

October 22, 2021

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

RE: DHS Docket No. USCIS-2021-0013; Comments on Public Charge Ground of Inadmissibility

To Whom It May Concern:

Thank you for the opportunity to comment on the Department of Homeland Security's (DHS) Advanced Notice of Public Rule Making, "Public Charge Ground of Inadmissibility" published in the Federal Register on August 23, 2021. On behalf of Children's HealthWatch, a network of pediatricians, public health researchers, and policy and child health experts, please accept these comments and our evidence-based suggestions for DHS. We offer these comments for Department's development of a public charge definition and future regulatory proposal that can reduce barriers to key services and programs for immigrant families as well as reduce administrative burden, thus enhancing the health and developmental potential of children.

The mission of Children's HealthWatch is to improve the health and development of young children by informing policies that address and alleviate economic hardships. We accomplish this mission by interviewing caregivers of young children on the frontlines of pediatric care, in urban emergency departments and primary care clinics in five cities: Boston, Minneapolis, Little Rock, Baltimore, and Philadelphia. Since 1998, we have interviewed over 75,000 caregivers and analyzed data from those interviews to determine the impact of public policies on the health and development of young children. Approximately 25 percent of caregivers represented in this dataset are immigrant mothers, mirroring national statistics that one in four children under age 8 in the US has at least one immigrant parent.¹

How might DHS define the term "public charge", or otherwise draft its rule, so as to minimize confusion and uncertainty that could lead eligible individuals to forgo the receipt of public benefits?

As pediatricians and public health researchers, we are acutely aware of the harmful health and economic consequences resulting from long-standing exclusions of immigrant families across public programs and increased immigration and enforcement actions. These policies threaten the health and well-being of immigrant families, specifically children.^{2,3,4,5} As such, we are gravely concerned about the culture of fear that has been perpetuated by policies that target immigrants, including families with young children, across the United States and their demonstrated effects on increasing economic hardship and harming health.⁶

Even though changes to public charge under 2019 DHS rule directly affected a small proportion of immigrants,⁷ immigrants not subject to public charge and their US citizen family members consistently

reported forgoing benefits for which they are eligible out of fear and anxiety – an impact known as the “chilling effect.” In a national survey last June, nearly one in three low-income immigrants and their U.S. citizen family members shared that they did not have access to health care and economic supports because of fear of being designated a public charge.⁸ One in three immigrant families with low incomes reported forgoing public benefits -- such as SNAP, Medicaid, CHIP or housing subsidies -- out of fear, and one in five of all immigrant families – regardless of income – reported forgoing public benefits.⁸ Fear became a barrier to accessing public benefits and critically important pediatric care. For example, this fear has been documented to affect access to well-child care – care that is critically important for screening for health and developmental problems and also for immunizations; after the draft of the public charge rule was leaked in early 2017, adherence to well-child care visits dropped by approximately 9 percentage points among children of immigrant compared to US-born families.⁹ Children’s HealthWatch research demonstrated that from 2017 to 2018 there was a significant reduction in eligible immigrant families participating in the Supplemental Nutrition Assistance Program (SNAP) and a simultaneous increase in child food insecurity despite steady rates of employment among immigrant families over the time period.¹⁰ Other research has also shown decreases in immigrant family participation among those eligible – most of whom not subject to public charge determination – across multiple public assistance programs, concurrent with harsh rhetoric and enhanced immigration enforcement policies.^{11,12,13}

Over the last twenty years, our research and the work of many others demonstrates that if families are able to access supports when they fall on hard times, the health of all family members, the well-being of our communities, and our economy are strengthened.^{14,15,16,17} Fear of accessing these critical programs is especially alarming now, when immigrants have been particularly hard hit by the economic fallout and health consequences of the pandemic, and persistently left out of pandemic-related relief.¹⁸ Research we released this September found stark inequities in hardship among families with US-born vs. immigrant mothers during the pandemic, even as hardship increased for all families.¹⁸ Despite likely being eligible for SNAP and Economic Impact Payments, between September 2020 and March 2021 nearly a quarter of families with an immigrant mother did not receive either of these benefits compared to just 4% of families with a US-born mother.¹⁷ These findings are consistent with pre-pandemic chilling effects and add to the growing research base documenting that immigrant families may be forgoing critical health and economic support programs because of public charge concerns in addition to significant, systemic barriers placed on immigrant families.^{19,20}

Access to financial support necessary to meet basic needs is essential for the health and development of children and the well-being of their families. For these reasons, it is critical that DHS move forward quickly with a more fair and equitable rule that minimizes the harm to children in immigrant families and recognizes the unique needs of children, including the long-term benefits of connecting them to nutrition benefits, housing, health care and other assistance. We agree with the recommendations made in the [Protecting Immigrant Families \(PIF\) sign-on comment](#), as well as key recommendations as they relate to children made in the [Children Thrive Action Network sign-on Comment](#).

