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# STANDPOINT

Attorneys & advocates against domestic & sexual violence

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## Update for Immigrant Survivors in Light of COVID-19

This newsletter will be covering some of the ways in which immigrant survivors of domestic and sexual violence may be affected by COVID-19. This information is meant to provide domestic and sexual violence advocates with general information on working with immigrant survivors. It is recommended that anyone applying for an immigration benefit or getting legal advice related to immigration status work with an experienced immigration attorney.

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## What's going on in the courts?

Most immigration courts across the U.S. are open, but many are only open for limited cases. The Fort Snelling Immigration Court (which takes cases from Minnesota, North Dakota, and South Dakota) is currently open to allow people to file documents in their case and to conduct hearings for those in immigration detention (though people in detention are allowed to appear by phone at this time). All hearings for those not in detention, through May 15, 2020, are going to be rescheduled. The immigration court will send out a new hearing notice at least 10 days prior to the rescheduled hearing. It is incredibly important that clients update their addresses if they move. The form to file with the court to update a client's address can be found [here](#). You may also be able to find out their new hearing date and time by calling the Immigration Court hotline at 1-800-898-7180. When you call the hotline, you must have the client's Alien Registration Number. The Alien Registration Number, or the A number, can be found on the Notice to Appear (the Notice to Appear is the charging document which initially scheduled their hearing). The A number can also be found on work authorization documents and receipt notices from the United States Citizenship and Immigration Service (USCIS), among other places. Be aware that many hearings will need to be rescheduled right now, so it will take some time for the date and time of the rescheduled hearing to be updated on the hotline. The safest way to ensure that information on the rescheduled hearing is received is to maintain a current address with the immigration court.

Be aware that the court status is constantly changing. If you are working with a client who has an upcoming hearing, it will be important to continually check the Executive Office for Immigration Review (EOIR) [website](#) for the most up-to-date

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information. Scroll down to “Fort Snelling” to see what Minnesota’s immigration court status is. Also, if you click in the column furthest to the right under the Fort Snelling section (which currently says “All immigration judges”), you can see the Fort Snelling court’s most recent standing orders. The court’s current standing orders address the ability for parties to appear by phone, electronic filing of documents, and what to do if you are displaying COVID-19 symptoms, or have come into contact with someone who is, among other things.

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## What's going on with enforcement?

According to [Immigration and Customs Enforcement's \(ICE\) website](#), they have adjusted their enforcement efforts due to COVID-19. They state that ICE “will focus enforcement on public-safety risks and individuals subject to mandatory detention based on criminal grounds.” For all others who are not a risk of public safety and who are not subject to mandatory detention, ICE “will exercise discretion to delay enforcement actions until after the crisis or use [sic] alternatives to detention, as appropriate.” Further, ICE “will not carry out enforcement operations at or near health care facilities, such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities, except in the most extraordinary of circumstances.” Note that ICE still has absolute discretion to make arrests. It does not provide anyone with a guarantee that they will not be picked up or arrested by ICE.

If you have a client who has a check-in scheduled with ICE, you should call as soon as possible to request a telephonic check-in. The local ICE office phone number is (612) 843-8600. **Advise your client that they still need to show up or communicate about a telephonic check-in, as their non-appearance could result in their detention.**

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## What's going on with the processing of applications?

Immigration applications are most often decided by the United States Citizenship and Immigration Services (USCIS). USCIS has several kinds of offices in order to process applications. [This](#) document will look at three kinds of USCIS offices and how COVID-19 could affect the processing of immigration applications there.

USCIS processes immigration applications at one of its five **Service Centers** (in California, Nebraska, Texas, Vermont, and Potomac). USCIS is still accepting and processing newly filed immigration applications at the Service Centers. However, processing is taking longer than usual.

There are also **USCIS Field Offices** located throughout the U.S., which handle in-person interviews and provide limited information on a person's immigration case through something called an InfoPass appointment. As of March 18, all Field Offices have been closed. These offices are currently set to re-open on June 4, however the closure could be extended. If a client had an interview scheduled with USCIS during its closure, the Field Office will reschedule the appointment. Again, it is very important that all clients you are working with update their addresses if they move. Information on how to update a client's address with USCIS can be found [here](#). If you are working with a client who had an InfoPass appointment between now and June 4, those appointments have been cancelled and your client will have to call and have another appointment scheduled, once the Field Offices reopen.

