

# FREQUENTLY ASKED QUESTIONS

## COVID-19 Relief Legislation and Immigrants

APRIL 2020

Congress has passed four [new laws](#) in response to the COVID-19 (novel coronavirus) pandemic.<sup>1</sup> These laws provide for financial support for businesses, health care providers and, in some cases, [individuals](#).<sup>2</sup> The relief provided under these laws constitutes disaster assistance, which is *not* considered a public benefit under the public charge regulations.

This document provides (1) answers to some frequently asked questions about public charge implications for families who are seeking public programs during the COVID-19 crisis and (2) answers to questions about immigrant eligibility for programs under new and existing policies.

### PUBLIC CHARGE

#### **Have the public charge regulations been suspended?**

No. Public charge regulations published by the U.S. Department of Homeland Security (DHS) and the U.S. State Department went into effect on February 24, 2020, and *remain in effect*. Litigation challenging both sets of regulations is ongoing.

#### **Will receiving Medicaid for COVID-19 testing and treatment be considered in a public charge determination?**

No. U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it will not consider testing, treatment, or preventive care related to COVID-19 as part of a public charge determination, even if the services are provided or paid for by Medicaid or another program considered under the public charge regulations.<sup>3</sup> The regulations also exempt emergency Medicaid from the benefits that can be considered in a public charge assessment.

#### **If an immigrant receives SNAP (Supplemental Nutrition Assistance Program, or food stamps) or cash assistance for reasons connected to COVID-19, such as a workplace closure, will those benefits be considered in a public charge determination?**

Maybe. USCIS [has said](#) that it will consider all “relevant and credible” evidence that a person’s need for benefits was related to the COVID-19 outbreak and recovery period as factors in the person’s public charge determination.<sup>4</sup> However, it has not said that it would disregard the use of benefits specified in the regulations (other than for virus-related testing and treatment).

#### **Will receipt of the Economic Impact Payment (\$1,200 stimulus check) be counted against immigrants in a public charge determination?**

No, the payment is a tax credit. Tax credits are not counted in a public charge determination.

### **Will receipt of unemployment benefits (under old or new programs) be counted against immigrants in a public charge determination?**

No, unemployment insurance is considered an earned benefit that is not counted in a public charge determination.

### **Will receipt of Pandemic EBT be counted against immigrants in a public charge determination?**

No, this benefit is a replacement for free and reduced-price school meals, which are not considered in a public charge determination.

### **Will Federal Direct Student Aid from the CARES Act funding count against individuals in a Public Charge evaluation?**

No. Educational benefits are not considered in public charge determinations.

## ELIGIBILITY

For an overview of the federal public programs available to support individuals and families during the COVID-19 crisis, refer to the Protecting Immigrant Families quick reference guide, available in [English](#) and [Spanish](#).<sup>5</sup> More detailed information can be found below.

### **Do the COVID-19 relief laws provide funding for immigrants who are not eligible for full-scope Medicaid to receive testing and treatment for COVID-19?**

[The Families First Coronavirus Response Act](#) provides funding for people who are uninsured to receive testing through community health centers, outpatient clinics, and doctors' offices.<sup>6</sup> It also allows states to receive a 100 percent federal match for testing provided through their Medicaid programs but does not change the restrictions on immigrants' eligibility for Medicaid.

The laws do not provide any direct funding for treatment. However, they provide funding for community health centers, which treat everyone regardless of their immigration or insurance status, and for hospitals, which may provide financial assistance or charity care.

### **Can immigrants receive COVID-19 testing and treatment through emergency Medicaid?**

Some states (including [New York](#), [California](#), and [Washington](#)) have defined testing and treatment for symptoms of COVID-19 as emergency services within their emergency Medicaid programs.<sup>7</sup> Federal law makes emergency Medicaid available to any resident of a state who would be eligible for comprehensive Medicaid if they had a qualifying immigration status. States determine which health conditions may fall within the federal definition of "[emergency medical condition](#)."<sup>8</sup> Given the life-threatening nature of the COVID-19 virus, the absence of immediate medical attention clearly meets the criterion of "placing a patient's health in serious jeopardy" and other criteria for an emergency medical condition under the federal law.

### **Will U.S. citizen children in mixed-immigration status families be eligible to receive Economic Impact Payments?**

Eligibility for the payments is based on whether the tax-filer (and spouse, if filing jointly) has a Social Security number (SSN). If a parent filed taxes using an Individual Taxpayer Identification Number

(ITIN), their children are not eligible. This is also true for households with married couples filing jointly, even if one parent filed taxes with a Social Security number and the other filed with an ITIN. There is an exception for certain military families (who can qualify if only one spouse has an SSN).

### **Can states provide immigrants access to Disaster SNAP (D-SNAP) in response to the COVID-19 crisis?**

D-SNAP requires a presidentially declared disaster *with individual benefits* under FEMA. This has not been declared under COVID-19, and therefore states have not been approved to issue D-SNAP benefits.

### **Which students are eligible to receive emergency financial aid grants?**

The U.S. Department of Education has issued [guidance](#) stating that only students who are or could be eligible to participate in programs under section 484 of the Higher Education Act (HEA) may receive emergency financial aid grants.<sup>9</sup> This restriction is not in the statute.

The criteria to participate in programs under section 484 of the HEA include but are not limited to U.S. citizenship or eligible noncitizens, who have a valid Social Security number. Unfortunately, many immigrants, including people with Deferred Action for Childhood Arrivals (DACA) or temporary protected status (TPS), are ineligible for federal financial student aid, including the emergency grants.

---

<sup>1</sup> <https://www.nilc.org/issues/economic-support/impact-of-covid19-relief-bills-on-immigrant-communities/>.

<sup>2</sup> <https://protectingimmigrantfamilies.org/immigrant-eligibility-for-public-programs-during-covid-19/>.

<sup>3</sup> <https://www.uscis.gov/greencard/public-charge>.

<sup>4</sup> <https://www.uscis.gov/greencard/public-charge>.

<sup>5</sup> English: <https://protectingimmigrantfamilies.org/immigrant-eligibility-for-public-programs-during-covid-19/>;

Spanish: <https://protectingimmigrantfamilies.org/elegibilidad-de-inmigrantes-para-programa-publicos-covid-19/>.

<sup>6</sup> <https://www.nilc.org/issues/health-care/update-on-access-to-health-care-for-immigrants-and-their-families/>.

<sup>7</sup> New York: [https://health.ny.gov/health\\_care/medicaid/program/update/2020/no07\\_2020-03\\_covid-19\\_reimbursement.htm](https://health.ny.gov/health_care/medicaid/program/update/2020/no07_2020-03_covid-19_reimbursement.htm); California: <https://www.dhcs.ca.gov/Documents/COVID-19/COVID-19-Emergency-Services.pdf>; Washington: <https://www.hca.wa.gov/assets/free-or-low-cost/aem-covid-19.pdf>.

<sup>8</sup> <https://www.law.cornell.edu/definitions/uscode.php>.

<sup>9</sup> <https://www2.ed.gov/about/offices/list/ope/heerfstudentfaqs.pdf>.