



Blog

DHS PUBLISHES FINAL RULE REINTERPRETING PUBLIC CHARGE GROUND OF INADMISSIBILITY

August 21, 2019

CONTRIBUTORS

Danielle M. Rizzo

Member

D: (716) 200-5149

On August 14, 2019, the Department of Homeland Security (DHS) published a Final Rule in the Federal Register, announcing changes to longstanding guidance on the public

charge ground of inadmissibility. The Final Rule will go into effect on October 15, 2019 and will impact any application postmarked on or after that date; it will not impact applications which remain pending on or after the effective date.

The Final Rule modifies the longstanding definition of who is “likely at any time to become a public charge,” a ground of inadmissibility found in section 212(a)(4) of the Immigration and Nationality Act. The Final Rule notes that since 1999, the government’s guidance regarding public charge determinations has indicated that foreign nationals are inadmissible to the U.S. on this ground only if they are “primarily dependent” on the government for subsistence, as demonstrated by either receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense. The Final Rule modifies this definition to apply the ground of inadmissibility to any foreign national who is “more likely than not” to receive any of these benefits for more than 12 months in the aggregate within any 36-month period.

The Final Rule also expands the list of programs to be considered as indicative of being or becoming a public charge to include five additional non-cash benefits, including: non-emergency Medicaid; Supplemental Nutrition and Assistance Program (SNAP, formerly food stamps); Section 8 Housing Choice Voucher Program; Section 8 Project-Based Rental Assistance; and Public Housing.

If an applicant for an immigration benefit shares a household with U.S. citizens (e.g., children born in the U.S.), the applicant will not be considered a public charge if the U.S. citizen household members access public benefits for which they otherwise qualify.

The Final Rule also directs DHS officials to make a determination as to whether an applicant for an immigration benefit is likely to become a public charge based on five statutory factors, including: the applicant’s age, health, family status, assets/resources/financial status, and education/skills.

Effective October 15, 2019, all applicants for adjustment of status will be required to complete a Form I-944, Declaration of Self-Sufficiency, and submit it to USCIS together with Form I-485. The I-944 Form has not yet been created but should be available at www.uscis.gov/forms on or before October 15. In

9/9/201 addition, Forms I-129 and I-539 will likely be updated in the coming weeks to include additional questions regarding prior receipt of public benefits.

ent

It should be noted that the Final Rule generally will not adversely impact those who already hold Lawful Permanent Resident status if they access the five public benefits programs outlined above -- unless they once again become applicants for admission to the U.S., such as by spending over 180 days continuously outside of the U.S. or being found to have abandoned their residency by frequent trips abroad.

Rosanna Berardi, Esq.

MANAGING PARTNER

In 2005, Rosanna Berardi did the unthinkable: she left a highly-coveted big-firm job to hang a shingle for herself in the legal world. Starting with only one client and an office desk in a tiny apartment, Rosanna has managed to grow her practice into an award-winning, multinational, full-service immigration law firm with thousands of clients around the world spanning countless industries. Armed with a staff of skilled lawyers, paralegals, and invaluable professionals, Rosanna and her team have become unstoppable.

Rosanna, a first-generation Italian-American, built her practice with the vision of becoming “the Disney of Immigration Law.” That is, she is committed to maximizing “the client experience” by providing impeccable customer service and treating each client with genuine appreciation. It also means anticipating a client’s needs well in advance of their arrival to each stage of the immigration process.

Rosanna’s multi-dimensional immigration experience also gives her an edge over other lawyers. She started her career as an Immigration Inspector at the Peace Bridge while attending law school. She quickly climbed the ranks at INS, eventually being hired as a full-time Immigration Trial Attorney in the New York City office. She then went on to work at the State University of New York at Buffalo in the International Student & Scholar Services Office as Immigration Counsel. Rosanna entered private law practice in 1998 when she joined Buffalo’s largest law firm as an Immigration Associate. Today, as Managing Partner of Berardi Immigration Law, Rosanna continues to identify emerging trends in adjudication procedures and leverages that knowledge for the benefit of her clients. She’s also a sought-after speaker and media source on immigration-related issues.

