



National Association of County & City Health Officials

The National Connection for Local Public Health

December 10, 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: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Deshommes:

I write on behalf of the National Association of County and City Health Officials (NACCHO) in response to the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking (NPRM or proposed rule) to express our strong opposition to the changes regarding "public charge," published in the Federal Register on October 10. NACCHO represents the nearly 3,000 local health departments that safeguard the public's health in communities across our nation. NACCHO is concerned that the proposed rule is unnecessary and would cause major harm to the public's health as a whole, affecting both U.S. Citizens and immigrants. Therefore, NACCHO urges that the rule be withdrawn in its entirety and that long standing principles clarified in the 1999 field guidance on public charge remain in effect.

The current system allows our nation to address public health issues.

Under longstanding policy, the federal government can deny an individual entry into the U.S. or adjustment to legal permanent resident status (i.e., a green card) if the person is determined likely to become a "public charge." Historically, the public charge definition has been limited, excluding public health, healthcare, and social services programs. This has been an important distinction, allowing our nation to address public health issues more efficiently and effectively.

The proposed rule radically expands the definition to include any immigrant who simply "receives one or more public benefits." Under the proposed rule, officials would consider use of certain previously excluded programs, including Medicaid, the Supplemental Nutrition Assistance Program (SNAP), and several housing programs, in public charge determinations. This shift drastically increases 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 sustain the health and wellbeing of themselves and their families. In addition, if DHS expands this policy change to include the Children's Health Insurance Program



(CHIP) in a future rule, this would have a drastic effect on children’s access to primary care and medical treatment for injuries and infectious diseases and could further increase uncompensated care and other costs to local and state governments.

The proposed rule would lead to “worse health outcomes.”

Social service and health programs are critical to our nation’s broader effort to improve the health of communities and protect the public from unchecked outbreaks of infectious disease and costly chronic diseases. To protect the public, local health departments strive to keep all residents of their communities as healthy as possible. However, this proposed rule would hamper years of public health investment and the trust gained by local public health in their communities. 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. Furthermore, 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 U.S. citizens alike.

In its own overview of the impact of the proposed rule, DHS states that disenrollment or foregoing enrollment in public benefits programs by immigrants and their families otherwise eligible for these programs could lead to:

- (1) worse health outcomes, including increased prevalence of obesity and malnutrition—especially for pregnant or breastfeeding women, infants, or children—and reduced prescription adherence.
- (2) increased use of emergency rooms and emergent care as a method of primary healthcare due to delayed treatment.
- (3) increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated.
- (4) increases in uncompensated care which a treatment of service is not paid for by an insurer or patient.
- (5) increased rates of poverty and housing instability.
- (6) reduced productivity and educational attainment.

Deferred care and services will likely incur increased costs to local and state governments, and society. As families lose these critical benefits, the potential for adverse health pacts would

increase.^{1, 2, 3} 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.^{4, 5, 6} 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.⁷

The proposed rule is already having a chilling effect.

Beyond the impact the proposed rule would have if finalized, it is important to note that just the proposal of such a policy can and has already had a chilling effect on accessing public health services, whether they are specifically included in the proposal.

For example, with advances in HIV treatment and prevention – and the evidence that individuals who are virally suppressed cannot transmit the virus to others – our nation has the tools, not just to combat the HIV epidemic, but to end new HIV infections in this country. The Administration has signaled its commitment to this ambitious public health goal. However, it is impossible to end new HIV infections with policies that jeopardize access to HIV prevention, care, and treatment services. The proposed rule, if enacted, will have a sweeping negative impact on access to vital public health services across all immigrant categories, not just those directly implicated in the rule. HIV providers have already reported a decline in immigrant patients accessing HIV care and treatment even with the rule only in proposal form.

¹ Artiga S, Garfield R, Damico A. Estimated impacts of the proposed public charge rule on immigrants and Medicaid; Kaiser Family Foundation. 2018. Retrieved December 7, 2018 from https://www.kff.org/report-section/potential-effects-of-public-chargechanges-on-health-coverage-for-citizen-children-issue-brief/#endnote_link_257512-5.

² 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. Retrieved December 7, 2018 from <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrantfamilies>.

³ 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. Retrieved December 7, 2018 from <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/>.

⁴ Katz MH, Chokshi DA. The “Public Charge” Proposal and Public Health Implications for Patients and Clinicians. JAMA. Retrieved December 7, 2018 from doi:10.1001/jama.2018.16391

⁵ 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-immigrantfamilies>

⁶ Parmet WE. The Health Impact of the Proposed Public Charge Rules. Health Affairs. Retrieved on December 7, 2018 from 10.1377/hblog20180927.100295.

⁷ Ibid.

Similarly, while NACCHO appreciates that “public health assistance for immunizations for immunizable diseases” is listed as an exception from the definition of federal public benefit, this proposed rule would nonetheless deter as many as 26 million people in the United States from seeking access to essential health care services, including those exempted. Discouraged access to preventive services would inevitably have a devastating impact on immunization coverage for immigrant populations. Despite near universal access to immunizations for children, a 2016 study by the American Academy of Pediatrics describes wide variation in childhood rates among immigrant populations.⁸ Recent immunization coverage data from the Centers for Disease Control and Prevention highlights the disparities that persist in immunizations, with generally lower immunization coverage in certain racial and ethnic groups.⁹ The recent measles outbreak that originated in Somali communities in Minnesota affecting many immigrant families demonstrated that waning “community immunity” in certain areas can result in costly outbreaks of vaccine preventable illness. Anything that lowers rates of people seeking preventative health care can result in increased rates of communicable and chronic diseases in the future, increasing health care costs and lowering productivity of the individuals who forgo preventative health care services.

It is important to note that this chilling effect is already happening and can have a real impact on not only the health of our communities, but also the costs in our health care system. A recent study undertaken by the New York City Department of Health and Mental Hygiene and the Harvard T.H. Chan School of Public Health found that increases in rhetoric – not 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.¹⁰ There was little change among white women. The medical cost of one preterm birth is estimated at \$32,300 compared to \$3,325 for a full-term birth.¹¹

The 1999 field guidance on public charge should remain in effect.

The administrative guidance advanced in 1999 to clarify public charge (which remains in effect today) states that the public charge test applies only to those “primarily dependent on the government for subsistence,” demonstrated by receipt of public cash assistance for “income maintenance”, or institutionalization for long-term care at Government expense. The guidance specifically lists non-cash programs such as Medicare, Medicaid, food stamps, WIC, Head Start,

⁸ American Academy of Pediatrics. Immigration Rates Vary Widely in Immigrant Communities. Retrieved on December 7, 2018 from <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/Immunization-Rates-Vary-Widely-In-Immigrant-Communities.aspx>.

⁹ Centers for Disease Control and Prevention. (2018). Vaccination Coverage Among Adults in the United States, National Health Interview Survey, 2016. Retrieved on December 7, 2018 from <https://www.cdc.gov/vaccines/imz-managers/coverage/adultvaxview/pubs-resources/NHIS-2016.html>

¹⁰ 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. Retrieved on December 7, 2018 from <https://jech.bmj.com/content/72/12/1147>.

¹¹ March of Dimes. Peristats. Retrieved on December 7, 2018 from <https://www.marchofdimes.org/Peristats/ViewSubtopic.aspx?reg=99&top=3&stop=362&lev=1&slev=1&obj=1>.

child care, school nutrition, housing, energy assistance, emergency/disaster relief as programs *not* to be considered for purposes of public charge. The 1999 NPRM preamble makes clear that it was not seen as changing policy from previous practice but was issued in response to the need for a “clear definition” so that immigrants can make informed decisions and providers and other interested parties can provide “reliable guidance.”

The 1999 guidance is consistent with Congressional intent and case law, has been relied upon by immigrant families for decades, and should continue to be used in interpreting and applying the public charge law. Contrary to the rationale put forward in the proposed rule, in 1996 Congress made changes to program eligibility, not to the public charge determination. Since that time, Congress has made explicit choices to expand eligibility (or permit states to do so) under these programs.

Conclusion

The proposed rule represents a significant change in current policy and it is put forward with no rationale and in contradiction of the available evidence. For the good of the nation’s health, both for U.S. citizens and immigrants, DHS should immediately withdraw its current proposal and dedicate its efforts to advancing policies that strengthen—rather than undermine—public health and the ability of immigrants to support themselves and their families in the future. For communities to thrive, everyone in those communities must be able to access the care, services, and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Adriane Casalotti, MPH, MSW, Chief of Government and Public Affairs at acasalotti@naccho.org/202-507-4255 to provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Tremmel Freeman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lori Tremmel Freeman, MBA
CEO