of the circumstances than the fact that an applicant had received public benefits at some point in the past.

Receipt of a public benefit occurs when a public benefit-granting agency provides a public benefit to an alien as a beneficiary. A public benefit can be received in the form of:

- Cash;
- A voucher;
- Services; or
- Insurance coverage. In particular, with respect to Medicaid, receipt occurs when coverage commences, regardless of whether the alien accesses services using such coverage.

Certification for future receipt of a public benefit does not constitute receipt, although it may suggest a likelihood of future receipt.

The alien has to be the beneficiary of the public benefit. That is, the alien should be listed as the beneficiary on the documentation evidencing receipt of the public benefit. If the alien is the listed beneficiary, the alien is considered to have received the public benefit, unless the alien can establish, with evidence, that he or she is not the direct recipient. It is the alien's burden to demonstrate that he or she is not the recipient of the public benefit.

Certain benefits are received by a family unit. For example, all family members may live in a subsidized housing unit. Typically, even if the benefit is received by the entire family, the individual beneficiaries' names are listed on the documentation that establishes the receipt of public benefit.

The alien is considered to be receiving the benefit for the duration of the public benefit receipt.<sup>[56]</sup> Receipt generally ends when the beneficiary is actually disenrolled from the public benefit by the benefit-granting agency. While a request to disenroll or withdraw from the public benefit does not end the receipt of public benefits period for purposes of the public benefits inadmissibility determination, the officer may consider that the alien requested to disenroll from the benefit as a factor in the public charge inadmissibility determination in the totality of the alien's circumstances.<sup>[57]</sup>

Current and past receipt of public benefits on or after February 24, 2020, is a negative factor in the totality of the circumstances.<sup>[58]</sup>

### *Heavily Weighted Negative Factor*

Receipt of one or more public benefits, for more than 12 months in the aggregate within the 36-month period immediately before the alien's application for admission or adjustment of status, and starting on or after February 24, 2020, is a heavily weighted negative factor.<sup>[59]</sup> The 36-month period for the heavily weighted factor cannot begin earlier than February 24, 2020.

### *Calculation of Duration of Public Benefits Received*

The regulation specifies how the 12-month period within any 36-month period should be calculated by stating that, for example, receipt of two benefits in one month counts as 2 months.<sup>[60]</sup> Therefore, the public charge definition can be met before the 12-month duration if the person receives multiple public benefits concurrently. The 36-month period may be at any time while the alien receives public benefits.

### *Example*

An alien who receives 4 public benefits at the same time for 6 months, each within a 36-month period, would be considered to have received 24 months of public benefits within a 36-month period.

### *Example*

An alien may use public benefits on and off during a 72-month period. Any 36-month continuous period within that 72-month duration of the alien's benefit receipt may have a period in which the alien has received 12 months in the aggregate during which the alien may receive the public benefit. Therefore, an officer looks at the entire time an alien received public benefits, and determines whether the alien may have received an aggregate of 12 months of public benefits within any 36-month period.

Although public charge is defined as an alien who receives public benefits for more than 12 months in the aggregate within any 36-month period, the receipt of public benefits alone does not mean that the alien is likely at any time in the future to become a public charge.<sup>[61]</sup> The receipt of public benefits is only one aspect of the public charge inadmissibility determination, which overall is prospective in nature and takes all of the alien's relevant circumstances into account. With the exception of an alien lacking the affidavit of support,<sup>[62]</sup> when required, a public charge inadmissibility determination must always be based on the totality of the alien's circumstances.

### *Public Benefits Received Before February 24, 2020*

USCIS does not consider public benefits that were previously excluded under the [1999 Interim Field Guidance \(PDF\)](#),<sup>[63]</sup> if received before February 24, 2020. USCIS, however, continues to consider the public benefits that were considered under the [1999 Interim Field Guidance \(PDF\)](#) received before February 24, 2020, including:

- Cash assistance for income maintenance, including:
  - SSI;
  - TANF; and
  - State and local cash assistance programs that provide benefits for income maintenance (often called "General Assistance" programs); and

- Programs (including Medicaid) supporting aliens who are institutionalized for long-term care (for example, in a nursing home or mental health institution). [\[64\]](#)

USCIS considers these benefits received before February 24, 2020, as negative factors in the totality of the circumstances. However, USCIS only considers receipt of these benefits as heavily weighted negative factors if received on or after February 24, 2020.

