

December 10, 2018

Submitted via www.regulations.gov

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

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Sir/Madam:

I am writing on behalf of the Schuyler Center for Analysis and Advocacy in response to the Department of Homeland Security's (DHS, or the Department) Notice of Proposed Rulemaking (proposed rule) to express our strong opposition to the changes regarding "public charge," published in the Federal Register on October 10, 2018. The strength of our economic future is dependent on the well-being of our nation's children, who are our future workforce and tax base. Yet child poverty remains high in the United States and costs the United States over \$1 trillion a year, representing 5.4 percent of our GDP.¹ Therefore, everyone— regardless of socioeconomic status— benefits from strategies that improve child wellbeing.

As a child and family policy organization, we know that children do best when their families are strong, supported and have the resources necessary to provide them with the care they need. We know that accessing resources during a time of need does not mean that family will remain reliant on the government for assistance, and, in fact, can help to move children – and their families – out of poverty. In New York State, 37% (more than 1.5 million children) of our children live in immigrant families. The proposed rule would, directly or indirectly, impact all of those children and families. By targeting access to health care, nutrition assistance, and housing support for immigrant households with children, the proposed rule's sweeping changes to long-standing, bipartisan immigration policy would jeopardize our country's economic future.

For the reasons detailed in the comments that follow, we urge that the rule be withdrawn in its entirety, and that long standing principles clarified in the 1999 field guidance remain in effect.

Thank you for the opportunity to submit comments on the proposed rule. Please do not hesitate to contact us to provide further information.

Sincerely,

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DETAILED COMMENTS in opposition to DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Proposed Rulemaking: Inadmissibility on Public Charge Grounds

The Schuyler Center for Analysis and Advocacy is a 147-year old non-profit, non-partisan organization dedicated to public policy solutions that improve the well-being of New York's most vulnerable families and children. Among our areas of expertise are child welfare, and child and family health, including children's mental health. At the Schuyler Center, we devote each day to advancing policies that improve children's well-being and enable them to thrive. This proposed rule would, if adopted, inflict grave and lasting harm on countless children and families. Accordingly, we strongly oppose this proposed rule, and request that it be withdrawn, for the following reasons:

The proposed rule represents a total change in current policy, and is contrary to what research and evidence tells us is most effective. The proposed rule would alter the public charge test dramatically, abandoning the enduring meaning of a public charge as a person who depends on the government for subsistence, changing it to anyone who simply receives assistance with health care, nutrition, or housing. This would drastically increase the scope of who can be considered a public charge to include not just people who receive benefits as the main source of support, but also people who use basic needs programs to supplement their earnings from low-wage work.

This rule disproportionately targets children and their basic needs. The Department asks about public charge determinations for non-citizen children under age 18 who receive one or more public benefit programs.ⁱⁱ We strongly believe that receipt of benefits as a child should not be taken into account in the public benefits determination as it provides little information on their future likelihood of receiving benefits. If anything, receipt of benefits that allow children to live in stable families, be healthy and succeed in school will contribute to the future integration and contribution to society of kids who grow up, develop, learn and complete their education and training in the United States. The value of access to public benefits in childhood has been documented repeatedly. Safety net programs such SNAP and Medicaid have short and long-term health benefits and are crucial levers to reducing the intergenerational transmission of poverty.ⁱⁱⁱ

Furthermore, there is no way to hurt immigrant parents without also harming their children. Children in households where immigrant parents are limited from accessing critical benefits, including U.S. citizen children, will suffer from a loss of income and resources to the household that support their healthy development.

Investing in children is the most important investment we can make in our country's future. It is not only cruel, but counterproductive to penalize a child for being a child. Moreover, negatively weighing a child's enrollment in health and nutrition programs would be counter to Congressional intent under both the 2009 CHIPRA and section 4401 of the Farm Security and Rural Investment Act of 2002, which restored access to what was then called Food Stamps (now the Supplemental Nutrition Assistance Program, SNAP) to immigrant children.

The proposed rule would create a chilling effect and decline in services regardless of actual eligibility changes.

In addition to those families directly subject to the rule, expanding the public charge determination will have a broad chilling effect, deterring many, if not all, immigrant households from accessing

any essential services out of fear it will negatively impact their immigration status. The complexity and severity of implications stemming from the rule will – and have already begun to – cause fear and uncertainty among immigrant families even if they are still entitled to benefits.

