

Federal Court Enjoins DHS Enforcement of Public Charge Rule

Elizabeth Przybysz

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On July 29, 2020, the U.S. District Court for the Southern District of New York (SDNY) in *State of New York, et al. v. DHS, et al. and Make the Road NY et al. v. Cuccinelli, et al.* enjoined the Department of Homeland Security (DHS) from enforcing, applying, implementing, or treating as effective the Inadmissibility on Public Charge Grounds Final Rule for any period during which there is a declared national health emergency in response to the COVID-19 outbreak. A summary of the Inadmissibility on Public Charge Grounds Final Rule that is now enjoined can be found [here](#).

On July 31, 2020, the USCIS issued guidance, which states “As long as the July 29, 2020, SDNY decision is in effect, USCIS will apply the 1999 public charge guidance that was in place before the Public Charge Rule was implemented on Feb. 24, 2020 to the adjudication of any application for adjustment of status on or after July 29, 2020. In addition, USCIS will adjudicate any application or petition for extension of nonimmigrant stay or change of nonimmigrant status on or after July 29, 2020, consistent with regulations in place before the Public Charge Rule was implemented; in other words, we will not apply the public benefit condition.”

This means that for applications and petitions that USCIS adjudicates on or after July 29, 2020, it will not consider any information provided by an applicant or petitioner that relates to the Public Charge Rule. Under the Inadmissibility on Public Charge Grounds Final Rule, foreign national employees were required to answer additional questions on multiple forms used to apply for immigration benefits. Further, foreign national employees

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were required to submit a substantial amount of supporting documentation related to individual income and assets.