The table below provides a summary of how benefits received prior to and after February 24, 2020, are considered in the public charge inadmissibility determination.

<b>Consideration of Benefits Received Before and After February 24, 2020</b>		
	<b>Benefits received before February 24, 2020</b>	<b>Public benefits received on or after February 24, 2020</b>
<p><b>Benefits excluded under the 1999 Interim Field Guidance</b></p> <p>Example: SNAP, Housing Programs, Medicaid (generally)</p>	Not considered	Considered, see Chapter 10, Public Benefits, Section A, Public Benefits Considered <a href="#">[8 USCIS-PM G.10(A)]</a>
<p><b>Benefits considered under the 1999 Interim Field Guidance</b></p> <p>Example: Cash assistance for income maintenance (including SSI, TANF, General Assistance programs), programs supporting the applicant who are institutionalized for long-term care (including Medicaid)</p>	Considered. USCIS considers as a negative factor	Considered, see Chapter 10, Public Benefits, Section A, Public Benefits Considered <a href="#">[8 USCIS-PM G.10(A)]</a>

### *Receipt by Dependents*

USCIS only considers the alien to have received a public benefit if the alien is a named beneficiary of the benefit but not where an alien is applying, being certified to receive, or receiving a public benefit on behalf of another person. USCIS does not consider any public benefit received by, requested by, or certified for a U.S. citizen or any relative or household member of the alien.

For example, the following is not considered as received, requested or certified for the alien:

- The alien parent is applying for a public benefit on behalf of a U.S. citizen child;
- The alien is the legal guardian or has power of attorney of the alien’s lawful permanent resident parent and is applying for a benefit on behalf of such parent; or

- The alien is designated by the public benefit-granting agency to receive the public benefit on behalf of the beneficiary.

Documentation provided by the benefit-granting agency may indicate that the alien is the guardian, designated representative, or that the beneficiary is in the care of (c/o in an address block) the alien. Not all public benefit-granting agencies would require a person to be a parent or legal guardian for the alien or have power of attorney to receive the benefit and USCIS does not request such information. USCIS officers would review documentation provided by the benefit-granting agency to determine whether the alien is the direct beneficiary of the public benefit or if he or she is receiving the benefit on behalf of another person.

### *Consideration of Eligibility for Public Benefits*

USCIS does not specifically assess whether an alien qualifies or would qualify for any public benefit as defined. However, USCIS does consider evidence submitted by the applicant from a federal, state, local, or tribal agency administering a public benefit that the applicant has specifically identified as showing that he or she does not qualify or would not qualify for such public benefit by virtue of, for instance, the alien's annual gross household income or prospective immigration status or length of stay. Such evidence includes, but is not limited to print-outs of web pages from a public benefits agency outlining the requirements for benefit receipt, which would enable an officer to verify why the applicant does not qualify or would not qualify for such public benefits.

### *Applied for a Public Benefit*

USCIS may consider whether the applicant applied for a public benefit on or after February 24, 2020, as a negative factor. However, applying for a public benefit is not considered receipt of the benefit. USCIS may also consider whether the applicant's request for public benefits was denied, rejected, or withdrawn. Applying for a public benefit does not constitute receipt of public benefits although it may suggest a likelihood of future receipt.

A person may apply for public benefits and be rejected because he or she is over the income eligibility threshold or because of his or her immigration status. The fact that a person may have too much income or assets to qualify for public benefits may be a positive consideration. However, the fact that the applicant applied for the public benefit may indicate that he or she is not financially stable and needs assistance in the form of public benefits which may be taken into consideration.

A previous application for public benefits, by itself, does not establish that an applicant is likely at any time to become a public charge.<sup>[65]</sup> An officer should not find an applicant inadmissible on the public charge ground solely based on the application for a public benefit in the United States.<sup>[66]</sup>

### *Certified or Approved to Receive a Public Benefit*

Some public benefits may have certification periods in which a person is certified to receive public benefits at a future time. Some public benefits may also require a recertification where the person needs to establish that he or she is and will continue to be eligible for the public benefit.

