

December 23, 2019

Megan Herndon
Deputy Director for Legal Affairs
Visa Services, Bureau of Consular Affairs
Department of State
600 19th St. NW
Washington, DC 20006

Re: Notice of request for public comment: "60-Day Notice of Proposed Information Collection: Public Charge Questionnaire"
DOS Docket Number: DOS-2019-0037; Public Notice: 10932

Dear Deputy Director Herndon,

Thank you for the opportunity to comment on the Department of State's (DOS) notice of request for public comment on "60-Day Notice of Proposed Information Collection: Public Charge Questionnaire" published on October 24, 2019. 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 opposition in the strongest possible terms to this proposed public charge questionnaire that will threaten the health and well-being of families of immigrants, including children.^{1,2}

Immigrant families are an integral part of our communities—they are our neighbors, coworkers, friends, and fellow parents. Immigrants are also integral to our economy, making up 17.4% of the US workforce in 2018, and their children projected to offset the decline in working-age population as Baby Boomers retire by adding 18 million working-age people to the population between 2015 and 2035.³ Immigrant families are also a fundamental part of our American history and values. For hundreds of years, the United States has welcomed immigrants and their dream for a better, more prosperous life. However, the changes detailed in the DOS' previous interim public charge rule (published October 11, 2019) and the subsequent DS-5540 public charge questionnaire described in this request for public comment, threaten these values as they would separate families and effectively only allow wealthy applicants to be granted visas.

Although the DOS public charge rule and questionnaire targets those applying for visas from outside the United States, research demonstrates the impact this and related rules are having on the existing immigrant community within our nation. Concretely, based on our extensive clinical and research experience, we know this regulatory measure will deter families from accessing programs that could prevent or alleviate economic stressors – even when they are completely eligible for assistance.⁴ Not receiving needed support will jeopardize the health, and body and brain growth of our youngest children, and the long-term health of our country. Moreover, it will lead to major increases in healthcare costs.^{5,6,7} Our research over the last twenty years 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.^{8,9,10} Punishing families utilizing public services designed to improve the health of our entire population places millions of children at risk of adverse health and developmental delays during a critical window of development, leading to less academic success and ultimate workforce participation. This, in turn, will have immediate and long-term effects on our country's health and education systems, and the strengths and skills of our workforce.

Increased focus on restrictive immigration policies and enforcement create fear and stress that negatively affect children's physical and mental health and cognitive development. Analyses shows that even the proposed changes to public charge are already causing significant harm through fear and confusion leading people to disenroll from programs or forgo benefits for which they are eligible - known as the chilling effect. The strict and expansive DOS public charge questionnaire contributes to and exacerbates this effect, particularly given the discretionary addition of health insurance requirement aligned with the Presidential Proclamation. Recent research documents that rising fear and confusion have led to essential program disenrollment among eligible immigrants; in one report, researchers found that nearly half of community health centers reported that many or some immigrant patients declined to enroll themselves in Medicaid in the past year, and nearly a third of centers say that some patients dropped or decided not to renew such coverage.¹¹ Another 2018 survey found that about one in seven adults (14%) in immigrant families reported "chilling effects," in which the respondent or a family member did not participate in a noncash government benefit program, even though they were eligible, in 2018 for fear of risking future green card status.¹² Recent research from Children's HealthWatch demonstrates the impact this loss of benefits has on families with children, as households that lose government benefits – specifically SNAP – are at an increased risk of food insecurity (at both the household and child level), housing instability, energy security, and other hardships, as well as greater likelihood to be in fair or poor health, or at developmental risk.¹³ These loss of benefits, or disenrollment due to the chilling effect, have immediate and lasting consequences for families and young children that imperil their current and future health.

Furthermore, the proposed changes to public charge criteria and information required from immigrants and other visa applicants will discriminate against individuals from low-income countries – countries that are disproportionately people of color – because the vast majority of people fall below the proposed 125 percent-of-poverty threshold included as a consideration in the public charge determination. Worldwide, approximately 81% of the total population falls below this income level; in low-income countries and regions in particular this percent is extremely high, with 99% of the population of South Asia, 99% of the population of Sub-Saharan Africa, and 79% of the population of Latin America and the Caribbean falling below the United States 125 percent-of-poverty threshold.¹⁴ By requiring immigrant and other visa applicants to demonstrate ability to immediately financially support themselves following entry to the United States partly based on their current wealth or immediate earnings, specifically using the DS-5540 to "collect more detailed information on an applicant's ability to support himself or herself", the Department is ignoring the limited and disproportionate amount of wealth and earnings available in the majority of other countries, and the fact that many immigrants will become employed in the US and thus earn increased incomes.² While immigrants seeking to rejoin family in the United States can count their family's income towards the 125-percent test, the test will remain hard for those joining family of modest or limited means because the arriving individual will have income on their home country's wage scale. This may lead to family separation if only some members of a family, based on differences in wealth, are permitted entry to the United States. This would inflict unnecessary hardship and trauma on both immigrants and future generations of US citizen children, as family separation has documented profound impacts on child health and well-being.^{15,16} Furthermore, the public charge rule and the subsequently stringent DS-5540 public charge questionnaire would not permit immigrants to access assistance programs necessary to their health and growth while they work to build wealth and a better life, and disregards the fact that a country's low wage rates do not reflect a potential immigrant's core traits and skills nor their ability to develop skills and succeed in the United States. Our history and a breadth of evidence have shown that immigrants have achieved significant

