



Actors Fund ☞ Children's Defense Fund-New York ☞ Community Service Society of New York  
Consumers Union ☞ Empire Justice Center ☞ Make the Road New York ☞ Medicare Rights Center  
Metro New York Health Care for All Campaign ☞ New Yorkers for Accessible Health Coverage  
New York Immigration Coalition ☞ Project CHARGE  
Public Policy and Education Fund of New York/Citizen Action of New York  
Raising Women's Voices-New York ☞ Schuyler Center for Analysis and Advocacy ☞ Small Business Majority  
Young Invincibles

May 30, 2017

U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW  
Washington, DC 20529-2140

**RE: Request for Comments: Agency Information Collection Activities**  
**OMB Control Number 1615-0023**  
**DHS Docket Number USCIS-2009-0020**

Dear Sir or Madam:

Health Care For All New York (HCFANY) respectfully submits the following comments to U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS) in response to the request for comments released on March 31, 2017.

HCFANY is a statewide coalition of over 170 organizations dedicated to achieving quality, affordable health coverage for all New Yorkers. We strive to bring consumer voices to the policy conversation, ensuring that the concerns of real New Yorkers are heard and reflected. For more information on HCFANY, visit us at [www.hcfany.org](http://www.hcfany.org).

HCFANY greatly appreciates the opportunity to provide comments on the proposed revision of the Application to Register Permanent Residence or Adjust Status, Form I-485. New York is home to more than 4 million immigrants. Therefore, HCFANY has a keen interest in ensuring that immigrants in our state are able to live safe and healthy lives, and, in pursuit of these ends, that they are able to access the services they need in order to flourish. Our comments highlight areas where the proposed revisions to the Application to Register Permanent Residence or Adjust Status, Form I-485 could be strengthened.

---

Health Care For All New York  
c/o Elisabeth Ryden Benjamin, Community Service Society of New York  
633 Third Ave., 10<sup>th</sup> Floor, New York, New York 10017  
(212) 614-5461



## Questions 61 and 62 of Part 8 of the I-485 Form

A person residing in the United States seeking to adjust to permanent resident status or register for permanent residence must file Form I-485 with the U.S. Citizenship and Immigration Services (USCIS). The proposed form contains questions in Part 8 related to public charge that are confusing and inconsistent with existing USCIS policy.

61. *Have you received public assistance in the United States from any source, including the U.S. Government or any State, county, city or municipality (other than emergency medical treatment)? [Y/N]*
62. *Are you likely to receive public assistance in the future? [Y/N]*

HCFANY opposes the proposed revisions to these questions. These questions are confusing to applicants, attorneys, advocates, and adjudication officials. Although these two questions have been separated, they remain, as written, unclear, confusing, and at odds with the USCIS policy on public charge.

The current USCIS rule provides that an individual is inadmissible to the United States on public charge grounds in two narrow instances: (1) when he or she has or is likely to receive cash assistance for income maintenance; or (2) when he or she has or is likely to be institutionalized for long-term care at government expense.<sup>1</sup> However, the receipt of these benefits does not automatically make an individual inadmissible, ineligible to adjust to lawful permanent residence, or deportable on public charge grounds. HCFANY supports this narrow approach to evaluating public charge because it provides clarity and does not inhibit New York residents from accessing crucially needed services and resources that promote the health and safety of our communities, such as health services, domestic violence services, and emergency food and shelter.

HCFANY believes that any approach that would have the effect of broadening the definition of public charge would negatively impact immigrant access to these important services and resources. These questions, as written, would perpetuate a longstanding misunderstanding and concern among immigrant residents that receiving any public benefits will undermine their ability to adjust their immigration status or will otherwise put them at risk, because they will be considered a “public charge.” This, in turn, would have a chilling effect on immigrants’ willingness to apply for critical benefits for themselves or their children.

---

<sup>1</sup> Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28689, (Mar. 26, 1999) “Memorandum for All Regional Directors: Public Charge INA Sections 212(a)(4) and 237(a)(5),” from Michael A. Pearson, Executive Associate Commissioner, Officer of Field Operations, Immigration and Naturalization Service



**Recommendation:** HCFANY strongly urges USCIS to revise questions 61 and 62 in Part 8 of the Form I-485 to use language that only inquires about benefits relevant to public charge determination, for example:

- Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash for income maintenance purposes from state and local income assistance programs?
- Have you received Medicaid for long-term institutional care—such as in a nursing home or mental health institution?

### **Instructions for Form I-485**

There is currently only brief mention and little guidance on how to respond to questions regarding public assistance in the instructions for Form I-485. The sections instructs applicants to “Attach evidence of any public assistance you received, or are likely to receive while in the United States. For more information on the receipt of public benefits and its impact on public charge determinations, please see [www.uscis.gov](http://www.uscis.gov).” These instructions also create confusion for applicants about the relationship between the receipt of public benefits and a public charge determination.

HCFANY strongly urges USCIS to revise the instructions for Form I-485 to include a section that explains that: (1) noncash benefits such as SNAP, Medicaid, CHIP, WIC, housing benefits, child care services, energy assistance, emergency disaster relief, foster care and adoption assistance, education assistance, job training are not considered in the public charge determination; and (2) receipt of monthly cash benefits for income maintenance purposes, such as SSI, TANF, cash from state and local income assistance programs and long-term institutional care, may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status to lawful permanent residence on public charge grounds.

**Recommendation:** HCFANY strongly urges USCIS to revise the instructions for Form I-485 to include a section that explains that: (1) noncash benefits are not considered in the public charge determination; and (2) receipt of monthly cash benefits for income maintenance purposes may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status on public charge grounds.

Thank you for the opportunity to provide comments on the proposed revision of the Application to Register Permanent Residence or Adjust Status, Form I-485. If you have any



questions about these comments, please contact Taylor Frazier at [tfrazier@cssny.org](mailto:tfrazier@cssny.org) or at (212) 614-5541.

Very truly yours,

A handwritten signature in black ink, appearing to read "Taylor Lauren Frazier". The signature is fluid and cursive.

Taylor Lauren Frazier, MPH  
Health Policy Associate  
Community Service Society of New York