For example, if the applicant is found eligible for SNAP, he or she will receive a notice that tells the applicant how long he or she will receive SNAP benefits for, which is called the certification period. Before the certification period ends, the applicant would receive another notice that says he or she must recertify to continue receiving benefits.<sup>[67]</sup>

Certification for future receipt of a public benefit does not constitute receipt of public benefits, although it may suggest a likelihood of future receipt.<sup>[68]</sup> Certification or approval to receive one or more public benefits, for more than 12 months in the aggregate within the 36-month period prior to the alien's application for adjustment of status and starting on or after February 24, 2020, is a heavily weighted negative factor. Therefore, for the purposes of determining whether the applicant's receipt of public benefits for more than 12 months is a heavily weighted negative factor, officers do not count benefits received before February 24, 2020.

#### *Withdrawal, Disenrollment, or Request to Disenroll*

A withdrawal, disenrollment, or request to disenroll from public benefits, is considered a positive factor in the totality of the circumstances and may indicate that the person no longer needs the public benefit(s) and may not need the public benefit(s) in the future. Applicants who withdraw, disenroll, or request to disenroll may have become self-sufficient. This may happen before the alien files the adjustment of status application, while an application is pending, or after an interview. However, an applicant may also disenroll and then re-enroll at a later time, which officers may consider as part of the totality of the circumstances.

#### *Amount and Duration Considerations*

In considering how much weight to give to the receipt of public benefits that is 12 months or less in the aggregate within any 36-month period, an officer may consider the dollar amount of public benefit received, where applicable, and how long the alien had received the public benefit.<sup>[69]</sup> Generally, there is no specific dollar amount that makes the applicant more likely than not to become a public charge at any time in the future. However, USCIS may consider the amount in the totality of the circumstances.

Because of the totality of the circumstances review, if an alien who receives a small dollar value in public benefits over an extended period of time, disenrolls from a benefit and later applies for admission or adjustment of status, she or he is not necessarily inadmissible or ineligible for adjustment of status by virtue of such past receipt.<sup>[70]</sup>

#### *Example of Consideration of Dollar Amount of Public Benefits Received*

An officer may consider the fact that a person who received \$15 worth of SNAP for the last year is a heavily weighted negative factor but given a lesser weight in the totality of the circumstances. Other circumstances may include that the applicant has disenrolled from the public benefit and has steady employment and income above the threshold.

For example, all else being equal, an alien who previously received \$15 in monthly SNAP benefits for 16 months, but has since disenrolled, is less likely to require such benefits in the future, as compared to an alien who only recently disenrolled from a \$100 SNAP benefit monthly, or who recently left public housing after a lengthy stay.

#### *Consideration of When the Public Benefit Was Received*

In addition to considering the duration of the benefit received, and the dollar amount, where applicable, USCIS also considers how long ago a public benefit was received. For example, an officer may consider that a person who received SSI benefits for 2 years, ending 10 years before the application for adjustment of status was filed, is a negative factor in the totality of the circumstances. However, the officer would not give this negative factor as much weight in the totality of the circumstances as other factors in the totality of the circumstances.

## B. Summary of Assets, Resources, and Financial Status Factor

The following table provides a non-exhaustive list of positive and negative factors related to assets, resources, and financial status.

**Applicant's Assets, Resources, and Financial Status**

Positive Factors	Negative Factors	Heavily Weighted Positive <sup>[71]</sup>	Heavily Weighted Negative <sup>[72]</sup>
<ul style="list-style-type: none"> <li>• Current employment</li> <li>• Total household gross income at or above 125 percent of the Federal Poverty Guidelines (FPG) (100 percent for those on active duty, other than active duty for training, in the U.S. armed forces)</li> <li>• Financial resources that would make the applicant ineligible to obtain means-tested public benefits</li> <li>• Total household assets and resources in the applicable equivalent amount</li> <li>• Good, very good, or exceptional credit score</li> </ul>	<ul style="list-style-type: none"> <li>• No or low income or applicable equivalent assets</li> <li>• Request, certification of, or receipt of public benefits in the United States as defined</li> <li>• Any bankruptcy filings within the last 2 years</li> <li>• Request or receipt of a fee waiver for immigration benefits</li> <li>• Poor credit score</li> <li>• No private health insurance or sufficient income, assets, or resources to pay for reasonably foreseeable medical costs</li> </ul>	<ul style="list-style-type: none"> <li>• Total household income, assets, or resources, and support of at least 250 percent of the FPG</li> <li>• Private health insurance appropriate for the expected period of admission (not including health insurance for which the alien receives subsidies in the form of premium tax credits under the Patient Protection and Affordable Care Act, as amended)</li> </ul>	<ul style="list-style-type: none"> <li>• Receipt, certification of, or approval of public benefits for more than 12 months in any 36-month period starting before the application for adjustment of status, (calculated no earlier than February 24, 2020)</li> <li>• Medical condition and is uninsured and either lacks the prospect of obtaining private health insurance or lacks the financial resources to pay for reasonably foreseeable medical costs related to such medical condition</li> </ul>

