



GMS Flash Alert

Immigration Edition

2020-411 | September 28, 2020

United States - USCIS Resumes Implementing Public Charge Rule

On September 22, 2020, U.S. Citizenship and Immigration Services (USCIS) announced that the agency will resume applying the public charge regulation nationwide, including in Connecticut, New York, and Vermont.¹ This announcement follows the Second Circuit's decision of September 11, 2020, to stay a limited injunction against the Department of Homeland Security, which prevented the agency from implementing the public charge rule while lawsuits challenging its enforcement advance through the courts.

(For more information and prior coverage on the injunction, please see GMS [Flash Alert 2020-355](#), August 14, 2020.)

WHY THIS MATTERS

USCIS' announcement confirms that employers and employees must resume answering questions and providing documentation required by the public charge rule for pending Extension of Stay, Change of Status, and Adjustment of Status applications and petitions postmarked, or electronically filed, on or after February 24, 2020 (the original date that the rule was implemented).

USCIS will not re-adjudicate Extension of Stay, Change of Status, and Adjustment of Status applications for which a decision was rendered between July 29, 2020 (the effective date of the injunction) to September 22, 2020.

Extensions and Change of Status Applications

As of September 22, 2020, petitioners and applicants seeking an extension of stay or change of status should answer the public charge questions on the applicable forms. USCIS has not provided a grace period for answers to public charge questions on applications to extend or change status. As such, **USCIS is expected to issue Requests for Evidence (RFEs) to obtain any outstanding public charge information relating to pending cases that were filed between July 29, 2020 and September 22, 2020.**

Adjustment of Status Applications

USCIS will require Adjustment of Status (“AOS”) applicants to submit Form I-944, the *Declaration of Self-Sufficiency*, and related documentation starting October 13, 2020 (please see details below):

- **AOS filings received before October 13, 2020:** AOS applicants may continue to file Form I-485 without a Form I-944, as long as the case is received by USCIS before October 13, 2020. USCIS will not reject these applications, but will issue RFEs for the missing Forms I-944 and related documents. Additionally, USCIS is expected to issue RFEs in relation to pending AOS applications that were filed without Form I-944 and related documentation between July 29, 2020 and September 22, 2020.
- **AOS filings received on or after October 13, 2020:** These filings will be rejected unless they include Form I-944 and related documentation, or are exempt from the public charge regulation.

KPMG NOTE

Please note that the U.S. Department of State continues to be barred from enforcing its public charge regulation, which applies to foreign nationals applying for visas from outside of the country.

KPMG Law LLP in Canada is tracking these matters closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTE:

1 USCIS Announcement: <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge/injunction-of-the-inadmissibility-on-public-charge-grounds-final-rule> .

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Contact us

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