Today, Berardi Immigration Law is certified both federally and by New York State as a woman-owned business enterprise, making Berardi Immigration Law one of the few immigration law firms in the country to hold these coveted certifications.

Despite being the Managing Partner of a robust practice, Rosanna believes balance is key. She never skimps on time with her son, Salvatore, and husband, Jack. She also enjoys planning vacations, parties, reading and scrapbooking.

Education

- Juris Doctor, State University of New York at Buffalo School of Law, Buffalo, NY, 1997
- Bachelor of Arts, Magna Cum Laude, Canisius College, Buffalo, NY, 1994

Affiliations

- American Immigration Lawyers Association (AILA) –Customs & Border Protection Liaison Committee – Chairperson
- The American Chamber of Commerce – Peel-Halton-Niagara Region -- Director
- Women's Business Enterprise National Council (WBENC)
- Women's Business Center at Canisius College – Forum Advisory Group
- Admitted to practice in New York. Member of the Bars of New Jersey and District of Columbia
- Member, New York State Committee on Women in the Law

Less

Danielle M. Rizzo

Member

“I see the talent, creativity and ingenuity that immigrants have to offer the United States and work to find the legal paths of entry for individuals to our country; and for U.S. companies to gain access to this world-wide talent pool.”



Danielle focuses on United States immigration and nationality law and on employment-based immigration. She represents U.S. companies and their foreign national workforce in navigating the processes for visa and permanent residency applications. She also represents foreign traders and investors seeking work authorization in the United States, as well as Canadian citizens seeking entry to the U.S. under the North American Free Trade Agreement (NAFTA). She helps immigrants find legal paths of entry by filing petitions with U.S. Citizenship and Immigration Services, preparing foreign nationals for visa interviews at U.S. embassies, and navigating land and air ports of entry to the United States.

RECENT PUBLICATIONS + SPEAKING ENGAGEMENTS

- AILA Spring Conference, led panel discussion on U.S. Customs and Border Protection policies and issues, April 2018.
- AILA Spring Conference CLE, presented on liaison efforts with U.S. Customs and Border Protection, April 2016.

CONTACT

drizzo@harrisbeach.com
D: (716) 200-5149

AREAS OF EXPERIENCE

Cannabis
Education Higher
Health Care
Co-Leader, Immigration Law
Veterinary Medicine

EDUCATION

State University of New York at
Buffalo School of Law
JD, 2006
Houghton College
BA, 1997
summa cum laude

ADMISSIONS

New York

Danielle M. Rizzo

Member

- AILA Webinar, presented on Visa Waiver Program changes, March 2016.
- AILA Annual Conference CLE, spoke on Religious Worker visas and in an open forum with U.S. Customs and Border Protection, June 2015.
- AILA Spring Conference CLE, spoke on liaison efforts with U.S. Customs and Border Protection, April 2015.
- AILA Annual Conference CLE, presented on Religious Worker visas, June 2014.

REPRESENTATIVE CLIENT MATTERS

- Represents clients in the IT consulting field in navigating third party placement rules for H-1B visas.
- Represents institutions of higher education, including use of Special Handling for PERM labor certification.
- Represents multinational corporations from start-ups to worldwide organizations seeking to transfer employees to the U.S.

PROFESSIONAL AND COMMUNITY ACTIVITIES

Danielle is active in the American Immigration Lawyers Association (AILA) in the following volunteer roles:

- **CBP National Liaison Committee**, member & immediate past chair, June 2018-present
- **CBP National Liaison Committee**, chair, April 2016 – June 2018
- **Paralegals Conference Planning Committee**, chair, 2015 - present
- **CBP National Liaison Committee**, vice chair, June 2014 – April 2016
- **CBP National Liaison Committee**, member, June 2013 – June 2014
- **AILA National Publications Committee**, chair, June 2013 – June 2015



harrisbeach.com

Danielle M. Rizzo

Member

- **AILA National Publications Committee**, member, June 2011 – June 2014
- **Upstate New York AILA Chapter**, chair, vice chair and treasurer, 2008 - 2013
- **Upstate New York AILA Chapter CLE Annual Program**, Coordinator, 2011 - 2013