Positive Factors	Negative Factors	Heavily Weighted Positive <sup>[71]</sup>	Heavily Weighted Negative <sup>[72]</sup>
<ul style="list-style-type: none"> <li>Health insurance, not otherwise considered a public benefit, or sufficient income, assets, or resources to pay for reasonably foreseeable medical costs</li> </ul>			

## C. Evidence

An applicant should provide information regarding his or her:

- Annual income, in the form of federal income tax transcripts, Wage and Tax Statements (W-2s), or Social Security Statement;
- Annual income of household members and dependents;
- Health insurance;
- Financial resources; and
- Financial status and liabilities (for example, credit report and score and receipt of public benefits).

USCIS may verify, through the available systems, any information pertaining to income, assets, and resources provided by the applicant with the employer, financial or other institutions, IRS, or Social Security Administration.<sup>[73]</sup>

### 1. Evidence of Income

Federal income tax return transcripts for the most recent tax year are the primary evidence of income. If the income of other household members is included in the total household income, then the federal income tax return transcripts for each person's income must be submitted.

Generally, persons must file tax return when their income is over a certain threshold.<sup>[74]</sup>

If the applicant is filing an application and declaration between January 1 and April 15 of any year, and the applicant or a household member has not yet filed the current year's federal income tax return, the applicant submits the most recent tax year. The officer may issue an RFE for the current tax year transcripts.

If the applicant or the household member(s) were residing outside of the United States during the time required to file a tax return and the person was not required to file a federal individual income tax return with the U.S. government, the alien may submit any tax transcripts filed with any foreign government.

Applicants residing in one of the U.S. territories including American Samoa, Guam, Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands, may not be required to file federal income tax return. Therefore, the territories' tax transcripts may be submitted to establish income.

If federal income tax return transcripts are unavailable because the person is unemployed or he or she was not required to submit federal income tax returns, the applicant may provide other credible and probative evidence of the income, and include an explanation of why such transcripts are not available. A person may not have filed taxes because he or she is not required to file a tax return (i.e. because of unemployment or low income), or a person may have filed a tax extension and may not have filed the final tax return. In such cases, the applicable may provide documentation including:

- W-2, Wages and Tax Statement, and
- Social Security Statement.<sup>[75]</sup>

### *Religious Workers*

Certain religious workers<sup>[76]</sup> may not earn income above 125 percent of the FPG, and this fact is considered as a negative factor in the totality of the circumstances. Congress did not specifically exempt religious workers from the public charge ground of inadmissibility.

The organization sponsoring the religious worker for permanent residence is required to document not only the salary, but also all forms of compensation when filing the Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)), and the petitioner has to show the ability to pay or compensate the religious worker.

Regulations that permit certain religious workers to self-support<sup>[77]</sup> require submission of “verifiable evidence acceptable to USCIS” that document “the sources of self-support.” These sources of self-support are a positive factor in the public charge determination.

For special immigrant religious workers, the sponsoring religious organization must provide an attestation stating that the religious worker will be employed at least 35 hours a week, and that the worker will be provided a complete package of salaried or non-salaried compensation.<sup>[78]</sup> As part of the petition, the employer provides detailed evidence as to the compensation package being offered to the religious worker, which can include salaried and non-salaried compensation, such as room, board, or other remuneration.<sup>[79]</sup>

Additionally, as part of the attestation, the sponsoring religious organization also has to demonstrate the ability and intention to compensate the alien at a level at which the alien and accompanying family members will not become public charges, and that funds to pay the alien's compensation do not include any monies obtained from the alien (excluding reasonable donations or tithing to the religious organization).<sup>[80]</sup>

An applicant may establish that he or she is not likely at any time to become a public charge through evidence submitted by a sponsoring religious organization with respect to that religious worker's compensation package. Some applicants may have taken a “vow of poverty” or similarly made a formal lifetime commitment to poverty in connection with a religious way of life. The underlying Form I-360 for

such an applicant must still include documentation of the required levels of financial support. Such an applicant may demonstrate that he or she is not likely to become a public charge by providing evidence that he or she will be relying on the resources of the sponsoring organization or other sources of support, rather than on public benefits. Religious organizations can demonstrate how they will support religious workers when filing the Form I-360, which is the legal basis for the adjustment of status application, in a number of ways.