upward mobility for themselves and their children, helping strengthen the nation and its middle class, its industries, its innovation sector, and its health.¹⁷

This harmful, and deeply counterproductive focus builds upon two policy proposals: (1) the Department of Homeland Security's public charge rule and (2) the Presidential Proclamation to restrict immigration approval to those who are insured or can provide documentation of ability to afford private health insurance.¹⁸ Each of these proposals independently threaten health and well-being and are both currently under injunction by federal courts. The proposed questionnaire combines both of these harmful policies as it would allow a consular office to require a visa applicant *not* subject to public charge to provide evidence of "approved" health insurance plan within 30 days of entry to the US, making them subject to the discriminatory and potentially illegal Presidential Proclamation, which is also currently under injunction. This gives consular offices, through the power of the DS-5540 form, the ability to essentially expand public charge to include health insurance, and reject both immigrant and nonimmigrant visa applicants at their discretion. Access to affordable health care is critical for the health of young children and their parents. Our research shows when families with infants and toddlers are unable to afford health care for themselves or their children, or have to sacrifice other basic needs to afford medical care, the health of their child is placed at risk.¹⁹ Public health insurance, however, buffers families from the high costs of medical care and prescription medicines, ensuring they are able to seek care when they need it. Research from other groups shows children with adequate health insurance coverage are more likely to receive preventive care and immunizations than those who lack coverage.²⁰ Conversely, studies indicate that reducing health insurance coverage among children has long-term negative effects on children's health, educational attainment, and financial stability as adults.¹⁴ The Proclamation and its expansion into the DOS questionnaire threatens to undermine the nation's health and the health of children and families by restricting immigrants' ability to purchase such comprehensive health insurance available through the Affordable Care Act (ACA) marketplaces. A policy of fear and punishment, such as the one laid out in this proposed questionnaire reflecting two harmful and legally controversial proposals, does not build a brighter future for American communities with healthy people and strong workers; to the contrary, such a policy will compromise the health of current and future generations, diminish their ability to excel in school, work and life, and diminish the human potential of communities across the nation.²¹

Finally, the proposed public charge questionnaire represents a larger effort to curtail immigration of people who cannot pass a wealth test. By only allowing those with existing wealth and resources to immigrate to the United States, we are distancing ourselves from the American value of opportunity, forgetting the lower income origins of many of our forebears, and harming the health of children and vital communities within our country.

The public charge rules and DOS questionnaire do harm: They will separate families and impair over the long-term our national health, educational achievement, and economic status – all of which depend on the mobility and contribution of immigrant families. Therefore, we strongly oppose any administrative action that would harm the health of children and their families and urge the administration to immediately withdraw this proposal in its entirety.

Sincerely,



801 Albany Street
1st Floor
Boston, MA 02119

Phone: 617.414.6366
Fax: 617.414.7915
www.childrenshealthwatch.org

Handwritten signature of Megan Sandel in black ink.

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

Handwritten signature of Eduardo Ochoa Jr. in black ink.

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

Handwritten signature of Diana Becker Cutts in black ink.

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

Handwritten signature of Patrick H. Casey in black ink.

Patrick H. Casey, MD
Principal Investigator, Children's HealthWatch
Little Rock, AR

Handwritten signature of Mariana Chilton in black ink.

Mariana Chilton, PhD, MPH
Director, Center for Hunger-Free Communities
Principal Investigator, Children's HealthWatch

Handwritten signature of Maureen Black in black ink.

Maureen Black, PhD
Principal Investigator, Children's HealthWatch
Baltimore, MD

Handwritten signature of Félice Lê-Scherban in black ink.

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

Handwritten signature of Stephanie Ettinger de Cuba in blue ink.

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

Handwritten signature of Deborah A. Frank in black ink.

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

Handwritten signature of John Cook in black ink.

John Cook, PhD, MAEd
Principal Investigator, Children's HealthWatch
Boston, MA

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