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DHS Statement on Litigation Related to the Public Charge Ground of Inadmissibility

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On February 2, 2021, the President issued Executive Order 14,012, directing the Secretary of Homeland Security to review the actions of the Department of Homeland Security (DHS or Department) related to the implementation of the public charge ground of inadmissibility. Consistent with the Executive Order, DHS has begun its review, as well as its consultation with other relevant agencies.

As part of its review, DHS has determined that continuing to defend the final rule, Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (Aug. 14, 2019) (2019 Rule), is neither in the public interest nor an efficient use of limited government resources. Consistent with that decision, the Department of Justice will no longer pursue appellate review of judicial decisions invalidating or enjoining enforcement of the 2019 Rule.

Once the previously entered judicial invalidation of the 2019 Rule becomes final, the 1999 interim field guidance (<https://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds>) on the public charge inadmissibility provision (i.e., the policy that was in place before the 2019 Rule) will apply. Under the 1999 interim field guidance, DHS will not consider a person's receipt of Medicaid (except for Medicaid for long-term institutionalization), public housing, or Supplemental Nutrition Assistance Program (SNAP) benefits as part of the public charge inadmissibility determination. In addition, medical treatment or preventive services for COVID-19, including vaccines, will not be considered for public charge purposes.

DHS and USCIS will provide additional updates regarding the administration of the public charge ground of inadmissibility, including announcing when DHS will cease applying the 2019 Rule.

For more information on equal access to vaccines and vaccine distribution sites specifically, please see DHS's [February 1 statement](https://www.dhs.gov/news/2021/02/01/dhs-statement-equal-access-covid-19-vaccines-and-vaccine-distribution-sites) (<https://www.dhs.gov/news/2021/02/01/dhs-statement-equal-access-covid-19-vaccines-and-vaccine-distribution-sites>) on that subject.

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