Any person or organization who identifies a substantial burden on his or her, or an organization's, exercise of religion such that the Religious Freedom Restoration Act of 1993 (RFRA)<sup>[81]</sup> may require specific relief from any provision of the rule may assert such a claim.<sup>[82]</sup> Any such claim should be submitted in writing along with any supporting documentation or evidence.<sup>[83]</sup>

### *Unskilled Employment*

Unskilled employment, such as agricultural work, or construction, may not provide applicants with income above 125 percent of the FPG, and this fact is considered a negative factor in the totality of the circumstances. Congress did not exempt these groups from the public charge inadmissibility determination.

Officers should review the Immigrant Petition for Alien Worker ([Form I-140](#)), application for labor certification, and Confirmation of Bona Fide Job Offer or Request for Job Portability Under INA Section 204(j) ([Form I-485, Supplement J](#)), along with any evidence provided in support of those forms or the Form I-485 to evaluate the applicant's income. In the totality of the circumstances, an officer may consider an employer-provided compensation package including room, board, and other remuneration. Any compensation that is not a part of cash salary should generally be included as part of the salary for federal tax return purposes and should be annotated in a contract or employment offer. Therefore, officers would not need to review such remunerations outside of the federal income tax returns.

### *Household Annual Gross Income*

Documentation of annual gross income of the applicant and household members and dependents may be provided in the form of:

- The most recent years U.S. federal income tax return transcripts or comparable foreign country document;<sup>[84]</sup>
- Wage and Tax Statements (W-2s); or
- Social Security Statement providing history or annual income.

## 2. Assets and Resources

Documentation of assets and resources must include information regarding the type of asset or resource, the location, ownership, date of acquisition, and its value including any liens or liabilities on the asset or resource.

## 3. Health Insurance

In establishing sufficient assets and resources to cover for any reasonable foreseeable medical costs, an applicant may provide information regarding health insurance. If the alien currently has health insurance,

he or she should provide the following information:

- For each health coverage policy, a copy of each policy page showing:
  - The terms and type of coverage and persons covered; and
  - Annual amount of deductible or annual premium of the health insurance including documentation of the amount of deductible or premium; and
- Letter on the company letterhead or other evidence from the health insurance company stating the alien is currently enrolled in health insurance and providing the terms and type of coverage; or
- The most recent Form 1095-B, Health Coverage; Form 1095-C, Employer-Provided Health Insurance Offer and Coverage (if available) with evidence of renewal of coverage for the current year.

A health insurance card is insufficient proof without evidence of the effective and expiration dates.

If the alien has received a Premium Tax Credit (PTC) or Advanced Premium Tax Credit for the health insurance, he or she must provide a transcript copy of the IRS Form 8963 Report of Health Insurance Provider Information, Form 8962 Premium Tax Credit (PTC), and a copy of Form 1095A, Health Insurance Marketplace Statement.

If the alien indicates that he or she does not currently have health insurance but will soon be enrolled in health insurance, he or she must provide a letter or other evidence from the insurance company showing that he or she has enrolled in or has a future enrollment date for a health insurance plan. The letter or other evidence must include the terms, the type of coverage, that the alien is the person covered, and the date when the coverage begins.

The alien may provide any documentation that may outweigh any negative factors related to a medical condition, including but not limited to:

- Information provided by a civil surgeon or a panel physician on a medical examination;
- An attestation from the treating physician regarding the prognosis of any medical condition and whether this medical condition impacts the ability of the alien to provide and care for him or herself, to attend school, or to work; and
- Evidence of sufficient assets and resources to pay the costs of any reasonably anticipated medical treatment.