We are deeply appreciative of the current Administration's reversal of several harmful policies – in particular the 2019 changes to the public charge rule – that presented barriers to seeking assistance, particularly public program participation, and the DHS' commitment to begin the process of rulemaking to address the chilling effect by modernizing and clarifying the narrow scope of public charge. In the Department's effort to promulgate and codify a new public charge rule, we suggest that the rule communicates clearly that an applicant's or family members' participation in health care, nutrition, housing and many other programs will not affect their ability to adjust their status or to become citizens.

In line with the recommendations outlined by the Protecting Immigrant Families Campaign and the Children Thrive Action Network, Children's HealthWatch recommends that the new rule should be based on the 1999 Field Guidance now in effect, but updated in three key ways to:

1. Clarify key definitions and time periods in the totality of circumstances test and ensure that any benefit used by a child should **not** be considered when making a public charge determination of family members. These should include but not be limited to: TANF, SSI, SNAP, WIC, child nutrition programs (school meals, CACFP, summer meals), housing subsidies, LIHEAP, CTC, and EITC.
2. Articulate a finite list of benefits included as factors in a public charge determination and include an exhaustive list of cash and non-cash benefits that should be **excluded** from public charge determination, including but not limited to: all types of Medicaid and CHIP benefits; housing; nutrition; utilities; child care; refundable tax credits; and emergency and disaster relief benefits; and
3. Provide a comprehensive, updated list of the immigration groups exempt from public charge inadmissibility.

To further eliminate confusion and reduce chilling effect, DHS should change and reorganize the Application to Register Permanent Residence or Adjust Status (Form I-485) and its instructions to **1)** focus only on the programs that are relevant in a public charge determination and **2)** reorganize the document to avoid the perception of conflating public assistance with criminal acts.

These recommendations, described in greater detail in the comments Children's HealthWatch signed onto from the Protecting Immigrant Families campaign and Children Thrive Action Network, are essential to decrease barriers and enable immigrant families to access programs critical for their health and economic mobility. However, we know that these policy changes alone are not sufficient to undo the significant fear and chilling effect among immigrant communities. In addition to the recommendations above, it is critical that DHS and other agencies engage in a proactive outreach and public education campaign. In this effort, DHS and other federal agencies must engage trusted partners in immigrant communities, utilize various a variety of channels of communication, and tailor communications to be most effective for various multiple subpopulations of immigrants. These communications should include (but not be limited to) messages that communicate the following:

- DHS has permanently ended the 2019 changes made by the Trump Administration to public charge policy.
- COVID testing, vaccination, and care will not affect immigration status nor any immigration status individuals may apply for in the future, including applications for U.S. citizenship
- Getting help with health care, food, or housing also will not affect immigration status or applications.
- Health care, housing, food assistance programs, and tax credits serving children or other members of households will not affect immigration status or applications.
- Many categories of immigrants are exempt from public charge.
- Use of benefits as a child or when in an exempt status will not be included in a public charge determination, nor will benefits used when applying for an exempt status, regardless of a person's pathway to legal status.

Punishing families utilizing public services designed to improve individual and public health places millions of children at risk of adverse health and developmental delays during a critical window of development. This, in turn, has immediate and long-term effects on our country's health and education systems, and the strengths and skills of our workforce. The harmful, and deeply counterproductive focus of the previous Administration to attempt to implement harmful and restrictive immigration policy and to increase enforcement in sweeping fashion has contributed to widespread fear in immigrant communities and has harmed the health and well-being of children across America. As pediatricians and child health experts, we are appreciative of the new Administration's commitment to reversing these harms, and the opportunity to provide recommendations to DHS on best practices to do so in promulgating a new public charge rule.

Sincerely,



Megan Sandel MD, MPH
Co-Lead Principal Investigator, Children's HealthWatch
Boston, MA



Diana Becker Cutts, MD
Co-Lead Principal Investigator, Children's HealthWatch
Minneapolis, MN



Stephanie Ettinger de Cuba, PhD, MPH
Executive Director, Children's HealthWatch



Félice Lê-Scherban, PhD, MPH
Principal Investigator, Children's HealthWatch
Philadelphia, PA



Deborah A. Frank, MD
Principal Investigator and Founder, Children's HealthWatch
Boston, MA



Eduardo Ochoa Jr., MD
Principal Investigator, Children's HealthWatch
Little Rock, AR

