



December 3, 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

RE: Request for Public Comment on Proposed Regulation: "Inadmissibility on Public Charge Grounds" - DHS Docket No. USCIS-2010-0012

Dear Ms. Deshommes:

On behalf of Trust for America's Health (TFAH), thank you for the opportunity to provide comments on the Department of Homeland Security's (DHS) proposed rule, "Inadmissibility on Public Charge Grounds."<sup>1</sup> TFAH promotes optimal health for every person and community and makes the prevention of illness and injury a national priority. We are writing to express our serious concern regarding the detrimental public health effects the proposed rule could have on immigrants and citizens across the country.

Currently, when a "public charge" assessment for legal immigrants occurs, immigration officers are instructed that they "should not place any weight on the receipt of non-cash public benefits (other than institutionalization) or the receipt of cash benefits for purposes other than for income maintenance with respect to determinations of admissibility or eligibility."<sup>2</sup> Therefore, only cash benefits for income maintenance or institutional care are to be considered as negative factors in public charge assessments.

The proposed rule would vastly broaden the set of benefits that would count as a negative factor in public charge assessments, including Medicaid, the Supplemental Nutrition Assistance Program (SNAP), Section 8 and subsidized housing, and Medicare's Part D premium assistance and Low-Income Subsidy.<sup>3</sup> We understand that there is also consideration of possibility of including the Children's Health Insurance Program (CHIP) in a future rule.

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<sup>1</sup> Department of Homeland Security, "Inadmissibility on Public Charge Grounds" (Oct. 10, 2018). Available at <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds#citation-335-p51169>.

<sup>2</sup> Department of Justice Immigration and Naturalization Service, "Field Guidance on Deportability and Inadmissibility on Public Charge Grounds" (March 26, 1999). Available at [www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds](http://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds)

<sup>3</sup> Department of Homeland Security, "Inadmissibility on Public Charge Grounds" (Oct. 10, 2018). Available at <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds#citation-335-p51169>.

TFAH opposes the proposed rule and any other steps that would harm the health and well-being of vulnerable children and their families.

## Unintended Consequences

We are deeply concerned about individuals and families who, worried about potentially being classified as public charges, could proactively disenroll or forego benefits for which they are eligible. This effect is not theoretical. Subsequent to the enactment of welfare reform in 1996, legal immigrant uptake of health and social services declined sharply, far beyond the actual restrictions put in place, in part due to fear and confusion about whether use of benefits would hurt their immigration status.<sup>4</sup> These declines occurred even among groups with eligibility not changed by the law, such as refugees and the citizen children of noncitizens.<sup>5</sup> In fact, when the INS clarified public charge policy in 1999, it did so precisely “to reduce the negative public health consequences generated by the existing confusion.”<sup>6</sup>

The proposed rule would recreate these negative public health consequences. As in the past, not only would immigrants avoid partaking in public benefits that would be considered in public charge assessments, there would likely again be a “chilling effect” that extends across families, to other benefits and other categories of immigrants. In an example of this kind of effect, a recent report found declines in SNAP enrollment among mixed-status families with immigrant mothers in 2018 even though eligibility rules had not changed, despite the importance of this nutrition program for children and families.<sup>7</sup>

We are concerned that this chilling effect would extend to crucial public health services related to communicable disease, affecting immigrant health and the health of all Americans. DHS states that the public charge assessment would continue to exempt “[p]ublic health assistance ... for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.” However, we are concerned that in the fear and confusion this rule would create, the exemption is unlikely to provide any reassurance, and uptake would decline.

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<sup>4</sup> Passel J. Trends in noncitizens' and citizens' use of public benefits following welfare reform. *Urban Institute*. 1999. <https://www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform>

<sup>5</sup> Passel J. Trends in noncitizens' and citizens' use of public benefits following welfare reform. *Urban Institute*. 1999. <https://www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform>

<sup>6</sup> Department of Justice Immigration and Naturalization Service, “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds” (March 26, 1999). Available at [www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds](http://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds)

<sup>7</sup> Lowry, M. Study: Following 10-year gains, SNAP participation among immigrant families dropped in 2018. *American Public Health Association*. 2018. <https://www.apha.org/news-and-media/news-releases/apha-news-releases/2018/annual-meeting-snap-participation>

