



Friends Committee on
National Legislation

A Quaker Lobby in the Public Interest

December 10, 2018

Ms. Samantha Deshombres
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. Deshombres:

The Friends Committee on National Legislation (FCNL) is writing in response to the Department of Homeland Security's (DHS) Notice of Proposed Rule Making (proposed rule) to express our strong opposition to the changes regarding "public charge," published in the Federal register on October 10.

FCNL is a non-partisan, faith-based organization that works to advance peace, justice, opportunity, and environmental stewardship through policy and advocacy. Founded in 1943 by members of the Religious Society of Friends (Quakers), FCNL works with a grassroots network of tens of thousands of people across the country to advance policies and priorities that promote peace and justice. FCNL seeks to live our values of integrity, simplicity, and peace as we build relationships across political divides to move policies forward.

As an organization, FCNL strongly opposes the DHS proposed rule that would dramatically expand the definition of what it means to be a "public charge." Under current policy, the government restricts immigration applications on public charge grounds if it determines an immigrant would likely depend on public cash assistance or would need long-term medical care at the government's expense.

The proposed rule would potentially label individuals as a public charge based on if they receive or seek access to a wide range of government programs like the Supplemental Nutrition Assistance Program (SNAP), Medicare Part D, federal housing assistance (such as Section 8 vouchers and rental assistance), and non-emergency Medicaid. The proposed rule also asked for specific comments on whether to include CHIP in addition to these other programs.

The proposed rule also would create a new threshold that places an undue emphasis on an immigrant's income. The proposed rule would require that the immigrant (not just the sponsor) earn at least 125% of the Federal Poverty Line and would weigh as "heavily positive" any household earning an income of 250% of the Federal Poverty Line (this translates to \$63,000 for a family of 4).

As a Quaker organization, we advocate that no individual or community should be disenfranchised by federal policy. Programs, resources, and benefits should be available to those most in need. This proposed rule change is short-sighted, punitive, and would only exacerbate intergenerational poverty while tearing apart communities.

The proposed new policy would create a chilling effect, undermining access to essential health, nutrition, and other critical programs for eligible immigrants and their family members. The fear created by these rules would extend far beyond any individual who may be subject to the public charge test, harming entire communities as well as the infrastructure that serves all of us. Healthcare workers have already reported changes in health care use, including decreased participation in Medicaid, CHIP, and other programs due to community fears stemming from the leaked draft regulations.

FCNL believes this proposed rule will hurt people, particularly those who are most vulnerable. FCNL offers additional comments, explained in more detail below, articulating that this rule will cause significant and permanent harm to children and families, is inconsistent with congressional intent, jeopardizes family unity, and fails to understand the nature of low-wage work in America.

The rule would cause significant and permanent harm to children, families, and communities

As people of faith, we seek a world where all people can achieve their full potential. This proposed rule keeps people from accessing basic support programs that help them escape poverty and live with dignity. Restricting immigrant families' unhindered access to health, nutrition, housing and other vital programs that help ensure economic stability and well-being violates our commitment to uphold the dignity of all people.

Investing in nutrition, health care, and other basic living standards keeps children learning, parents working, families strong, and allows all of us to contribute fully to our communities. The policies articulated in the proposed rule will discourage or prevent hard-working people from immigrating, and deter immigrant families, most of which include U.S. citizen children, from accessing federal programs that they are legally entitled to, programs that will promote a healthy and productive life. The broad reach and new income tests target low-income families in a way that will exacerbate hunger and food insecurity, unmet health care needs, poverty, homelessness, and other serious problems. If this proposed rule moves forward, it will affect the health, development, and economic outcomes of generations to come.

One out of every four children in the U.S. has one or more parents who are foreign-born¹. These same children in immigrant families are more likely to face certain hardships and are already less likely to secure help due in part to flawed eligibility rules that create barriers for immigrant families². Like all children, children in immigrant families benefit when they have access to essential programs and services that help meet their basic needs and promote their development. Economic and food insecurity

¹ Migration Policy Institute, *Children in U.S. Immigrant Families 2016*, <https://www.migrationpolicy.org/programs/data-hub/charts/children-immigrant-families>

² Tanya Broder, Avidah Moussavian, and Jonathan Blazer, *Overview of Immigrant Eligibility for Federal Programs*, National Immigration Law Center, 2015, <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>; Kinsey Alden Dinan, *Federal Policies Restrict Immigrant Children's Access to Key Public Benefits*, National Center for Children in Poverty, 2005, http://www.nccp.org/publications/pdf/text_638.pdf.

harm all family members but are particularly harmful to young children’s development and will have lifelong repercussions.

