



December 7, 2018

Samantha Deshommes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW  
Washington, DC 20529-2140

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SEATTLE - KING COUNTY (SEATTLE)

SOUTHERN NV HEALTH DIST. (LAS VEGAS)

TARRANT COUNTY (FORT WORTH)

WASHINGTON, D.C.

Re: "Inadmissibility on Public Charge Grounds," DHS Docket No. USCIS-2010-0012

The [Big Cities Health Coalition](#) (BCHC) appreciates the opportunity to provide comments on the Proposal to Revise section 212(a)(4) of the Immigration and Nationality Act (INA), Department of Homeland Security (DHS) Docket No. USCIS-2010-0012. BCHC is comprised of health officials leading 30 of the nation's largest metropolitan public health departments, who together serve more than 55 million, or one-in-six, Americans. Our [member health departments](#) (HDs) work every day to keep their communities healthy and safe – and, importantly, they serve an incredibly diverse, and often vulnerable, population, including *many* immigrants.

BCHC opposes the proposed changes to the public charge definition and urges you to withdraw this proposed rule entirely. We believe it is detrimental to the health, security, and prosperity of the country as a whole, and our cities in particular. The proposal itself, not yet even implemented, has instigated yet another unnecessary crisis by forcing immigrants to choose between feeding or seeking health care for their children and the long-term security of their family. If this rule moves forward, it will increase sickness and poor nutrition, exacerbate homelessness, weaken our economy, and traumatize thousands of members of communities across the country whose inhabitants work hard and play by the rules.

### Chilling Effect

Several of our member jurisdictions report that just the *proposed* changes have led to a "chilling effect" on those seeking needed primary, and importantly, *preventive*, health care, as well as among those who are eligible for assistance programs designed to support low-income families. As noted in the proposed rule, the chilling effect is a well-documented phenomenon.<sup>1</sup> Researchers observed a steep decline in the use of public benefits by immigrants in the late 1990s in the wake of welfare reforms, including immigrant groups such as refugees who were exempt from the new rules.<sup>2</sup> Further, findings from recent research published in *Health Affairs* highlights the same effect: "Advocates have started collecting early evidence of a 'chilling effect' due to the reports of the potential regulation, with immigrant families disenrolling from these programs, not showing up for health care appointments, and otherwise being afraid to access vital services that can support the health and well-being of their families."<sup>3</sup>

<sup>1</sup> Batalova, Jeanne; Fix, Michael and Mark Greenberg. "Chilling Effect: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefit Use," Migration Policy Institute, June 2018.

<sup>2</sup> The U.S. Department of Agriculture published a study shortly after the welfare reform legislation took effect and found that the number of people receiving food stamps fell by over 5.9 million between summer 1994 and summer 1997.

<sup>3</sup> Immigrant, US Values, and The Golden State, Health Affairs Blog, August 22, 2018. <https://www.healthaffairs.org/doi/10.1377/hblog20180817.59208/full/>

The proposal would make—and has already made—immigrant families afraid to seek help from programs for which they are eligible and that support their basic needs. These programs help families stay strong, productive, and raise children who thrive. Healthy individuals create healthy communities, which matters for everyone in the United States. With about one in four children in the United States having at least one immigrant parent, this issue touches millions and is critical now and for our nation's future.<sup>4</sup> One member jurisdiction shared the following:

*Recently, an international student from a local university came to our enrollment office. She has two children, the younger child born in the U.S. She's planning on staying in the U.S. after graduation and will be applying for a green card. Her professor advised her that because of Public Charge she needed to take her toddler off of WIC; her school-aged child off the free lunch program; terminate her Medicaid coverage for her children and cancel her reduced-fare transit card. Our staff tried to explain to her that her Professor was giving the incorrect information, but she was afraid and set on making these choices.*

Building healthy, prosperous communities means having healthy, prosperous residents – a key part of the mission of our 30 big city health departments. This proposed policy will undermine this vision by curtailing access to essential human needs – nutrition, shelter, and health services – for immigrant families across the nation, to say nothing of those who seek a better life by trying to settle here in the greatest country in the world. The fear of a public charge test will harm communities across the nation that so many of us work each day to help rise up to build better, stronger families and communities. This proposed policy change asks parents, like the one in the example above, to make an agonizing choice: keep their children healthy and safe, or forgo needed health care and essential supports. Expanding the public charge rule would directly harm the health and well-being of millions of children and families, and create ripple effects that diminish the health of the nation.