-
- ¹ Migration Policy Institute. Children in U.S. immigrant families (By age and state, 1990 versus 2015). Available at: <http://www.migrationpolicy.org/programs/data-hub/charts/children-immigrant-families>
- ² Novak NL, Geronimus AT, Martinez-Cardoso AM. Change in birth outcomes among infants born to Latina mothers after a major immigration raid. *International journal of epidemiology*. 2017;46(3):839-49.
- ³ Nichols VC, LeBrón AM, Pedraza FI. Policing us sick: The health of Latinos in an era of heightened deportations and racialized policing. *Political Science & Politics*. 2018;51(2):293.
- ⁴ Cruz Nichols V, LeBrón AM, Pedraza FI. Spillover effects: Immigrant policing and government skepticism in matters of health for Latinos. *Public Administration Review*. 2018;78(3):432-43.
- ⁵ 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. Available at <https://blueshieldcafoundation.org/sites/default/files/covers/Issue-Brief-Living-in-an-Immigrant-Family-in-America.pdf>
- ⁶ Children’s HealthWatch testimony to the House Committee on Education and Labor Re: “Growing up in fear: How the Trump Administration immigration policies are harming children.” December 4, 2019. Available at https://childrenshealthwatch.org/wp-content/uploads/Testimony-to-House-Education-and-Labor-Committee_Childrens-HealthWatch.pdf
- ⁷ Capps R, Gelatt J, Greenberg M. The public charge rule: Broad impacts, but few will be denied green cards based on actual benefit use. Migration Policy Institute. 2020. Available at <https://www.migrationpolicy.org/news/mpi-estimates-non-citizens-ineligible-green-cards-based-current-benefit-use>
- ⁸ Haley JM, Kenney GM, Bernstein H, Gonzalez D. One in five adults in immigrant families with children reported chilling effects on public benefit receipt in 2019. Washington, DC: Urban Institute. 2020. Available at <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>
- ⁹ Ettinger de Cuba S. A mixed methods analysis of healthcare and competing needs in family life for young children of immigrant and US-born mothers. Boston University. ProQuest Dissertations Publishing, 2021. 28647268.
- ¹⁰ Bovell-Ammon A, Ettinger de Cuba S, Coleman S, Ahmad N, Black MM, Frank DA, Ochoa E, Cutts DB. Trends in food insecurity and SNAP participation among immigrant families of U.S. born young children. *Children*. 2019. Available at: <https://childrenshealthwatch.org/wp-content/uploads/children-06-00055-v2.pdf>
- ¹¹ Barofsky J, Vargas A, Rodriguez D, Barrows A. Spreading Fear: The Announcement Of The Public Charge Rule Reduced Enrollment In Child Safety-Net Programs: Study examines whether the announced change to the federal public charge rule affected the share of children enrolled in Medicaid, SNAP, and WIC. *Health Affairs*. 2020;39(10):1752-61.
- ¹² Cervantes W, Ullrich R, Mathews H. Our children’s fear: Immigration policy’s effects on young children. Washington DC: Center for Law and Social Policy. 2018. Available at https://www.clasp.org/sites/default/files/publications/2018/03/2018_ourchildrensfears.pdf
- ¹³ Straut-Eppsteiner H. Documenting through service provider accounts harm caused by the Department of Homeland Security’s public charge rule. Washington, DC: National Immigration Law Center. 2020.
- ¹⁴ Kaiser Family Foundation analysis of March 2017 Current Population Survey, Annual Social and Economic Supplement.
- ¹⁵ Poblacion A, Bovell-Ammon A, Sheward R, Sandel M, Ettinger de Cuba S, Cutts D, Cook J. Stable homes make healthy families. Children’s HealthWatch. July 2017. Available at: <http://childrenshealthwatch.org/wpcontent/uploads/CHW-Stable-Homes-2-pager-web.pdf>
- ¹⁶ Sonik RA. Massachusetts inpatient Medicaid cost response to increased Supplemental Nutrition Assistance Program benefits. *AJPH*. 2016;106(3):443-8.
- ¹⁷ Mathematic Policy Research. The savings in Medicaid costs for newborns and their mothers from prenatal participation in the WIC program. 2017. Available at: <https://www.fns.usda.gov/wic/savings-medicaidcostsnewborns-and-their-mothers-resulting-prenatal-participation-wic-program>
- ¹⁸ Bovell-Ammon A, et al. A bulwark against the storm: The unequal impact of COVID relief policies on families with young children. Children’s HealthWatch. 2021. Available at <https://childrenshealthwatch.org/wp-content/uploads/CHW-covid-impact-young-children-v6.pdf>

¹⁹ Hamutal B, Jorge G, Dulce G, Jahnavi J. Immigrant-Serving Organizations' Perspectives on the COVID-19 Crisis. Urban Institute. August 2020. Available at: <https://www.urban.org/research/publication/immigrant-serving-organizations-perspectives-covid-19-crisis>

²⁰ Davis M. The Impact of COVID-19 on Immigrants in Massachusetts: Insights from our Community Survey. Massachusetts Immigrant & Refugee Advocacy Coalition. Available at: <http://www.miracoalition.org/cvsurvey>