

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

**Illinois Coalition for Immigrant and Refugee Rights, Inc.,**

Plaintiffs,

v.

**Alejandro Mayorkas, in his official capacity as Acting Secretary of U.S. Department of Homeland Security; et al.**

Defendants.

Case No. 19-cv-6334

**NOTICE**

In the March 5, 2021 joint status report, Defendants noted “the Department of Homeland Security (‘DHS’) . . . has been reviewing the Public Charge Rule in response to an Executive Order issued by President Biden,” and that the “U.S. Department of Justice (‘DOJ’), in turn, has likewise been assessing how to proceed in the relevant litigations concerning the Public Charge Rule.” ECF No. 247. Defendants offered to “file a notice with the Court promptly after a determination is made by DHS and/or DOJ which would have a material effect on this litigation.” *Id.*

Accordingly, Defendants hereby notify the Court that, yesterday (March 9, 2021), DHS released a statement indicating that (i) it “has determined that continuing to defend the final rule, Inadmissibility on Public Charge Grounds . . . is neither in the public interest nor an efficient use of limited government resources,” (ii) the Department of Justice is no longer “pursu[ing] appellate review of judicial decisions invalidating or enjoining enforcement of the 2019 Rule,” and (iii) “[o]nce the previously entered judicial invalidation of the 2019 Rule becomes final, the 1999

interim field guidance on the public charge inadmissibility provision (i.e., the policy that was in place before the 2019 Rule) will apply.” Ex. A.

Consistent with DHS’s statement, Defendants filed a motion to voluntarily dismiss its appeal of the Court’s Order granting Plaintiffs’ Motion for Summary Judgment (ECF No. 221). *See* Unopposed Motion to Voluntarily Dismiss, No. 20-3150, ECF No. 23 (7th Cir. March 9, 2021). The Seventh Circuit promptly granted this motion, and concurrently issued its mandate. *See* Order Dismissing Appeal, No. 20-3150, ECF No. 24-1 (7th Cir. March 9, 2021); Notice of Issuance of Mandate, No. 20-3150, ECF No. 24-2 (7th Cir. March 9, 2021).

Shortly afterwards, DHS issued another statement, confirming that “[f]ollowing the Seventh Circuit dismissal,” the “final judgment from the Northern District of Illinois, which vacated the 2019 public charge rule, went into effect” and, “[a]s a result, the 1999 interim field guidance on the public charge inadmissibility provision (i.e., the policy that was in place before the 2019 public charge rule) is now in effect.” Ex. B.

Defendants will confer with Plaintiffs, in advance of the March 12, 2021 hearing, over whether any further proceedings in this matter are necessary in light of the aforementioned developments.

Dated: March 10, 2021

Respectfully submitted,

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# **Exhibit A**



# DHS Statement on Litigation Related to the Public Charge Ground of Inadmissibility

**Release Date:** March 9, 2021

On February 2, 2021, the President issued Executive Order 14,012, directing the Secretary of Homeland Security to review the actions of the Department of Homeland Security (DHS or Department) related to the implementation of the public charge ground of inadmissibility. Consistent with the Executive Order, DHS has begun its review, as well as its consultation with other relevant agencies.

As part of its review, DHS has determined that continuing to defend the final rule, *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. 41,292 (Aug. 14, 2019) (2019 Rule), is neither in the public interest nor an efficient use of limited government resources. Consistent with that decision, the Department of Justice will no longer pursue appellate review of judicial decisions invalidating or enjoining enforcement of the 2019 Rule.

Once the previously entered judicial invalidation of the 2019 Rule becomes final, the [1999 interim field guidance](https://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds) (<https://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds>) on the public charge inadmissibility provision (i.e., the policy that was in place before the 2019 Rule) will apply. Under the 1999 interim field guidance, DHS will not consider a person's receipt of Medicaid (except for Medicaid for long-term institutionalization), public housing, or Supplemental Nutrition Assistance Program (SNAP) benefits as part of the public charge inadmissibility determination. In addition, medical treatment or preventive services for COVID-19, including vaccines, will not be considered for public charge purposes.

DHS and USCIS will provide additional updates regarding the administration of the public charge ground of inadmissibility, including announcing when DHS will cease applying the 2019 Rule.

For more information on equal access to vaccines and vaccine distribution sites specifically, please see DHS's [February 1 statement](https://www.dhs.gov/news/2021/02/01/dhs-statement-equal-access-covid-19-vaccines-and-vaccine-distribution-sites) (<https://www.dhs.gov/news/2021/02/01/dhs-statement-equal-access-covid-19-vaccines-and-vaccine-distribution-sites>) on that subject.

Keywords: [Immigration Reform](#) ([/keywords/immigration-reform](#))

Last Published Date: March 9, 2021

# **Exhibit B**



U.S. Department of  
Homeland Security

# DHS Secretary Statement on the 2019 Public Charge Rule

**Release Date:** March 9, 2021

Today, DHS Secretary Alejandro N. Mayorkas announced that the government will no longer defend the 2019 public charge rule as doing so is neither in the public interest nor an efficient use of limited government resources.

“The 2019 public charge rule was not in keeping with our nation’s values. It penalized those who access health benefits and other government services available to them,” said Secretary of Homeland Security Alejandro N. Mayorkas. “Consistent with the President’s vision, we will continue to implement reforms that improve our legal immigration system.”

President Biden’s Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans called for an immediate review of agency actions on public charge inadmissibility and deportability. DHS’s review, in consultation with the Departments of Justice and State and the federal benefits-granting agencies, is ongoing.

As discussed in DHS’s [litigation statement](http://www.dhs.gov/news/2021/03/09/dhs-statement-litigation-related-public-charge-ground-inadmissibility) (<http://www.dhs.gov/news/2021/03/09/dhs-statement-litigation-related-public-charge-ground-inadmissibility>), and consistent with the government’s decision not to defend the rule, the Department of Justice is no longer pursuing appellate review of judicial decisions invalidating or enjoining enforcement of the 2019 public charge rule. Today, the Department of Justice dismissed its pending appeals in the Supreme Court and Seventh Circuit, and is in the process of doing so in the Fourth Circuit. Following the Seventh Circuit dismissal this afternoon, the final judgment from the Northern District of Illinois, which vacated the 2019 public charge rule, went into effect. 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 public charge rule) is now in effect.

Topics: [Citizenship and Immigration Services](#) ([/topics/immigration-and-citizenship-services](#)), [Citizenship and Immigration Services Ombudsman](#) ([/topics/citizenship-and-immigration-services-ombudsman](#)), [Homeland Security Enterprise](#)

[\(/topics/homeland-security-enterprise\)](#), [Secretary of Homeland Security](#) ([/topics/secretary-homeland-security](#))

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