The heavily weighed negative factors ignore the impact of access to public benefits and family support as positive factors in empowering future self-sufficiency. The rule does not recognize that receipt of benefits that cure a significant medical issue is a highly significant positive factor that contributes to future economic self-sufficiency. Discouraging families from receiving health, nutrition, or housing supports for their children will only make it harder for them to achieve economic security in the future.

The value of access to public benefits has been documented repeatedly. Multiple studies confirm that early childhood or prenatal access to Medicaid and SNAP improves health and reduces reliance on cash assistance. Children of immigrants who participate in SNAP are more likely to be in good or excellent health, be food secure, and reside in stable housing. Compared to children in immigrant families without SNAP, families with children who participate in the program have more resources to afford medical care and prescription medications³. An additional year of SNAP eligibility for young children with immigrant parents is associated with significant health benefits later in childhood and adolescence⁴. Children in immigrant families with health insurance coverage are more likely to have a usual source of care, receive regular health care visits, and are less likely to have unmet care needs⁵. Children with access to Medicaid have fewer absences from school, are more likely to graduate from high school and college, and are more likely to have higher paying jobs as adults⁶. Children whose families receive housing assistance are more likely to have a healthy weight and to rate higher on measures of well-being – especially when housing assistance is accompanied by food assistance⁷.

The proposed rule would change the lives of countless families across the United States. Children in immigrant families do not live in isolation. They live and grow up in communities where their individual success is critical to the strength of the country’s future workforce and collective economic security. America’s future depends on ensuring that all children succeed. We need to invest in children, rather than put their healthy development and education at risk by destabilizing their families. Forcing parents to choose between their ability to remain with or reunite their family and their access to critical benefits is short-sighted and will harm all of us.

CHIP is a critical program that should not be included in the proposed rule change

Ever since CHIP has been implemented, it has enjoyed bipartisan support and success. It has proven to be a critical investment in the health of our children that should not be included in the proposed rule.

³ Children’s Health Watch, *Report Card on Food Security and Immigration: Helping Our Youngest First-Generation Americans To Thrive*, 2018, <http://childrenshealthwatch.org/wp-content/uploads/Report-Card-on-Food-Insecurity-and-Immigration-Helping-Our-Youngest-First-Generation-Americans-to-Thrive.pdf>

⁴ Chloe N. East, *The Effect of Food Stamps on Children’s Health: Evidence from Immigrants’ Changing Eligibility*, Working Paper, 2017, http://www.chloeast.com/uploads/8/9/9/7/8997263/east_fskids_r_r.pdf.

⁵ Christine Percheski and Sharon Bzostek, *Public Health Insurance and Health Care Utilization for Children in Immigrant Families*, *Maternal and Child Health Journal* 21 (2017).

⁶ Karina Wagnerman, Alisa Chester, and Joan Alker, *Medicaid is a Smart Investment in Children*, Georgetown University Center for Children and Families, March 2017, <https://ccf.georgetown.edu/2017/03/13/medicaid-is-a-smart-investment-in-children/>.

⁷ Kathryn Bailey, Elizabeth March, Stephanie Ettinger de Cuba, et al., *Overcrowding and Frequent Moves Undermine Children’s Health*, Children’s HealthWatch, 2011, www.issueab.org/resources/13900/13900.pdf.

Expansions for Medicaid and CHIP in the 1980's and 1990's led to a 24% increase in overall eligibility for these programs. This in turn led to a decline in high-school non-completion of almost 10% among low-income children, and an increase in bachelor's degree attainment of approximately 5.5%⁸. This impact is similar to other educational reforms like reducing classroom sizes and implementing school-wide performance standards⁹.

Currently over eight million U.S. citizen children with an immigrant parent have Medicaid/CHIP coverage¹⁰. However, 7% of citizen children with an immigrant parent still lack any health insurance coverage¹¹. Including CHIP in the proposed rule change will cause people to disenroll in the program, which will therefore increase the number of uninsured children and leave those who are vulnerable without any health care coverage.

Including CHIP in the proposed rule along with other, similar programs that help lift individuals and families out of poverty would only lead to demonstrably negative outcomes for some of the most vulnerable children in our society. Unlike some of the other programs where children indirectly receive benefits through their families, vulnerable children benefit directly from CHIP. Our faith traditions teach us to protect the most vulnerable people, especially children. As such, we firmly oppose including CHIP in the proposed rule, as it would cause serious harms on vulnerable children and force families to choose between their immigration status and providing health care coverage for their children.