The impact of the chilling effect has already been felt due to various leaked drafts of the rule – a strong indication that these deterrents will continue after the release of the official rule. Agencies in at least 18 states have reportedly seen drops of up to 20 percent in enrollment due to fear of the immigration policy, including New York’s largest WIC provider, which saw a significant drop-off in enrollment after the proposed rule was leaked.^{iv} Anecdotal stories have also emerged from around New York of immigrant parents fearful of accessing services, including keeping their children enrolled in public schools. It is clear that the chilling effect of the proposed rule is not only a threat, but that it is already being felt.

The rule itself states that consequences due to the chilling effect include worse health outcomes, increased obesity and malnutrition for pregnant women, breastfeeding mothers, infants, and children; increased use of emergency rooms and emergent care; increased prevalence of communicable diseases; increase in uncompensated care; increased poverty and housing instability; and reduced productivity and educational attainment.

The proposed rule would negatively impact child health

Medicaid and CHIP

Medicaid and the Children’s Health Insurance Program (CHIP) provide essential healthcare to America’s neediest children, but they also have widespread and long-lasting positive outcomes for children and their families that extend to the country as a whole. The inclusion of either of these programs in public charge determinations would drastically undermine the healthcare of children.

Nationally, Medicaid successfully provides health coverage to approximately 37 million children, making Medicaid the country’s largest insurer of children.^v On top of this, CHIP covers an additional 9.4 million children.^{vi} In New York State, 38%, or nearly 3 million children are covered by Medicaid or CHIP.^{vii} Thanks to these two programs, the number of uninsured children has dipped to record lows, to 2 percent in 2016.^{viii}

Being on Medicaid has proven health benefits for children. Access to healthcare through Medicaid also offers many long-term benefits for children – children tend to do better in school, miss fewer days due to illness or injury, and have a higher likelihood to graduate high school and college. As adults, studies have shown that, on average, people enrolled in Medicaid as children fare better by having better health, fewer hospitalizations and emergency room visits, earning more money, and paying more taxes.^{ix}

Today, children living with an immigrant parent are more likely to be uninsured than those living with U.S.-born parents.^x Thankfully, millions of immigrants and their families are able to rely on Medicaid to provide them with affordable health care. About 16.3 million immigrants, or about 39 percent, are in families in which someone receives Medicaid or CHIP and about eight million of these are citizen children.^{xi}

Studies show that children are less likely to have their own coverage if their parents are uninsured, so a parent’s loss of coverage will almost certainly have negative effects on their children. If a parent withdraws from Medicaid, or their child from CHIP, the family is at risk of potential untreated illness and lost work days due to illness. Uninsured parents are at greater risk for

medical debt, unpaid bills, and bankruptcy, which runs counter to the goal of self-sufficiency for families in our country.

The proposed rule would negatively impact child nutrition and food security

The Supplemental Nutrition Assistance Program (SNAP)

Nutrition and access to food are key to children's health and well-being. When families do not have consistent access to healthy food, children are at risk for malnutrition and other adverse health, educational, and developmental consequences.^{xii} The risk for food insecurity is even higher for children of immigrants.^{xiii}

As the largest federal assistance program serving children, the Supplemental Nutrition Assistance Program (SNAP) is the first line of defense against child food insecurity.^{xiv} Beyond its role in fighting food insecurity, SNAP benefits lifted 1.5 million children out of poverty in 2017 alone.^{xv} Low-income children who participate in SNAP have better long-term health and educational outcomes.^{xvi}

Including SNAP in a public charge determination would significantly undermine the program's role in fighting child poverty and food insecurity as well as erode its ability to generate economic activity on the whole in times of financial downturn. Already, undocumented non-citizens are ineligible to participate in SNAP. However, U.S.-born citizen children of immigrants and children who are 'qualified' immigrants are eligible for the program.^{xvii} As a result, in New York State in FY 2016, 69,000 eligible immigrant children received food assistance through SNAP. If and when these children apply for Legal Permanent Residency, this proposed rule would penalize them for receiving SNAP to avoid going hungry.