## 4. Liabilities

In addition to documentation regarding annual household income, assets, resources, and liabilities, an applicant must provide a copy of his or her latest credit report and score, if available. Applicants are eligible for a free credit report once a year under the Fair Credit Reporting Act (FCRA).<sup>[85]</sup> The alien is only required to provide one credit report from any of the three main credit reporting agencies, Equifax, Experian, and TransUnion<sup>[86]</sup> that generated within the last 12 months. If there are any errors in the credit report, the person should provide information about the error and the report or notice from the credit agency.

Other documentation of liabilities would include mortgage and car payment and credit card statements, leases, and continued payments of other debts.

## 5. Information on Public Benefits Received

An applicant must provide documentation of any receipt of public benefits received which may be in the form of a letter, notice, or other agency documents and must contain the:

- The alien's name;
- Name and contact information for the public benefit-granting agency;
- Type of public benefit;
- Date the alien was authorized to start receiving the benefit or date the coverage starts; and
- Date benefit or coverage ended, expires, or must be recertified (if applicable).

If the applicant indicates he or she received public benefits but is unable to provide specific information on the public benefit receipt because the public benefit-granting agency does not keep the record after a certain period of time, the applicant should provide a letter or statement from the public benefit-granting agency indicating that the information is not available. Officers should only review the information provided by the applicant on the form and the statement from the public benefit-granting agency indicating that such information is not available.

An alien may choose to submit evidence from a Federal, State, local, or tribal agency administering a public benefit showing that the alien does not qualify or would not qualify for such public benefit on account of his or her prospective immigration status or expected period of admission.<sup>[87]</sup>

## Footnotes

---

[^1] See [INA 212\(a\)\(4\)](#).

[^2] See *United States ex rel. Goldberg v. Williams*, 204 F. 828 (S.D.N.Y. 1913) (ruling that mere poverty failed to trigger public charge exclusion). See *In re Feinkopf*, 47 F. 447 (E.D.N.Y. 1891) (40-year-old Austrian arrived with 50 cents cash, \$20 in valuables, and 25 years of experience cabinet-making, his trade).

[^3] See Chapter 8, Family Status [\[8 USCIS-PM G.8\]](#) for information on household size.

[^4] See [INA 213A\(f\)\(3\)](#).

[^5] See [38 U.S.C. 1965\(1\)](#).

[^6] See [38 U.S.C. 1965\(2\)](#).

[^7] For additional information on types of ID cards, see [Uniformed Services ID Card](#).

[^8] For additional information on this heavily weighted factor, see Chapter 15, Totality of the Circumstances Scenarios [\[8 USCIS-PM G.15\]](#).

[^9] Unauthorized employment, however, may have separate immigration consequences unrelated to the public charge inadmissibility determination.

[^10] For additional information see Chapter 8, Family Status [[8 USCIS-PM G.8](#)].

[^11] See [8 CFR 212.22\(b\)\(4\)\(B\)](#).

[^12] See [8 CFR 212.22\(b\)\(4\)\(ii\)\(C\)](#).

[^13] See U.S. Securities and Exchange Commission (SEC), Investor.gov, [Annuities](#).

[^14] See SEC, Investor.gov, [Annuities](#).

[^15] See SEC, Investor.gov, [Stocks](#).

[^16] See SEC, Investor.gov, [Mutual Funds](#).

[^17] See SEC, Investor.gov, [Bonds](#).

[^18] See SEC, Investor.gov, [Bonds](#).

[^19] See SEC, Investor.gov, [Money Market Funds](#).

[^20] See SEC, Investor.gov, [Bonds](#), [U.S. Treasuries](#).

[^21] See SEC, Investor.gov, [Employer-Sponsored Plans](#).

[^22] See SEC, Investor.gov, [Self-Directed Plans - Individual Retirement Accounts \(IRAs\)](#).

[^23] See SEC, Investor.gov, [Federal Government Plans](#).

[^24] See [8 CFR 212.21\(b\)](#).

[^25] See HealthCare.gov, [Qualified Health Plan](#).

[^26] See HealthCare.gov, [Summary of Benefits and Coverage](#).

[^27] See HealthCare.gov, [Types of Health insurance that Count as Coverage](#).

[^28] See [About Tricare](#).