The rule is inconsistent with clear congressional intent that noncitizens be eligible for means tested programs

The proposed rule undermines eligibility rules set by Congress for means tested public programs. Since the 1996 welfare reform law that overhauled immigrant eligibility for programs and the 1999 INS field guidance, Congress has passed several laws that explicitly loosened or created new eligibility for means tested programs for immigrant populations. Because immigrants and their families will be penalized for using these programs that they are lawfully allowed to use, this proposal contradicts congressional intent and effectively ends their eligibility. Statutory text, Congressional debate and contemporary media coverage demonstrate these decisions were an intentional use of legislative power that should not be undermined by a regulation. Some examples of this include:

- 2002 Farm Bill
 - Section 4401 of The Farm Security and Rural Investment Act of 2002 restored access to Food Stamps (now SNAP) to immigrant children, immigrants receiving disability benefits, and any qualified alien living in the U.S. for more than five years.
- 2009 Children's Health Insurance Program Reauthorization bill
 - Section 214 of the 2009 Children's Health Insurance Program Reauthorization Act (CHIPRA) gave states a new state plan amendment option to cover, with regular federal

⁸ Sarah Cohodes, Daniel Grossman, Samuel Kleiner, et al., *The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions*, 2014, <https://www.nber.org/papers/w20178.pdf>

⁹ Ibid

¹⁰ Samantha Artiga & Anthony Damico, *Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies*, Kaiser Family Foundation, (Apr. 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/>

¹¹ Ibid

matching dollars, lawfully residing children and pregnant women on Medicaid and CHIP during their first five years in the U.S.

Families shouldn't have to compromise their immigration status in order to remain healthy and productive by accessing benefits they're eligible for. Congress has clearly understood this over time, intentionally avoiding and removing barriers to immigrant access to programs like SNAP and CHIP. The administration must defer to Congressional intent on this issue.

Faith communities and nonprofits can't replace safety net programs

Faith communities will be unable to meet the needs of immigrant families should this rule be adopted, which will lead to unnecessary suffering. The faith community and the private sector provide significant resources and assistance, yet the government must continue its role in addition to these services. For example, if Congress cut SNAP funding by \$134 billion over ten years, as proposed a few years ago, every congregation of every faith in the U.S. would have to raise an additional \$40,000 per year to make up the difference¹². Furthermore, for every 1 meal provided by Feeding America, one of the largest hunger relief organizations in the United States, SNAP provides 12¹³. It would be impossible for churches and other nonprofit organizations to replace the scale of these crucial government programs.

This rule would jeopardize family unity, which is crucial to a safe and stable community

We believe that this rule change is another mechanism being used by the Trump administration to further its overarching efforts to cut legal immigration in half through unjustly punishing immigrant families in a desperate attempt to deter further immigration. Family unity has been a fundamental American value and a cornerstone of our immigration system. Our entire community benefits when mothers, fathers, grandparents, sisters, and brothers can support each other as they seek the American Dream and contribute to our shared prosperity.

Our faith tradition informs us that we must ensure that families can grow and thrive together. Strong family units are the bedrock of safe, thriving communities and our shared economic prosperity. The proposed rule change would force immigrant families to make an impossible choice between caring for their children, parents and grandparents, and keeping their family together. Nobody in need of food, housing, child care and education should be afraid of accessing those benefits. We need to support and preserve the family unit by pursuing policies that keep families together rather than tear them apart. Forcing parents to choose between their ability to remain with or to reunite with their family and the well-being of their children is cruel and contrary to our legacy as a nation that welcomes immigrants and provides opportunity to all.

The rule is based on inaccurate and misleading data and understanding of low-wage work

The proposed rule assumes that there are two categories of people: independent workers and dependent benefit recipients. The rule also assumes that these groups don't overlap, and that people don't move between the two. However, due to the nature of low-wage work, there is a lot of overlap

¹² Bread for the World, *2014 Hunger Report: Ending Hunger in America*, pg. 44, <http://www.bread.org/sites/default/files/downloads/hunger-report-2014-sm.pdf>

¹³ Matt Knott, Feeding America, *Statement on Introduction of the 2018 House Farm Bill*, April 12, 2018, <https://www.feedingamerica.org/about-us/press-room/farm-bill-statement>

between workers and people who receive benefits. Many workers have jobs that don't pay enough, provide few if any benefits, and lack opportunities for advancement or career growth. This is particularly true for women, immigrants, and people of color. In 2016, approximately 24% of workers in the U.S. earned poverty-level wages¹⁴. The Federal Poverty Level in 2016 for a family of four was \$24,300¹⁵ and in 2018 is \$25,100¹⁶.