Further, as fewer people apply for such benefits, it has a ripple effect on future funding. States, and localities to some extent, get dollars to provide services based on ongoing enrollment. If enrollment numbers shrink, so too will available dollars moving forward.

Finally, a recent study found that Supplemental Nutrition Assistance Program (SNAP) enrollment among immigrant mothers of four-years-olds in five cities (four of which are BCHC members – Baltimore, Boston, Minneapolis, and Philadelphia) has decreased nearly 10 percent in the first half of 2018.<sup>5</sup>

### **The New Definition of Public Charge is Overly Broad and Unworkable**

The public charge definition and application has historically been limited, particularly with regard to public health and healthcare programs. We are concerned that the proposal to expand the public programs and circumstances that will be negatively weighed in a public charge inquiry will harm vulnerable populations, disproportionately impact communities of color, and have disastrous individual and public health consequences.

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<sup>4</sup> Artiga, Samantha and Anthony Damico. "Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies," Kaiser Family Foundation, April 18, 2018. <https://www.kff.org/disparities-policy/issue-brief/nearly-20-million-children-live-in-immigrant-families-that-could-be-affected-by-evolving-immigration-policies/>

<sup>5</sup> Study: Following 10-year gains, SNAP participation dropped among immigrant families in 2018, November 22, 2018. <https://www.apha.org/news-and-media/news-releases/apha-news-releases/2018/annual-meeting-snap-participation>

The proposed rule greatly expands the definition of public charge, from the current limited test of whether an immigrant is likely to become “primarily dependent” on government resources to a far more expansive inquiry into whether an immigrant has received, is receiving, or is likely to receive public benefits, broadly defined. The rule creates a threshold for use of benefits that would trigger the negative weight. This expansion is a departure from existing policy and creates an unworkable, overly broad definition that will be impossible to implement fairly. Experts estimate that under the new definition, 94% of all noncitizens who entered the U.S. without Lawful Permanent Resident (LPR) status have at least one characteristic that DHS could potentially weigh negatively in a public charge determination under the proposed rule.<sup>6</sup>

### **Healthcare and Safety Net Programs Should Be Excluded from the Public Charge Inquiry**

The proposed expansion of the number of programs – including non-emergency Medicaid services and Medicare Part D subsidies – use or likely use of which would be weighed negatively in a public charge consideration, is unprecedented and should be rolled back. The Kaiser Family Foundation estimates that as a result of the policy itself and the chilling effect on access to services, between 2.1 and 4.9 million individuals could disenroll from Medicaid alone if this public charge policy goes into effect.<sup>7</sup>

Further, CHIP is a program for working families who earn too much to be eligible for Medicaid without a share of cost. Including it in a public charge determination would likely lead to many eligible children foregoing health care benefits, both because of the direct inclusion in the public charge determination as well as the chilling effect detailed elsewhere in these comments. Nearly 9 million children across the U.S. depend on CHIP for their health care.<sup>8</sup> Due to the chilling effect of the rule, many eligible citizen children likely would forego CHIP—and health care services altogether—if their parents think they will be subject to a public charge determination. Overall, we believe the benefits of excluding CHIP and Medicaid, in particular, certainly outweigh their inclusion in a public charge determination.

