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# USCIS Public Charge Rule Results in Amended Forms – American Immigration Lawyers Association (AILA) Sues to Delay Implementation

**October 10, 2019**

The Department of Homeland Security (DHS) published the Inadmissibility on Public Charge Grounds rule on August 14, 2019, which dramatically revised the regulations governing the application of the public charge inadmissibility ground under INA §212(a)(4). The final rule outlines new factors to be considered when a USCIS officer is determining whether someone is likely at any time in the future to become a public charge, is inadmissible under section 212(a)(4) of the INA and, therefore, ineligible for admission or adjustment of status. The rule applies to applicants for admission, aliens seeking to adjust their status to that of lawful permanent residents from within the United States, and aliens within the United States who hold a nonimmigrant visa and seek to extend their stay in the same or other nonimmigrant classification.

This new rule substantially affects the immigration process and will result in additional questions on many forms used by non-citizens and employers to apply or petition for an immigration benefit. However, departing from its standard practice, U.S. Citizenship and Immigration Services (USCIS) has no plans to publish the new forms until October 15, 2019, the day they go into effect. Immigration practitioners and beneficiaries are scrambling to file cases and have them postmarked by October 14, 2019, before the new regulatory requirements go into effect and before they must confront without preparation, a new "form" protocol. The following forms are affected by this new rule:

- I-129 (H, L, O, TN, etc. petition)
- I-539 (application to extend/change immigrant status)
- I-539A (I-539 co-applicant form)
- I-485 (adjustment of status to permanent residence)

- Form I-944 Declaration of Self-Sufficiency that I-485 adjustment of status applicants will have to complete to provide information on receipt of public benefits.
- I-912 (request for fee waiver)

There are several pending lawsuits challenging the substance of the public charge rule. However, the American Immigration Lawyers Association (AILA) filed suit on October 7, 2019 in the United States District Court for the District of Columbia to obtain a transition period for the new forms. Plaintiffs argue that USCIS' failure to publish the new forms in advance and not permit a transition period prevents non-citizens and employers from filing applications and petitions for immigration benefits. As stated in the complaint, the suit seeks to prevent USCIS from implementing its arbitrary and capricious plan to stop accepting the current versions of Forms I-485, I-129, I-539, I-864, and I-864EZ, if postmarked on or before October 14, 2019.

For any questions regarding this issue, please contact your Proskauer Attorney.