Low-wage jobs occupy a growing share of the labor market with nearly one in three workers earning under \$12 an hour¹⁷. Six of the twenty largest occupations in the country – retail salespersons, cashiers, food preparation and service workers, waiters and waitresses, stock clerks, and personal care aides – have median wages close to or below the poverty threshold for a family of 3 (\$20,420)¹⁸. We all get sick, and we all face adversity at times – in fact, two-thirds of Americans between the ages of 20 and 65 will use a social welfare program such as SNAP or Medicaid at some point in their life¹⁹. For low-wage workers and their families, health, food, and other programs can supplement earnings, promote economic mobility, and enable them to thrive. Contrary to the assumptions underlying the proposed rule, benefits like health and nutrition programs encourage and enable people to work and are a source of support for themselves and their families.

Programs like SNAP, Medicaid, and public housing assistance are designed to help lawfully present non-citizens and U.S. citizens alike meet their families' basic needs and keep them healthy and safe. To penalize hardworking families for using a program designed for them is morally bankrupt. Rather than punishing people for being unemployed or underemployed by preventing them from accessing assistance, we should be investing in those areas shown to truly help people enter the workforce, create jobs, and raise wages.

FCNL urges the Department of Homeland Security to withdraw this proposed rule

In conclusion, it is clear this proposed rule would have far-reaching consequences, some of which are already being realized. According to the Kaiser Family Foundation, an estimated 2.1 million to 4.9 million currently enrolled in Medicaid/CHIP could disenroll if the proposed rule leads to disenrollment rates between 15 and 35%²⁰. A survey of health care providers in California taken earlier in 2018 found that 67% of respondents noted an increase in parents' concerns about enrolling their children in California's

¹⁴ Economic Policy Institute, *State of Working America Data Library*, "Poverty Level Wages," Updated February 13, 2017. <https://www.epi.org/data/#?subject=povwage>; CPS ORG

¹⁵ <https://aspe.hhs.gov/prior-hhs-poverty-guidelines-and-federal-register-references>

¹⁶ <https://aspe.hhs.gov/poverty-guidelines>

¹⁷ Economic Policy Institute and Oxfam America, *Few Rewards: An Agenda to Give America's Working Poor a Raise*, 2016, https://www.oxfamamerica.org/static/media/files/Few_Rewards_Report_2016_web.pdf.

¹⁸ Brynne Keith-Jennings and Vincent Palacios, *SNAP Helps Millions of Low-Wage Workers*, Center on Budget and Policy Priorities, May 2017, <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-low-wage-workers>

¹⁹ Mark R. Rank and Thomas A. Hirschl, *Welfare Use as a Life Course Event: Toward a New Understanding of the U.S. Safety Net*, *Social Work*, Volume 47, Issue 3, 1 July 2002, Pages 237–248, <https://doi.org/10.1093/sw/47.3.237>

²⁰ Samantha Artiga, Raphael Garfield, and Anthony Damico, *Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid*, Washington, DC: Kaiser Family Foundation, 2018. <https://www.kff.org/disparities-policy/issue-brief/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid/>.

Medicaid program, WIC, and California's SNAP program²¹. 42% of respondents reported an increase in skipped health care appointments²².

Approximately 25.9 million people could be potentially impacted by the proposed public charge rule, accounting for an estimated 8% of the U.S. population. This statistic includes individuals and households with at least one non-citizen whose earned incomes are under 250% of the federal poverty level. Of these 25.9 million people, approximately 9.2 million are children under 18 whose families have at least one noncitizen or are noncitizen themselves, which makes up approximately 13% of our nation's child population²³.

These drastic consequences show just how much damage this proposed rule would cause if implemented. It goes against the Biblical teaching that ensures those who are strangers are welcomed, those who are homeless are sheltered, and those who are hungry are fed. All members of our community – regardless of their immigration status – should have access to the support they need to survive. This proposed rule lacks compassion and common sense, and we firmly reject this sweeping redefinition of public charge.

Sincerely,

The Friends Committee on National Legislation

²¹ The Children's Partnership, *California Children in Immigrant Families: The Health Provider Perspective*, <https://www.childrenspartnership.org/wp-content/uploads/2018/03/Provider-Survey-Infographic-.pdf>

²² Ibid

²³ The information in the above paragraph came from this source: 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 2012-2016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center (MCDC) MABLE PUMA-County Crosswalk. Custom Tabulation by Manatt health, 9/30/2018. Found online at <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>.