[^29] Cobra Health insurance is a continuation of the employer provided health insurance which would still be considered as private health insurance. The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified persons may be required to pay the entire premium for coverage up to 102 percent of the cost to the plan. See [Health Plans and Benefits: Continuation of Health Coverage - COBRA](#).

[^30] Private health insurance for which the alien receives premium tax credits under the ACA would not qualify as private health insurance for purposes of the heavily weighted positive factor.

[^31] Includes managed care such as health maintenance organizations (HMOs).

[^32] See [8 CFR 212.21\(b\)](#).

[^33] See [8 CFR 212.21\(b\)](#).

[^34] See Chapter 14, Heavily Weighted Factors [[8 USCIS-PM G.14](#)].

[^35] See Chapter 14, Heavily Weighted Factors [[8 USCIS-PM G.14](#)].

[^36] For more information see Chapter 7, Health [[8 USCIS-PM G.7](#)].

[^37] The officer should follow the procedures outlined in Volume 8, Part B, Health-Related Grounds of Inadmissibility [[8 USCIS-PM B](#)].

[^38] See *Ex Parte Orzechowska*, 23 F. Supp 428 (D. Or. 1938) (applicant not a public charge as family was paying for cost of hospital mental health treatment).

[^39] The officer should rely on the diagnosis and prognosis contained in the immigration medical documentation or other medical documentation, including the documentation from the civil surgeon or panel physician, or any other licensed medical professional treating the alien.

[^40] See *Lisotta v. United States*, 3 F.2d 108 (5th Cir. 1924). See *Matter of V-*, 5 I&N Dec. 725 (BIA 1954).

[^41] See [IRS Publication 525, Taxable and Nontaxable Income](#).

[^42] Note that income from alimony, royalties and retirement pension are taxable income. See [IRS Publication 525, Taxable and Nontaxable Income](#).

[^43] See [Income Taxes and Your Social Security](#).

[^44] See [15 U.S.C. 1681\(b\)\(a\)\(3\)\(D\)](#).

[^45] An applicant has the right to dispute any errors or inaccuracies in the credit report with the credit agency. See the Fair Credit Reporting Act (FCRA).

[^46] See [Credit Reports and Scores](#).

[^47] See Federal Trade Commission, [Consumer Information: Credit Scores](#).

[^48] See [Consumer Financial Protection Bureau, What is a FICO score?](#)

[^49] See the Request for Fee Waiver ([Form I-912](#)).

[^50] See [8 CFR 103.7\(d\)](#). See [22 CFR 41.107\(c\)](#) (listing categories of aliens exempt from nonimmigrant visa fees). See [9 FAM 403.4-3](#) (same). Diplomats, UN visitors, U.S. Government employees, and those coming to perform charitable work are typical classes of aliens whose nonimmigrant visa fees are exempted.

[^51] For more information, see Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)].

[^52] See Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)].

[^53] As defined in Chapter 10, Public Benefits [[8 USCIS-PM G.10](#)].

[^54] See [Matter of Perez \(PDF\)](#), 15 I&N Dec 136 (BIA 1974) (quoting [Matter of Martinez-Lopez \(PDF\)](#), 10 I&N Dec. 409, 421-22 (BIA 1962; A.G. 1964)) (The general tenor of the holdings is that the statute [section 212(a) (15) of the Act] requires more than a showing of a possibility that the alien will require public support).

[^55] See [INA 212\(a\)\(4\)](#). See [Matter of Martinez-Lopez \(PDF\)](#), 10 I&N Dec. 409 (A.G. 1964). See [Matter of Harutunian \(PDF\)](#), 14 I&N Dec. 583 (Reg. Comm. 1974). See [Matter of A- \(PDF\)](#), 19 I&N Dec. 867 (BIA 1988).

[^56] Based on the public benefits definition, only duration of receipt of the public benefit is relevant and therefore, the receipt of a public benefit is not apportioned among the number of household members in the alien's family. See [84 FR 41292, 41334 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

[^57] See [8 CFR 212.22\(b\)\(4\)\(ii\)\(E\)\(1\)](#). Similarly, if the alien has been certified or approved to receive any public benefit, or withdrew his or her application or disenrolled or requested to be disenrolled, the officer may consider that aspect in the totality of the alien's circumstances when assessing whether the alien is likely to become a public charge in the future. See [8 CFR 212.22\(b\)\(4\)\(ii\)\(E\)\(2\)](#). For more information, see Chapter 4, Prospective Determination Based on Totality of the Circumstances [[8 USCIS-PM G.4](#)], and Chapter 15, Totality of the Circumstances Scenarios [[8 USCIS-PM G.15](#)].