RECOGNITION

- *Who's Who Legal*, Corporate Immigration, 2016
- *Best Lawyers*, Immigration Law, since 2013
- *Best Lawyers*, Lawyer of the Year, Immigration Law, 2017 and 2019



harrisbeach.com

BMKLLP Immigration Attorney Profiles



Alexis S. Axelrad

Born in New York City, Alexis S. Axelrad has two decades of experience in immigration and nationality law. Ms. Axelrad received her B.A. from the University of Maryland at College Park in 1994. After earning her J.D. from New York Law School, Ms. Axelrad was admitted to practice in New York in 1998.

Ms. Axelrad has been active in the American Immigration Lawyers Association (AILA) since she began practicing law. Ms. Axelrad currently serves as an Elected Director of AILA National's Board of Governors (BOG) and served as the Chair of the Vermont Service Center committee from June 2013 to June 2015. She currently serves as the Chair of AILA National's Customs and Border Protection (CBP) Committee and a Past Vice-Chair and was a member of AILA National's USCIS Headquarters Benefits/Policy Committee for over a decade. Ms. Axelrad is a past chair of the New York Chapter of AILA and served in every capacity on the

NY chapter's executive committee. She is currently the Emeritus Chair of the New York Chapter of AILA's Customs and Border Protection (CBP) Committee and a member of the District Director Committee for over ten years. Ms. Axelrad is also a member of the Executives Association of New York and is an elected member of the organization's Board of Directors.

Ms. Axelrad is the recipient of the AILA President's Commendation Award for Outstanding Service, June 2008-2010 & 2014 & 2019. *New York Super Lawyers* has listed her in the 'rising stars' section of top immigration attorneys in New York in 2011 and 2012, and as a Super Lawyer from 2011 to present. She is recognized by *Chambers & Partners USA: America's Leading Lawyers for Business*. Ms. Axelrad is also a proud member of *Vistage International*, a professional development and executive coaching program.

Ms. Axelrad is a frequent national and international speaker on US Immigration Law and served as the author of a quarterly column on immigration matters published in the New York Law Journal. Ms. Axelrad was the researcher and writer of *US Immigration Laws: Working, Living and Studying in America* (1999). Ms. Axelrad maintains a busy corporate and family-based immigration practice with a particular emphasis on interaction with the various offices of Department of Homeland Security and the Justice Department including USCIS, Department of State, and Customs and Border Protection.

aaxelrad@BMKLLP.com



Education

- **University of Maryland at College Park, B.A., 1994**
- **New York Law School, J.D., 1997**

Admissions

- **State Bar of New York, 1998**

Honors & Distinctions

- **AILA National USCIS CBP Committee, Chair, June 2018 to Present**

- AILA National USCIS CBP Committee, Vice-Chair and Member, June 2016 to June 2018
- AILA National USCIS HQ Benefits Committee, Member, June 2015
- AILA National USCIS HQ Benefits Committee, Emeritus Member, 2010-2011, Vice-Chair, 2009-2010; Past Member 2006-2008
- AILA National Liaison Taskforce, Member, June 2015 to June 2016
- AILA Board of Governors (BOG), Director, June 2012 to June 2015, June 2016 to Present
- Elected to Board of Directors of the Executives Association of New York, Professional Networking group requiring nomination and acceptance for membership, January 2016 to Present, Member 2013 to Present
- AILA **New York Chapter**, District Director Committee, Secretary, 2006 to 2007
- AILA **New York Chapter**, Executive Committee, Treasurer, 2007 to present
- Recipient of the AILA President's Commendation Award for Outstanding Service on the USCIS Liaison Committee, Inter-agency Committee & Customs & Border Protection (CBP), June 2008, June 2009, June 2010, June 2014, June 2019

- List of New York Metro Super Lawyers (Rising Stars & Super Lawyer), 2011 to Present
- Recognized by Chambers & Partners, America's Leading Lawyers for Business, 2010 to Present

Publications

- **New York Law Journal**, December 2014
- **New York Law Journal**, September 2014
- **New York Law Journal**, July 2014
- **New York Law Journal**, March 2015