## Potential Savings Would Not Outweigh the Negative Public Health Outcomes

DHS estimates that overall immigrant disenrollment or foregoing of benefits would save \$2.27 billion annually. However, the lack of these services could have a consequential and negative public health outcome that would far outweigh the savings generated by this proposed rule. For example, with projected Medicaid disenrollment rates of up to 35 percent, up to 2 million citizen children could forego their Medicaid (or CHIP, if included) benefits, causing expensive utilization of emergency departments and safety net care for medical issues that would have otherwise been addressed in primary care settings covered by their benefits.<sup>8</sup>

As families lose these critical benefits, the potential for adverse health impacts would increase.<sup>9,10,11</sup> Individuals lacking proper nutrition, healthcare coverage, home energy assistance, and preventive services would be at increased risk of obesity, malnutrition, communicable and non-communicable diseases, poverty, housing instability, and reduced ability to treat and address these issues.<sup>12,13,14</sup> Without healthcare coverage, utilization of primary care providers and preventive services would decline while use of emergency departments for non-urgent and avoidable urgent cases would increase; because most of these individuals would become uninsured, uncompensated care costs would increase and strain limited resources.<sup>15</sup>

DHS acknowledges these risks in the proposed rule:

“Disenrollment or foregoing enrollment in public benefits program by aliens otherwise eligible for these programs could lead to:

- Worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence;

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<sup>8</sup> Artiga S, Garfield R, Damico A. Potential effects of public charge changes on health coverage for citizen children. *Kaiser Family Foundation*. 2018. [https://www.kff.org/report-section/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children-issue-brief/#endnote\\_link\\_257512-5](https://www.kff.org/report-section/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children-issue-brief/#endnote_link_257512-5)

<sup>9</sup> Artiga S, Garfield R, Damico A. Estimated impacts of the proposed public charge rule on immigrants and Medicaid; *Kaiser Family Foundation*. 2018. [https://www.kff.org/report-section/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children-issue-brief/#endnote\\_link\\_257512-5](https://www.kff.org/report-section/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children-issue-brief/#endnote_link_257512-5)

<sup>10</sup> Batalova J, Fix M, Greenberg M. Chilling effects: The expected public charge rule and its impact on legal immigrant families’ public benefits use. *Migration Policy Institute*. 2018. <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>

<sup>11</sup> Artiga S, Ubri P. Living in an Immigrant Family in America: How Fear and Toxic Stress are Affecting Daily Life, Well-Being, & Health. *Kaiser Family Foundation*. 2017. <https://www.kff.org/disparities-policy/issue-brief/living-in-an-immigrant-family-in-america-how-fear-and-toxic-stress-are-affecting-daily-life-well-being-health/>

<sup>12</sup> Katz MH, Chokshi DA. The “Public Charge” Proposal and Public Health Implications for Patients and Clinicians. *JAMA*. Published online October 01, 2018. doi:10.1001/jama.2018.16391

<sup>13</sup> Batalova J, Fix M, Greenberg M. Chilling effects: The expected public charge rule and its impact on legal immigrant families’ public benefits use. *Migration Policy Institute*. 2018. <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>

<sup>14</sup> Parmet WE. The Health Impact of the Proposed Public Charge Rules. *Health Affairs*. Published online September 27, 2018. 10.1377/hblog20180927.100295

<sup>15</sup> Parmet WE. The Health Impact of the Proposed Public Charge Rules. *Health Affairs*. Published online September 27, 2018. 10.1377/hblog20180927.100295

- Increased use of emergency rooms and emergent care as a method of primary health care due to delayed treatment;
- Increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated;
- Increases in uncompensated care in which a treatment or service is not paid for by an insurer or patient;
- Increased rates of poverty and housing instability; and
- Reduced productivity and educational attainment.”<sup>16</sup>

As an organization committed to promoting public health, we strongly oppose this proposed rule, and request that you maintain current policy on public charge assessments.

Thank you for your consideration. If you have any questions, please contact Becky Salay, TFAH’s Director of Government Relations, at [bsalay@tfah.org](mailto:bsalay@tfah.org).

Sincerely,



John Auerbach  
President and Chief Executive Officer  
Trust for America’s Health

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<sup>16</sup> Department of Homeland Security, “Inadmissibility on Public Charge Grounds” (Oct. 10, 2018). Available at <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds#citation-335-p51169>.