[^58] See [8 CFR 212.21\(b\)](#).

[^59] See Chapter 14, Heavily Weighted Factors, Section A, Heavily Weighted Negative Factors [[8 USCIS-PM G.14\(A\)](#)].

[^60] See [8 CFR 212.21\(a\)](#) and [8 CFR 212.22\(a\)](#).

[^61] Under [INA 212\(a\)\(4\)](#).

[^62] See [INA 212\(a\)\(4\)\(C\)](#).

[^63] See [64 FR 28689 \(PDF\)](#) (May 26, 1999).

[^64] See [64 FR 28689, 28692 \(PDF\)](#) (May 26, 1999). This would be inclusive of Medicaid received for long-term institutionalization by aliens under the age of 18 or pregnant women.

[^65] See [Matter of Perez \(PDF\)](#), 15 I&N Dec 136 (BIA 1974) (quoting [Matter of Martinez-Lopez \(PDF\)](#), 10 I&N Dec. 409, 421-22 (BIA 1962; A.G. 1964)) (The general tenor of the holdings is that the statute [section 212(a) (15) of the Act] requires more than a showing of a possibility that the alien will require public support).

[^66] See [INA 212\(a\)\(4\)](#). See [Matter of Martinez-Lopez \(PDF\)](#), 10 I&N Dec. 409 (A.G. 1964). See [Matter of Harutunian \(PDF\)](#), 14 I&N Dec. 583 (Reg. Comm. 1974). See [Matter of A- \(PDF\)](#), 19 I&N Dec. 867 (BIA 1988).

[^67] See generally [7 CFR Part 273](#). See [USDA SNAP Eligibility](#).

[^68] See [8 CFR 212.21\(e\)](#).

[^69] See [84 FR 41292, 41361 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

[^70] See [84 FR 41292, 41361 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction).

[^71] See Chapter 14, Heavily Weighted Factors [[8 USCIS-PM G.14](#)].

[^72] See Chapter 14, Heavily Weighted Factors [[8 USCIS-PM G.14](#)].

[^73] See [8 CFR 213a.2\(c\)\(2\)\(v\)](#).

[^74] See [Publication 17, Filing Requirements for Most Taxpayers](#).

[^75] See [Get Your Social Security Statement](#).

[^76] For example, special immigrant religious workers under [INA 101\(a\)\(27\)\(C\)](#) qualify for adjustment of status under [INA 245\(a\)](#), notwithstanding certain bars under [INA 245\(c\)](#).

[^77] See [8 CFR 214.2\(r\)\(11\)\(ii\)](#).

[^78] See [8 CFR 204.5\(m\)\(7\)\(vi\)](#), [\(vii\)](#), and [\(xii\)](#).

[^79] See [8 CFR 204.5\(m\)\(10\)](#).

[^80] See [8 CFR 204.5\(m\)\(7\)\(xii\)](#).

[^81] See Section 3 of [Pub. L. 103-141 \(PDF\)](#), 107 Stat. 1488, 1488 (November 16, 1993).

[^82] Note that that persons “located outside sovereign United States territory at the time their alleged RFRA claim arose” are not “person[s]” within the meaning of RFRA. *Rasul v. Myers*, 512 F.3d 644, 672 (D.C. Cir.), cert. granted, judgment vacated on other grounds, 555 U.S. 1083 (2008).

[^83] Officers must consult with the Office of Chief Counsel (OCC) for such requests.

[^84] If a person was not required to file a U.S. federal, state, or territory tax return, the person may provide a foreign taxable income tax return filed with a foreign government.

[^85] See [15 U.S.C. 1681](#). See Consumer Credit Reporting Reform Act of 1996, [Pub. L. 104-208 \(PDF\)](#) (September 30, 1996). See the [Federal Trade Commission, Consumer Information on Free Credit Reports](#).

[^86] See [USA.gov Credit Reports and Scores](#) for more information.

[^87] See [8 CFR 212.22\(b\)\(4\)\(ii\)\(E\)\(3\)](#).

Current as of February 10, 2021

---