



Local Commissioners Memorandum

Section 1

Transmittal:	23-LCM-06, 23-OCFS-LCM-05
To:	Social Services District Commissioners
Issuing Division/Office:	Employment and Income Support Programs/Office of Temporary and Disability Assistance Child Welfare and Community Services/Office of Children and Family Services
Date:	March 31, 2023
Subject:	2022 Public Charge Ground of Inadmissibility Final Rule
Contact Person(s):	NYS OTDA TA Bureau: (518) 474-9344 or otda.sm.cees.tabureau@otda.ny.gov NYS OTDA SNAP Bureau: (518) 473-1469 or otda.sm.cees.snap@otda.ny.gov NYS OCFS: (518) 402-3130 or info@ocfs.ny.gov

Section 2

I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to notify social services districts (districts) that the United States Department of Homeland Security’s (DHS) 2022 Public Charge Ground of Inadmissibility final rule went into effect on December 23, 2022. The information provided in this directive is for informational purposes only. There is no district action required at this time.

II. Background

Congress established that certain non-citizen visa, admission, or adjustment of immigration status applications can be denied if they are found likely, at any time, to become a “public charge.” For DHS, a public charge inadmissibility determination is based on certain non-citizens’ likelihood of becoming primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or long-term institutionalization at the government’s expense.

The New York State Office of Temporary and Disability Assistance (OTDA) issued [21-LCM-13](#) and [GIS Message 21 TA/DC033](#) to inform districts that the August 2019 Public Charge Ground of Inadmissibility final rule was vacated on March 9, 2021. As a result, the 1999 Interim Field Guidance on the public charge inadmissibility provision (i.e., the policy that was in place before the 2019 final rule) temporarily went back into effect until such time that the 2022 final rule became effective on December 23, 2022.

Additionally, in accordance with the federal outreach request to ensure that households are informed of Supplemental Nutrition Assistance Program (SNAP) public charge policies, OTDA released [22-LCM-04](#), which directed districts to display public charge outreach posters (in English and Spanish) in all reception and lobby areas where applications for Public Assistance (PA) and/or SNAP are accepted.

III. Program Implications

Under the 2022 Public Charge Ground of Inadmissibility final rule, the receipt of PA or Supplemental Security Income (SSI) by certain non-citizens is one factor that may be considered when evaluating whether they are likely to become a public charge, and it could affect whether they are eligible for admission to the U.S. or able to adjust their immigration status to become a lawful permanent resident (LPR). The receipt of Medical Assistance (MA) (except for long-term institutionalization at the government's expense) and SNAP by non-citizens, are not considered as part of the public charge inadmissibility determination.

There is no change to the eligibility criteria, application, or case closing processes associated with PA, SNAP, and/or MA. Any individual who contacts their district office seeking to submit an application for benefits, withdraw an application, or disenroll from benefits by closing their case must be permitted to do so.

Lastly, districts are reminded that, in accordance with [21-LCM-13](#), workers must not offer advice, recommendations, or opinions about how an individual's receipt of benefits might impact a public charge determination. Individuals with questions specific to public charge, including but not limited to how the receipt of benefits might affect the individual's immigration application or status, should be directed to contact their immigration attorney and/or call the New York State Office for New Americans (ONA) Hotline at: 1-800-566-7636.

Issued By:

Name: Valerie T. Figueroa

Title: Deputy Commissioner

Division/Office: Employment and Income Support Programs/Office of Temporary and Disability Assistance

Name: Lisa Ghartey Ogundimu

Title: Deputy Commissioner

Division/Office: Division of Child Welfare and Community Services/Office of Children and Family Services