There are also millions of other children with immigrant parents participating in SNAP who could have less food as a result of this proposed rule. In New York State alone, 227,400 U.S. citizen children of immigrants participated in SNAP in FY 2016^{xviii}. By design, SNAP benefits grow with the size of a household, because they are intended to put food on the table for the whole family. If parents lose access to the program, the whole family will have less to eat.

According to DHS, this rule will indeed result in "increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children."^{xix} The agency claims that these consequences are "non-monetized costs," but this misleading assertion ignores a wide body of economic analysis quantifying the economic impact of obesity^{xx} and malnutrition^{xxi} in America.

This rule would negatively impact family economic stability

Housing Assistance

A lack of access to affordable housing remains one of the main barriers to economic stability for many families. Housing costs continue to increase in the United States, yet family income has not kept pace. About four million households with children spend more than half of their income on rent, which leaves limited resources for food, utilities, transportation, and other needs.^{xxii}

Yet access to housing assistance already remains limited for families - and access is further limited based on immigration status - only U.S.-born individuals and or those who are 'qualified' immigrants under are eligible for the program.^{xxiii} For mixed-status households, assistance is

prorated based on the number of eligible household members. This puts families with children, who have larger households and therefore need more spacious and costly housing, at a disadvantage by limiting access to housing assistance based on eligible members, not the total household.

This rule would further limit access to housing assistance for families with children. The primary housing assistance programs that serve families with children, Section 8 Housing Choice Vouchers, Section 8 Project Based Rental Assistance and Public Housing are all explicitly included in the rule.

The agency's assertion that loss of housing assistance for families would have "non-monetizable" costs for our society is inaccurate. Access to affordable housing provides stability for families and frees up income for other necessities. Low-income households with children that pay more than half of their monthly income on rent spend considerably less on other basic necessities - they spend \$200 less per month on food, nearly \$100 less on transportation, and about \$80 less on healthcare.^{xxiv}

As rent increases continue to outpace wage increases, federal housing assistance is more critical than ever. Further limiting access to housing assistance will cause higher rates of housing instability and homelessness in the United States, which will have devastating effects on healthy child development and our nation's future economic security.

Conclusion

We know that children and families do better when they are able to access services and supports that help them overcome difficult times and help to lift them out of poverty. In New York State, 37% of our children have parents who are immigrants or are immigrants themselves. Limiting – either directly or indirectly, through a chilling effect – these children's ability to access critical supports, such as health coverage, nutrition benefits, and housing supports, would have a devastating impact not just on the lives of those children, but on our state as a whole. Instead of limiting services for children and families, we should work to ensure that all families are supported so that children experience the best possible outcomes. When *all* children succeed, *all* of us benefit.

For the reasons outlined above, we respectfully urge DHS and HHS to withdraw this proposal.

ⁱ Michael McLaughlin and Mark Rank, "Estimating the Economic Cost of Childhood Poverty in the United States," *Social Work Research*, 42(2), June 2018, <https://doi.org/10.1093/swr/svy007>

ⁱⁱ Inadmissibility on public charge grounds, 83 Fed. Reg. 51114 (proposed October 10, 2018) (to be codified at 8 CFR Parts 103, 212, 213, 214, 245 and 248), pp. 511

ⁱⁱⁱ Page, Marianne, "Safety Net Programs Have Long-Term Benefits for Children in Poor Households", Policy Brief, University of California, Davis, 2017
https://poverty.ucdavis.edu/sites/main/files/file-attachments/cpr-health_and_nutrition_program_brief-page_0.pdf

^{iv} Helena Bottemiller Evich, "Immigrants, fearing Trump crackdown, drop out of nutrition programs," *Politico*, September 4, 2018.