Finally, USCIS has **Application Support Centers** (ASCs) located throughout the U.S. ASCs are where people go to complete their biometrics (fingerprinting and photographing) so that background checks can be completed. Certain benefits require background checks to be processed, like work authorization cards or travel documents. Unless the client has recent biometrics on file that can be used for the background check, those kinds of benefits will not be processed until the ASCs reopen. This will likely cause further delay in the processing of applications.

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## Housing considerations for immigrant survivors during COVID-19

The COVID-19 pandemic has greatly affected workers in service, medical, and other industries, many of which employ immigrant workers. The loss of work, and for some, the increase in medical expenses, may cause immigrant survivors to be unable to pay their rent or their mortgage. On March 23, Minnesota Governor Walz issued [Emergency Executive Order 20-14](#), which suspended evictions and foreclosures. However, property owners can still evict tenants in cases where “the tenant seriously endangers the safety of other residents” or where certain other criminal activities are allowed to take place on the property. Additionally, many utility companies stopped disconnecting services for nonpayment. For a list of utility companies’ responses to COVID-19, please see the list compiled [here](#). These suspensions are set to last until the Executive Order is rescinded or the peacetime emergency is declared over. Note that the peacetime emergency is different from the Stay at Home order. If a property owner tries to evict a survivor during this time, they should report the property owner to the Attorney General. The complaint form is available online [here](#).

Although evictions and foreclosures are suspended right now, rent and mortgage payments are not reduced or waived by this Executive Order. Once the Executive Order is over, property owners and mortgage lenders can ask survivors to pay a lump sum for all their missed payments. Minnesota legislators are currently in discussions around increasing housing aid and the grace period to make these payments, but this has not yet been passed. If the immigrant survivor has been without work for some time, the requirement of a lump payment may not be possible. It is important to communicate with mortgage lenders and property owners now to see if there are payment plans or other ways to handle the debt that

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is accumulated during the Executive Order. If survivors cannot make payment once the Executive Order is done, property owners can then file for evictions and enforce removals.

During this time, it is also important to encourage immigrant survivors to seek additional funding for which they are eligible so they can stay as current as possible on their expenses. The statewide coalitions (Violence Free Minnesota, Minnesota Coalition Against Sexual Assault, and the Minnesota Alliance on Crime) have been providing information on emergency funding and grants that are available to survivors and programs during this crisis. Certain cities and counties in Minnesota are also providing emergency funding for residents. Additionally, Emergency Assistance funding is available through each county through the MN Energy Assistance Program to help with heating bills. For more information about county-administered Emergency Assistance, contact the [Minnesota Community Action Partnership](#).

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## Will immigrant survivors receive the stimulus check?

Congress recently passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which includes the provision of stimulus checks. The package is set to disburse \$1,200 to single individuals, \$2,400 to married couples, and a \$500 credit per qualifying child, with amounts beginning to decrease if the household income exceeds \$75,000 for individual returns and \$150,000 for joint returns. Payments are based on the 2018 and 2019 tax years. Many immigrant survivors, who are without status and therefore do not have Social Security Numbers, use Individual Taxpayer Identification Numbers (ITINs) to pay their taxes. In order to receive a stimulus check, however, the survivor must have a valid Social Security Number. People with ITINs only are ineligible to receive the stimulus.

Furthermore, in order for a married couple filing a joint tax return to receive their stimulus payment, both spouses must have a social security number. If one spouse on the joint tax return uses an ITIN, neither spouse will receive a stimulus check. The only exception to this rule is if one spouse is a member of the military. If the married couple files separate tax returns, the spouse with the valid social security number will be eligible. Similarly, if a child has an ITIN and is listed as a dependent on a parent's tax return, that child will also be ineligible for the \$500 credit and the parent (regardless of whether they have a valid social security number or not) will not receive a stimulus check. Likewise, if a child is a U.S. citizen with a valid social security number and is listed as a dependent on their parent's tax return, and their parent uses an ITIN, then neither the parent nor the child will receive the stimulus. See chart below as a guide:

