December 10, 2018

Samantha L. Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Ave. NW
Washington, DC 20529-2140

VIA ELECTRONIC SUBMISSION

Re: Inadmissibility on Public Charge Grounds (RIN 1615-AA22), 83 Fed. Reg. 51114; DHS Docket No. USCIS-2010-0012

Dear Chief Deshommes:

On behalf of more than 43,000 physician members and medical students of the California Medical Association (CMA), we appreciate the opportunity to provide comments to the U.S. Department of Homeland Security (DHS) in response to the Notice of Proposed Rulemaking (Proposed Rule or Proposal) on "Inadmissibility on Public Charge Grounds" issued by the U.S. Citizenship and Immigration Services (USCIS). Through a comprehensive program of legislative, legal, regulatory, economic and social advocacy, CMA promotes the science and art of medicine, the care and well-being of patients, the protection of the public health, and the betterment of the medical profession.

The proposed rule would chill access to critical programs that help immigrants and their families access health care, food, and other essential needs. This rule will have a particularly harmful impact on the state of California, which has 10.4 million non-citizens and family members, over a quarter of the state population. Discouraging participation in Medi-Cal (Medicaid) could result in coverage losses throughout California, decreased access to care, and worse health outcomes for entire families, including children, many of whom are U.S. citizens. U.S. citizen children. We are deeply concerned about this Proposal’s potential to threaten the health and well-being of millions of individuals and families, and thus we strongly urge the Administration to withdraw the Proposed Rule.

**New Definition of Public Charge and Public Benefits**

DHS is proposing to re-define the term “public charge” as “an alien who receives one or more public benefits.” Specifically, the Administration seeks to move away from the narrow definition for public charge inadmissibility outlined in its “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 64 FR 28689 (May 26, 1999). In the 1999 guidance document the federal government defined “public charge” for purposes of both admission/adjustment as “an alien who is likely to become primarily dependent on the government for subsistence, as demonstrated by either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at
government expense.” This Proposal is more than a technical change to U.S. immigration policy, it is a dramatic shift. On its face, the proposed change in the definition of public charge may seem innocuous, but when coupled with an expansion of the list of public benefits immigration officials may consider in determining inadmissibility, the Proposed Rule will have a chilling effect on the ability of both individuals and their dependents to access critical public medical, nutritional, and housing services.

Under the new Proposed Rule, the public charge definition would be dramatically broadened to make it more difficult for noncitizens following all legal requirements to enter the country and advance through the immigration process. The Proposed Rule would deny entry or permanent legal status for noncitizens who may receive one or more public benefits including, for the first time, non-emergency Medicaid, Medicare Part D low-income subsidies, the Supplemental Nutrition Assistance Program (SNAP), and several public housing programs. The Administration is also considering adding the Children’s Health Insurance Program (CHIP) to the list of programs that would count toward inadmissibility on public charge grounds and specifically asks the public for comment. We believe these proposed changes will cause both short- and long-term harm to the health and well-being of not just the millions of individuals and families seeking to be admitted to the U.S., extend their stay in the U.S., or change their immigration status, but to the health of the public in general.

While we agree with the Administration that the true quantifiable impacts of this regulatory action on individuals and families are difficult to discern, we believe that the estimates DHS provides in the Proposed Rule are too low. We further believe that the Proposed Rule has the potential to erode family stability and decrease disposable income of families and children because the action provides a strong disincentive for the receipt or use of public benefits by noncitizens, as well as their household members, including U.S. children.

**The Proposed Rule Will Deter Eligible Immigrants from Enrolling in Critical Programs**

The proposed rule would deter immigrants from accessing critical programs, including health care, that support essential needs. Many immigrants, even those not subject to the rule, will be deterred from using these benefits for themselves or their families due to fear and confusion. The complexity of the rule and confusion about which populations and programs it directly affects will also lead to widespread disenrollment and avoidance of services. This will likely impact groups specifically excluded from the public charge determination, such as refugees and asylum seekers.1 This may also lead to lower participation in programs not listed in the proposal rule such as pediatric vaccine assistance and food support for pregnant women.2

The proposed rule would lead to widespread declines in participation in Medicaid among immigrants and their children because of fears that it might negatively affect their status. Medicaid provides health coverage that allows individuals to access needed preventive and primary care, thus supporting families’ ability to participate in the workforce. Lawfully present

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2 Ibid.
immigrants are more likely than citizens to live in low-income families and often work in jobs and industries that do not offer health coverage. Research demonstrates that this impact would go far beyond those immigrants directly subject to the new public charge definition to the chilling effect. One study estimated that nationwide, 22.2 million noncitizens and a total of 41.1 million noncitizens and their family members currently living in the United States (12.7% of the total U.S. population) could potentially be impacted as a result of the proposed rule. It is estimated that the rule would lead to disenrollment of between 2.1 to 4.9 million Medicaid/CHIP enrollees. Other recent analysis shows that, prior to announcement of the proposed rule, families were already experiencing growing fears of participation in health, nutrition, and other programs that led them to disenroll or avoid enrolling themselves and their children.