<https://www.politico.com/story/2018/09/03/immigrants-nutrition-food-trump-crackdown-806292>

^v “Child Enrollment in CHIP and Medicaid by State, FY2016,” *macpac.gov*, accessed July 25, 2018, <https://www.macpac.gov/wp-content/uploads/2015/01/EXHIBIT-32.-Child-Enrollment-in-CHIP-and-Medicaid-by-State-FY-2016.pdf>

^{vi} “Total Number of Children Ever Enrolled in CHIP,” *The Henry J. Kaiser Family Foundation*, accessed July 25, 2018, <https://www.kff.org/other/state-indicator/annual-chip-enrollment/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

^{vii} Georgetown Center for Children & Families. (2017). New York: Snapshot of Children’s Coverage. <https://ccf.georgetown.edu/wp-content/uploads/2017/02/New-York-Medicaid-CHIP-new-v1.pdf>

^{viii} Joan Alker and Olivia Pham, “Nation’s Uninsured Rate for Children Drops to Another Historic Low in 2016,” *Georgetown University Health Policy Institute Center for Families and Children*, September 2017, <https://ccf.georgetown.edu/wp-content/uploads/2017/09/Uninsured-rate-for-kids-10-17.pdf>

^{ix} Danilo Trisi and Guillermo Herrera, “Administration Actions Against Immigrant Families Harming Children Through Increased Fear, Loss of Needed Assistance”, *Center on Budget and Policy Priorities*, May 15, 2018, <https://www.cbpp.org/research/poverty-and-inequality/administration-actions-against-immigrant-families-harming-children>

^x Samantha Artiga and Anthony Damico, “Nearly 20 Million Children Live in Immigrant Families that Could be Affected by Evolving Immigration Policies,” *The Henry J. 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/>

^{xi} The Annie E. Casey Foundation, *2017 Race for Results: Building a Path to Opportunity for All Children*, 2017, available at: <http://www.aecf.org/resources/2017-race-for-results/>

^{xii} Child Trends, “Food Insecurity: Indicators of Child and Youth Wellbeing,” *Child Trends Data Bank*, December 2016, <https://www.childtrends.org/indicators/food-insecurity>

^{xiii} Mariana Chilton and Maureen M. Black, et. al, “Food Insecurity and Risk of Poor Health Among US-Born Children of Immigrants.” *American Journal of Public Health*, March 2009, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661461/>

^{xiv} United States Department of Agriculture Office of Policy Support, “Measuring the Effect of Supplemental Nutrition Assistance Program (SNAP) Participation on Food Security (Summary),” August 2013, <https://fns-prod.azureedge.net/sites/default/files/Measuring2013Sum.pdf>

^{xv} Liana Fox, “The Supplemental Poverty Measure: 2017,” *United States Census Bureau*, September 2018, <https://www.census.gov/content/dam/Census/library/publications/2017/demo/p60-261.pdf>

^{xvi} Steven Carlson and Brynne Keith-Jennings, “SNAP is Linked with Improved Nutritional Outcomes and Lower Health Care Costs,” *Center on Budget and Policy Priorities*, January 2018, <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care>

^{xvii} The US Department of Agriculture, “SNAP Policy on Non-Citizen Eligibility,” Updated March 2017, accessed August 2018, <https://www.fns.usda.gov/snap/snap-policy-non-citizen-eligibility>

^{xviii} United States Department of Agriculture. Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2016. <https://fns-prod.azureedge.net/sites/default/files/ops/Characteristics2016.pdf>

^{xix} Inadmissibility on public charge grounds, 83 Fed. Reg. 51114 (proposed October 10, 2018) (to be codified at 8 CFR Parts 103, 212, 213, 214, 245 and 248), pp. 51270

^{xx} Hammond RA, Levine R. The economic impact of obesity in the United States. *Diabetes, Metabolic Syndrome and Obesity : Targets and Therapy*, 2010(3), August 2010, <https://doi.org/10.2147/DMSO.S7384>

^{xxi} John T. Cook and Ana Paula Poblacion, "Appendix 2: Estimating the Health-Related Costs of Food Insecurity and Hunger," 2016, Bread for the World Institute,

http://www.bread.org/sites/default/files/downloads/cost_of_hunger_study.pdf

^{xxii} Center on Budget and Policy Priorities, "Federal Rental Assistance," Fact Sheet, March 2017,

<https://www.cbpp.org/sites/default/files/atoms/files/4-13-11hous-US.pdf>

^{xxiii} 42 U.S. Code § 1436a - Restriction on use of assisted housing by non-resident aliens

<https://www.law.cornell.edu/uscode/text/42/1436a>

^{xxiv} "The State of the Nation's Housing 2018", Joint Center for Housing Studies of Harvard University, tabulations of US Bureau of Labor Statistics, 2016 Consumer Expenditure Survey, 2018,

http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf