



November 23, 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 N.W.
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:

The National Association of Social Workers (NASW) is the nation's largest professional social work organization. We have 120,000 members with chapters in all fifty states and three U.S. territories, metropolitan Washington, DC and New York City. The social work profession serves that country's most vulnerable populations, especially in the areas of child and family welfare and older adults.

NASW submits the following comments in response to the October 10, 2018 notice by the Department of Homeland Security (DHS) announcing its proposed "public charge" rule change. NASW strongly and unambiguously opposes the proposed new rule.

DHS' proposal to redefine "public charge" - which is a major determinant for immigrant admissibility - will lead to severely diminishing access to critical health and social services for immigrant children, their parents and older men and women. As written, the proposed rule change is cruel and will result in lasting damage to the health and wellbeing of an already vulnerable population. The new rule favors wealthy immigrants and disfavors low-income children, families and older immigrants. In particular, NASW believes the proposed new rule will:

- Likely lead to disenrollment from Medicaid and other programs¹ among noncitizens who intend to seek Lawful Permanent Resident (LPR) status - as well as among some immigrant individuals and families (including those with primarily U.S.-born children). Noncitizens without LPR status would likely disenroll from essential health and nutrition programs because enrollment could negatively affect their chances of obtaining LPR status under the proposed rule.

¹ Kaiser Family Foundation. (2018, October). *estimated impacts of the proposed public charge rule on Immigrants and Medicaid*. Retrieved from <https://www.kff.org/report-section/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaide-key-findings/>

Previous experience and recent research² suggest that the proposed rule would have a “chilling effect” that would likely lead to disenrollment among a broader group of individuals in immigrant families even though the proposed rule would not directly affect them. This research indicates the impetus for choosing not to enroll - or disenroll- themselves and their children from public programs is a lack of understanding of the new “public charge” rule. Thereby fearing their (or their children’s) enrollment could negatively affect their immigration status. For example, when a major overhaul of federal welfare law in 1996³ rendered immigrants—but not their U.S. citizen children—ineligible for federally-funded benefits, more than half of the U.S. citizen children with an immigrant parent dropped from the food stamps program.

- Limit access to Medicaid and Medicare Part D, significantly increasing health disparities and inadequate health care within the immigrant community.
- Limit access to essential safety-net programs and increase the rate of poverty within the immigrant community. Based on the Census Bureau’s Supplemental Poverty Measure in 2017⁴, SNAP moved 3.4 million people out of poverty. Additionally, housing assistance programs moved 2.9 million people out of poverty.

Significantly Exacerbate Food Insecurity

We cannot understate the degree to which the proposed rule threatens nutritional stability for children and families. DHS’s own estimates show that the number of individuals who are likely to disenroll or forgo enrollment in public benefit programs, including SNAP, at 2.5 percent of the number of foreign-born, noncitizens. Even though this estimate is based on a deeply flawed analysis, under this conservative scenario, almost 130,000 people — many of them children — would lose access to SNAP.

This loss of access would roll back progress in addressing hunger and poverty in this country. A growing body of research extols the virtues of SNAP participation as a crucial source of support for nutrition, and just as importantly, health, learning, and economic security. In 2017, according to the Census Bureau’s Supplemental Poverty Measure⁵, SNAP lifted 3.4 million people out of poverty.

Aging-specific Impact

Older adults would be among those at great risk if the proposed rule were to take effect. Being older than 61 would be considered a negative factor in determining the likelihood of becoming a “public charge.” The preference for English language proficiency would pose a severe barrier for older immigrants, more than half of whom have limited English proficiency. So, too, would the

² Kaiser Family Foundation. (2018, September). *family consequences of detention/deportation: effects on finances, health, and well-being*. Retrieved from <https://www.kff.org/disparities-policy/issue-brief/family-consequences-of-detention-deportation-effects-on-finances-health-and-well-being/>

³ National Immigration Law Center. (2015, December) *overview of immigrant eligibility for federal programs*. Retrieved from <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>

⁴ United States Census Bureau. (2018, September) *the supplemental poverty measure: 2017*. Retrieved from <https://www.census.gov/library/publications/2018/demo/p60-265.html>

⁵ United States Census Bureau. (n.d.) *the supplemental poverty measure: 2017*. Retrieved from <https://www.census.gov/library/publications/2018/demo/p60-265.html>

income factor, given that 15 percent of older adults had incomes of 125 percent of the Federal Poverty Level (FPL) or lower in 2016.⁶

The health factor would particularly affect older adults, most of whom live with at least one chronic condition and many of whom have multiple conditions. Thus, adding nonemergency Medicaid and the Medicare Low-Income Subsidy (LIS) as public charge factors would disproportionately affect older adults; nearly 3.2 million people, many of them older adults, rely on Medicaid-funded home and community-based services;⁷ three in 10 Medicare Part D enrollees use the LIS almost 7 million older adults are dually enrolled in Medicare and Medicaid;⁸ and 20 percent of Medicare beneficiaries use Medicare Savings Programs, which are funded by Medicaid.⁹

The inclusion of the Supplemental Nutrition Assistance Program (SNAP) and of federal housing programs as public charge factors would create additional barriers; almost 5 million older adults use SNAP monthly, and more than 1.7 million households with older adults use federal housing programs.¹⁰ Consequently, these negative factors would make it nearly impossible for older immigrants—especially older immigrants of color, given longstanding economic and health disparities—to pass the Totality of Circumstances test under the proposed rule. Moreover, implementation of the proposed rule would decrease the availability of older immigrants to care for younger family members; the availability of family caregivers for older adults; and the paid workforce, especially direct care workers, that provides services and supports to older adults and younger populations.¹¹

Additionally, it is important to point out that for nearly a century, U.S. immigration law has used the term “public charge” to mean a person primarily dependent on the government for subsistence¹². The proposed rule vastly expands this definition to include individuals who *simply*

⁶ Administration for Community Living. (2018, April). *2017 profile of older Americans*. Retrieved from <https://acl.gov/sites/default/files/Aging%20and%20Disability%20in%20America/2017OlderAmericansProfile.pdf>

⁷ O’Malley Watts, M., & Musumeci, M.B. (2018, January). *Medicaid home and community-based services: Results from a 50-state survey of enrollment, spending, and program policies* [Report]. Retrieved from the Henry J. Kaiser Family Foundation Web site: <http://files.kff.org/attachment/Report-Medicaid-Home-and-Community-Based-Services>

⁸ Henry J. Kaiser Family Foundation (2018). *State health facts: Medicaid enrollment by age, FY2013*. Retrieved from <https://www.kff.org/medicaid/state-indicator/medicaid-enrollment-by-age/?dataView=1¤tTimeframe=0&sortModel=%7B%22collId%22:%22Location%22,%22sort%22:%22asc%22%7D>

⁹ Henry J. Kaiser Family Foundation (2018). *State health facts: Medicaid enrollment by age, FY2013*. Retrieved from <https://www.kff.org/medicaid/state-indicator/medicaid-enrollment-by-age/?dataView=1¤tTimeframe=0&sortModel=%7B%22collId%22:%22Location%22,%22sort%22:%22asc%22%7D>

¹⁰ Kean, N., & Lang, K. (2018, April). *Supporting Older Americans’ basic needs: Health care, income, housing and food* [Issue brief]. Retrieved from the Justice in Aging Web site: <http://www.justiceinaging.org/wp-content/uploads/2018/04/Supporting-Older-Americans%E2%80%99-Basic-Needs-Health-Care-Income-Housing-and-Food.pdf>

¹¹ Espinoza, R. (2017, June). *Immigrants and the direct care workforce* [Research brief]. Retrieved from the PHI Web site: <https://phinational.org/resource/immigrants-and-the-direct-care-workforce/>

¹² U.S. Citizenship and Immigration Services. (n.d.) *public charge fact sheet*. Retrieved from <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>

receive one of the referenced nutrition, health care, or housing benefits. The public charge designation has a profound effect on immigrant families. Being determined to be a public charge can mean that an individual is barred from entry to the U.S. - or disqualify an applicant for legal permanent residency (“LPR”) status.

NASW believes that all non-citizen children (and adults) deserve the fundamental security provided by adequate food, health care, and housing. It is only with such supports in place that immigrant families and individuals can meaningfully stabilize their lives, and become self-sustained residents of the United States. For all of the above reasons, we strongly urge DHS to withdraw this harmful proposed rule in its entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "Melvin H. Wilson". The signature is fluid and cursive, with the first name "Melvin" being the most prominent.

Melvin H. Wilson, LCSW, MBA
Senior Manager
Office of Social Justice and Human Rights