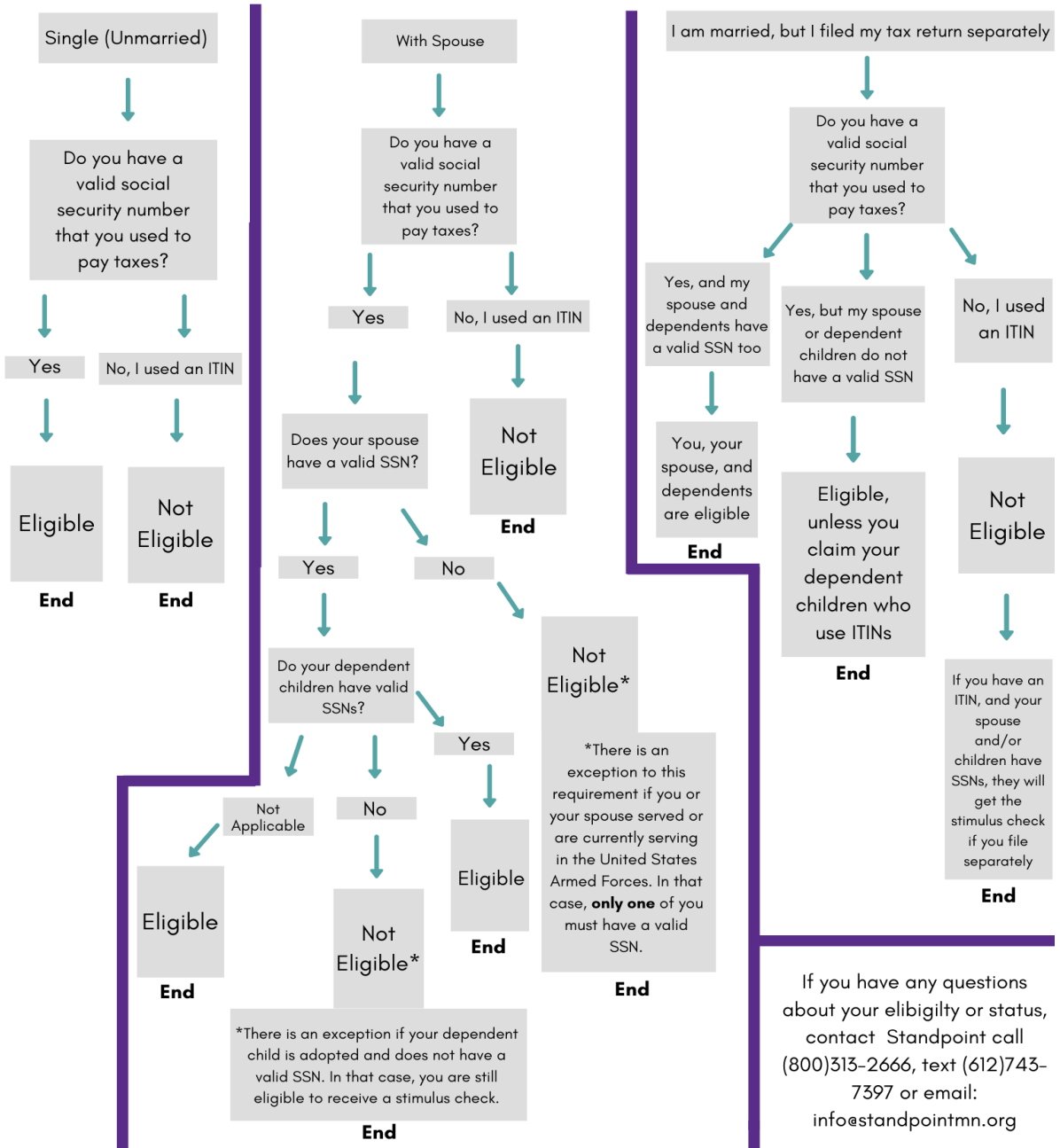




## AM I ELIGIBLE TO RECEIVE A STIMULUS CHECK?

\*Please note that this chart is focused on how immigration status affects the stimulus check, and assumes you are NOT claimed as a dependent on another person's tax return, and that you meet the income requirements\*

### How did you file your most recent tax return?



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## Can immigrant survivors apply for unemployment benefits?

