

Immigration & Public Benefits: Current Rules & Future Possibilities

We do know how—or if—the new administration will change the policies affecting noncitizens who receive public benefits like Medicaid. Below are the current policies and some potential changes that the new presidential administration might make.

Immigrants & Public Benefits: Current Policies	What Might Change if the President Signs a New Executive Order?
<p>(1) If a patient <i>wants to apply</i> for a family-based green card, they <u>might</u> be denied if they receive:</p> <ul style="list-style-type: none"> • Supplemental Security Income (SSI) • Cash assistance • Long-term medical care at government expense (for example, institutionalization in a nursing home or residential medical facility paid for by Medicaid) <p>Under current law, supplemental benefits, earned benefits, or non-cash benefits will <u>not</u> affect a patient’s ability to obtain a family-based green card or deportability. Therefore, it is safe for them to apply for and receive:</p> <ul style="list-style-type: none"> • Food Stamps, WIC, emergency food assistance, soup kitchens or food pantries • Non-cash benefits like child care or transit subsidies; housing, rental, or energy assistance; Head Start or pre-K; foster care or adoption assistance • Social Security Disability Insurance (SSDI), Social Security retirement, or veterans benefits • Emergency services like disaster relief, crisis counseling or short-term shelter • Unemployment Insurance or Workers Compensation • CHIP, Medicaid, or other coverage for short-term rehabilitation, immunizations, emergency or preventative care, and other services (other than institutionalization). 	<p>(1) If a patient <i>wants to apply</i> for a family-based green card and the new Order is signed, they <u>might</u> be denied if they receive (or received in the past) <u>any</u> Federal means-tested benefit.</p> <ul style="list-style-type: none"> ➔ <i>It is unknown exactly what expanded list of benefits would be taken into consideration, or if the list would include Emergency and/or regular Medicaid used for treatment other than long-term institutionalization</i> ➔ <i>It is unknown whether any receipt of public benefits would automatically disqualify patients for a green card, or if the government would only consider it one factor.</i> ➔ <i>Signing the Order would not have an immediate effect; many specific rules would have to be changed after the Order was signed before this new policy could be implemented.</i> <ul style="list-style-type: none"> • Non-means-tested benefits such as SSDI, SSA retirement, workers compensation, unemployment insurance, or veterans benefits would not be affected
<p>(2) If a patient <i>already has</i> a family-based green card, they can be deported <u>if</u></p> <ul style="list-style-type: none"> • They receive SSI, cash assistance, or are institutionalized long-term at government expense <u>within 5 years of entering the U.S.;</u> • The need for government benefits is based on circumstances (age, infirmity, etc.) <u>that existed before they entered;</u> • The government demands repayment during that 5-year period; and • The patient or the patient’s sponsor cannot repay the government. <p>Right now, the government almost never tries to deport noncitizens on this basis.</p>	<p>(2) If a patient <i>already has</i> a family-based green card and the Order is signed, the government might try to deport them <u>if</u></p> <ul style="list-style-type: none"> • They received any means-tested benefits <u>within 5 years of entering the U.S.;</u> and • The need for government benefits is based on circumstances <u>that existed before they entered the country.</u> <ul style="list-style-type: none"> ➔ <i>Signing the Order would not have an immediate effect; the government would have to go through a lengthy process to change many existing rules and overturn existing case law before they could attempt to deport anyone.</i> ➔ <i>Even if the rules changed, it is unknown whether changes would be applied retroactively to green card holders who received benefits before the change in policy.</i>

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<p>(3) If a patient already has a green card, receiving benefits will not affect their ability to naturalize.</p>	<p>(3) If a patient already has a green card, receiving benefits will not affect their ability to naturalize (unless they are in Category (2) above and the government tries to deport them)</p>
<p>(4) If a patient is already U.S. citizen or has a green card, they can receive <u>any</u> public benefit and it will not affect their ability to sponsor family members for a green card. However, there are certain income guidelines they must meet in order to sponsor a family member, so they should speak with an attorney before submitting an application.</p>	<p>(4) If a patient is already U.S. citizen or has a green card, the new Order will not change their ability to sponsor family members for a green card (unless they are in Category (2) above and government tries to deport them)</p>
<p>(5) If a patient is applying for or has been granted asylum, VAWA, a U Visa, T Visa, Special Immigrant Juvenile Status (SIJS), or Temporary Protected Status (TPS), their income or use of <u>any</u> public benefit will not affect their application or status.</p>	<p>(5) If a patient is applying for or has been granted asylum, VAWA, a U Visa, T Visa, Special Immigrant Juvenile Status (SIJS), or Temporary Protected Status (TPS), the new Order will not affect their application or status.</p>
<p>(6) If a patient does not have status but their children are U.S. citizens or have lawful status, the parent can apply for <u>any</u> benefits for their children. Doing so will not make the parent ineligible to apply for any lawful status in the future.</p>	<p>(6) If a patient does not have status but their children are U.S. citizens or have lawful status, the parent can still apply for any benefits for their children—the new Order will not change this. A new Executive Order stated that only noncitizens who have “abused any program related to receipt of public benefits” will be a priority for deportation, but it is not clear that U.S. citizen children receiving the benefits for which they are entitled is “abuse.” Immigration officials can already try to deport undocumented patients who have no lawful status, regardless of whether their children receive benefits.</p>
<p>(7) If a patient is in the U.S. temporarily on a visitor’s visa and receives government-funded medical care via Emergency or regular Medicaid, their visitor’s visa <u>might</u> be revoked when they return to their home country if the U.S. government discovers they received publicly funded health care. The government usually discovers this by asking the patient why they visited the U.S. previously, and when told they were receiving medical treatment, ask the patient how they paid for their treatment and proof of payment.</p>	<p>(8) If a patient is in the U.S. temporarily on a visitor’s visa and receives government-funded medical care, their visitor’s visa <u>might</u> be revoked when they return to their home country if they cannot show that they paid for their medical expenses with their own funds. The new Order will not necessarily change this policy, but the new administration might be more aggressive about revoking people’s visas or barring entry if they think people will receive publicly-funded medical care. The new Order also directs the State Department to “combat birth tourism,” so travelers who come to the U.S. on tourist visas to give birth might face harsher consequences than before and be more likely to lose their visas.</p>