The impact of the proposed rule on young children is especially concerning as poor health during childhood causes both immediate negative health outcomes and persistently poor health throughout adulthood. Nationwide, over 19 million or one in four children live in a family with an immigrant parent, and nearly nine in ten of these children are citizens. Between 2014 and 2016, 61% of non-citizen children and 53% of naturalized children used one of the four benefits named in this recent change and would be at risk of being disenrolled. An estimated 875,000 to 2 million citizen children with a noncitizen parent could drop Medicaid/CHIP coverage despite remaining eligible.

Anti-immigrant policies contribute to decreased utilization of health care and social services such as Medicaid, prenatal care and food stamps. Health care workers across the country have already reported recent trends in which immigrants with and without U.S. citizen children are not utilizing health care and other social services, for fear of jeopardizing their chances of obtaining documentation to stay in the U.S. Moreover, literature has shown that

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6 Proposed Changes to “Public Charge” Policies for Immigrants Kaiser Family Foundation, supra note 3; Katz, supra note 3.


9 Artiga, supra note 5.


individuals without access to health care, medications, food and housing have worse health outcomes than their counterparts. The proposed rule will exacerbate health disparities and illnesses in immigrant populations.

**The Rule Will Have a Significant and Harmful Impact on the State of California**

This rule would have a massive impact on the state of California, which has the largest percentage of legal permanent residents in the country. In California, approximately 6.8 million people, including 2.4 million children, may be impacted. The Migration Policy Institute has estimated that there are over 2.8 million Californians who are non-citizens and who are members of families who use Medi-Cal (Medicaid) and the Children’s Health Insurance Program (CHIP). The UCLA Center for Health Policy Research predicts that the proposed rule could cause up to 741,000 people to disenroll from Medi-Cal. The Institute for Community Health researchers estimate that if the rule is finalized, 195,000 to 455,000 California children in need of medical attention could leave Medi-Cal.

Additionally, over 992,000 Californians who are non-citizens are members of families who use CalFresh (SNAP) to access affordable food for their families. One in 10 Californians receives food stamps through CalFresh, three-quarters of whom are children. The UCLA Center for Health Policy Research estimated between 129,000 and 301,000 could disenroll if the proposed rule is finalized. The rule will also have harmful economic impacts in California, leading to an estimated 17,700 jobs lost due to the reduction in federal benefits, with 47% of those jobs in the health care industry. There would be up to $2.8 billion estimated in lost economic output, and up to $151 million in lost state and local tax revenue.

**The Rule Will Negatively Impact Our Immigrant Population and Health Care System**

DHS seeks comment on the possible unintended consequences of the Proposed Rule. DHS itself acknowledges the devastating effects the Proposed Rule would have, including worsening health outcomes; higher rates of communicable diseases, and increased use of emergency rooms and emergent care as a method of primary health care due to delayed treatment, among many others. We would also note that a lack of access to housing and

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20 *id.*
nutrition will worsen outcomes for the impacted population, undermining the progress made in addressing social determinants of health.\textsuperscript{21} Reduced participation in Medicaid and other essential programs will negatively impact the health of immigrant families, and the healthy development of their children, who are predominantly born in the U.S.\textsuperscript{22}

In addition, the rule would lead to an increased percentage of uninsured patients, a loss in Medicaid funding for states, an increase in uncompensated care, and a widespread decrease in access to health care services.\textsuperscript{23} The system wide impacts to the health care system would be extremely detrimental. As patients disenroll from Medicaid, they will instead seek care in the emergency room, further straining ERs with patients who would be better treated in a primary care setting and worsening medical outcomes for patients who lack access to primary care.\textsuperscript{24}

CMA believes every individual, regardless of immigration status, should have access to affordable, quality health care. The policy changes in the Proposed Rule, however, would reverse the public health gains we have made in the last several decades in areas such as vaccinations, control of infectious diseases, and access to healthier foods. A policy of denying vital services to recent immigrants will contribute to worse health outcomes, particularly among families and children, and increase poverty and hunger in communities across California and the country. We urge the Administration to withdraw the Proposed Rule.

Sincerely,

Jessica Rubenstein
Associate Director
Center for Health Policy
California Medical Association

\textsuperscript{21} Katz, \textit{supra} note 1.
\textsuperscript{22} \textit{Proposed Changes to “Public Charge” Policies for Immigrants} Kaiser Family Foundation, \textit{supra} note 3.
\textsuperscript{23} See Cindy Mann, April Grady, And Allison Orris, \textit{Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule}, MANATT (Nov. 2018).
\textsuperscript{24} Katz, \textit{supra} note 1.