In addition to stimulus checks, the CARES Act also expanded unemployment insurance (UI). The CARES Act increased the amount of UI received by \$600 per week and provided for an additional 13 weeks of unemployment compensation. However, in order to be eligible for these benefits, the survivor must have worked with legal authorization and have a valid social security number. This means that survivors who are undocumented (or have pending, but currently undecided applications) and recently lost their jobs will not be eligible for unemployment insurance. Go [here](#) for more information on unemployment eligibility.

The CARES Act also created a temporary unemployment benefit called Pandemic Unemployment Assistance (PUA), which provides UI to people who were not traditionally eligible to receive UI. The PUA includes people who are self-employed. This is important to be aware of for immigrant survivors, as many immigrant workers work in self-employed fields, such as house cleaning, childcare, yard and road maintenance, etc. Go [here](#) for information on how to apply for UI.

Lastly, due to data sharing agreements made between state and federal agencies, information shared in a UI application can be shared with other federal agencies, including the U.S. Immigration and Customs Enforcement (ICE). It is important to share that fact with your immigrant clients prior to seeking UI.

Click [here](#) and [here](#) for more resources for undocumented communities.

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## Public Charge Update and COVID-19 Effect

### What is public charge?

“Public charge” is a test that immigration officials use to determine whether a person applying for a green card or visa is likely to rely on government assistance. If someone is determined to be a public charge, that person could be denied a green card, visa, or admission into the United States. The public charge rule has recently been expanded. Previously, public charge applied to people primarily relying on cash benefits, such as Social Security Income (SSI) or General Assistance. Now, public charge can be applied to those receiving non-cash benefits, including housing benefits, medical benefits, and food stamps.

The public charge test **only** applies to:

- those applying for green cards (lawful permanent residence), and
- those seeking admission to the United States.

Importantly, the public charge test **does NOT** apply to the following kinds of applications:

- Citizenship
- Green card renewal
- U visa (for victims of crime)
- T visa (for victims of human trafficking)
- Asylum
- Refugee
- VAWA self-petition (for “qualified” abused spouses, parents, or children) Special Immigrant Juvenile Status (SIJS)
- DACA renewal

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- Any green card application based on the applicant's U visa, T visa, SIJS, VAWA self-petition, or asylum

*\*Also note that if your client has children who receive public benefits and your client wants to apply for a green card or visa, their children's receipt of public benefits does not affect their application.*

It is important for domestic and sexual violence advocates to convey that the above categories will not be affected by the public charge expansion.

Misconceptions about the public charge rule may cause survivors to withdraw from receipt of public benefits or to not apply for public benefits for which they are eligible. Receipt of public benefits may be very beneficial in helping survivors stabilize after leaving an abusive relationship. Advocates should encourage survivors to apply for benefits that they are eligible for. Please contact Standpoint if you are working with an immigrant survivor and want to know if the public charge assessment applies to them prior to seeking public benefits.

### **What if my client needs to apply for benefits due to COVID-19? Does this make my client a public charge?**

On March 13, USCIS announced that it would not consider "testing, treatment, nor preventative care (including vaccines, if a vaccine become available) related to COVID-19" as part of the public charge determination, even if such treatment is paid for by public benefits. USCIS encourages all those who have symptoms to get tested and stated this will not affect the application for any future immigration benefit.

If the immigrant client you work with has been prevented from working, attending school, or making enough income during the COVID-19 outbreak, public charge applies to them, and they must rely on public benefits, USCIS stated that the client "can provide an explanation and relevant supporting documentation" with their immigration application. USCIS will then "take all such evidence into consideration

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in the totality of the alien’s circumstances.” It is unclear how USCIS will consider the use of public benefits that are implicated by the public charge assessment, but is something to consider when advising immigrant clients are whether or not to seek public assistance.

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If you have any questions about this newsletter or would like to discuss in more detail any of the topics discussed, please do not hesitate to contact Standpoint. We are happy to have a conversation about ways in which advocates can assist immigrants in light of all the changes happening due to COVID-19. You can contact Rachel Kohler, Standpoint’s immigration attorney, at 612-767-8926 or at [rachel@standpointmn.org](mailto:rachel@standpointmn.org).