Finally, for public health reasons, we also oppose negatively weighing use of programs like SNAP, WIC and various housing assistance programs. These programs are designed to allow individuals to be self-sufficient and are incredibly important to efforts to build and sustain healthy, safe, and prosperous communities in this country.

### **Real Effect on Health of Communities and Increased Costs to Society**

This proposed change will not only have implications for immigrant families, it can also have severe implications for health of the population at large. Undermining supports such as health insurance, nutrition and housing, and other basic needs to help people stay healthy and thrive will impact the social determinants of health – the conditions in which people are born, grow, live, work, and age. According to the World Health Organization, it is these determinants that are mostly responsible for health inequities.<sup>9</sup>

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<sup>6</sup> Kaiser Family Foundation, Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid (2018), available at <https://www.kff.org/report-section/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid-key-findings/>.

<sup>7</sup> Kaiser Family Foundation, Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid (2018), available at <https://www.kff.org/report-section/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid-key-findings/>.

<sup>8</sup> Medicaid.gov, “Unduplicated Number of Children Ever Enrolled,” CHIP and Medicaid, 2015 and 2016, by state and nationally, <https://www.medicaid.gov/chip/downloads/fy-2016-childrens-enrollment-report.pdf>.

<sup>9</sup> “About Social Determinants of Health,” World Health Organization. [http://www.who.int/social\\_determinants/sdh\\_definition/en](http://www.who.int/social_determinants/sdh_definition/en).

Further, the proposed rule will literally endanger the health of our communities'. In Baltimore, for example, school-based health centers and suites provide vaccinations to all child patients with a parent's consent. Should immigrant parents advise against getting their children vaccinated, there could be a substantial blow to herd immunity—which protects all kids from diseases such as measles, mumps, and rubella. Untreated sexually-transmitted infections and diseases could travel across many communities at a rapid pace without the knowledge of those infected. For more devastating illnesses, including Ebola, a reluctance to seek out treatment could result in mass casualties. Ultimately, those affected would include documented immigrants and citizens of many different backgrounds.

There are cost implications as well to increased disease burden and decreased population health. Deferred care and services, will likely incur increased costs to local and state governments, and society in a whole, in many unprecedented ways. There will be more direct, increased costs - if immigrant families choose to rely upon public services only as a last resort, providers will be responsible for treating late-stage diseases and injuries made worse through a lack of treatment, all of which cost significantly more to treat.

Finally, a recent study undertaken by the New York City Department of Health and Mental Hygiene and the Harvard T.H. Chan found that increases in rhetoric – not even changes in policy – about immigration pre- and post- the 2016 Presidential election led to an 8.4 percent increase in the pre-term birth rate among Latina women in the city.<sup>10</sup> There was little change among white women. The medical cost of one preterm birth is approximately 10 times that of a full term one - estimated at \$32,300 compared to just \$3,325.<sup>11</sup>

In summary, if this rule moves forward, our country will no longer serve as a beacon for the world's dreamers and strivers. This proposal is a step backward, not forward, in creating a more perfect union. It is a clear threat to the nation's health and a violation of our core values as Americans—democracy, dignity, fairness, justice, community, and inclusiveness. As such, BCHC stands with our partners across the health and human services landscape in firm opposition to these proposed changes. If you require additional information about the issues raised in these comments, please do not hesitate to contact me.

Sincerely,



Chrissie Juliano, MPP  
[cjuliano@naccho.org](mailto:cjuliano@naccho.org)

Director, Big Cities Health Coalition

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<sup>10</sup> Severe Sociopolitical Stressors and Preterm Birth in New York City: 1 September 2015 to 31 August 2017, Kreiger et al., BMJ Vol 72, Issue 12. <https://jech.bmj.com/content/72/12/1147>

<sup>11</sup> March of Dimes, "Cost of Preterm Birth, United States, 2005," <https://www.marchofdimes.org/Peristats/ViewSubtopic.aspx?reg=99&top=3&stop=362&lev=1&slev=1&obj=1>