



April 25, 2022

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

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

We are writing on behalf of the Coalition for Immigrant Mental Health of Illinois (CIMH-IL), 6 state and local organizations and 24 individuals of Illinois in response to the above referenced Notice of Proposed Rulemaking published on February 24, 2022.

We, the Coalition for Immigrant Mental Health, represent a diverse alliance of health practitioners, community organizers, researchers, and allies. Our collective mission is to foster collaborative community-based and research-informed partnerships centered on promoting the mental health and well-being of all immigrants through education, resource sharing, and advocacy. The CIMH Policy and Advocacy Workgroup and CIMH leadership team prepared this letter based on our collective knowledge, experience, and commitment to serving the needs of immigrant communities across Illinois (and nationally). We are well-positioned to review policies, analyze their impact on mental health, and mobilize action steps on behalf of the CIMH mission.

We commend DHS for proposing a rule that constructively builds on the 1999 field guidance. We highly support the proposed rule defining “receipt of public benefits” considered in a public charge determination, and the proposed exclusion of receipt of public benefits by family or household members. Roughly 37% of mixed-status families in the state of Illinois have U.S-born children who qualify for the safety net programs currently included in the public charge determination and clarifying their exclusion from consideration will help reduce the chilling effect of the rule as well as improve overall family well-being.¹ We are also supportive of the clarification that a finding of a disability is insufficient to determine an individual as a public charge. This is an important step to ensuring that all individuals are treated in a fair and respectable manner. Lastly, we are encouraged by the proposal to codify language requiring immigration officials to include a reason in a written denial due to public charge that discusses consideration of each factor. We expect this provision to increase fairness and transparency in the determination process, and to decrease racial bias and arbitrary decision-making.

However, there are still areas where this rule can be strengthened to be more equitable and comprehensible. The recommendations below outline steps that can be taken to properly ensure a fair, sensible, and clear final public charge rule.

Public Charge Determination Perpetuates Health Inequities

1

The practice of admissibility based on a “public charge determination” dates back to 19th century immigration law that was constructed based on a history of colonization and racialized public health.² While DHS/USCIS is currently obligated to apply this determination, we argue for a more equitable and just process for individuals seeking entry to the U.S. or seeking to adjust their immigration status. Public health data documents that families were deterred from seeking medical care or using public benefits before 2019 (e.g., Perreira, Yoshikawa, & Oberlander, 2018)³, dating back to the 1999 initial rule (e.g., Pati & Danagoulian, 2008).⁴

These chilling effects, fueled by the confusion leading up to the 2019 Final Rule, continue to demonstrate downward trends in immigrants’ use of health care services and public benefits. The Urban Institute reported that 1 in 5 families in 2019 avoided use of public benefits (e.g., SNAP, CHIP) due to fear that this would jeopardize their ability to apply for a green card. Furthermore, 4 out of 5 adults with children did not understand that the public charge rule did not apply to their children’s enrollment in Medicaid.⁵ Based on 2019 estimates, Illinois had 442,000 U.S.-born children with non-citizen parents who were deemed at risk for disenrollment from Medicaid/CHIP and SNAP, signaling alarming public health consequences for children in our state. The disenrollment from services continues to be well-documented, and the urgency to mitigate these impacts has only intensified during the Covid-19 pandemic.⁶ As a coalition, we voice collective concern about how chilling effects not only deter access to needed services, but also negatively impact community mental health and well-being. One necessary step to reduce this harm is to ensure that the public charge determination allows immigrants to access services critical to their health and community well-being without impacting their eligibility. Furthermore, increased transparency and communication about the public charge determination is necessary to reduce fear and stop the chilling effect.

The Final Rule Should Clearly Exclude Any & All COVID-19 Related Programs & Services

Immigrant communities have faced a disproportionate burden of Covid-19 infection and mortality, as well as the economic and social impact of the pandemic. As the effects of long-covid continue to develop, it is important that all immigrants can access treatment services related to these symptoms without immigration concerns. There is no indication that “long term care” , or similar, due to Covid-19 will not be considered part of the public charge. Due to the ongoing challenges and persistent impact of the pandemic, it is important for the public charge rule to clearly state that all Covid-19 related healthcare is excluded, from preventative services (e.g., immunizations, testing, treatment for communicable diseases), to emergency medical

² <https://pha.berkeley.edu/2020/12/29/the-history-of-the-public-charge-and-public-health/>

³ Perreira, K. M., Yoshikawa, H., & Oberlander, J. (2018). A new threat to immigrants’ health—the public-charge rule. *N Engl J Med*, 379(10), 901-903.

⁴ Pati, S. & Danagoulian, S. (2008). Immigrant Children’s Reliance on Public Health Insurance in the Wake of Immigration Reform. *American Journal of Public Health*, 98(11), 2004-2010.

⁵ Haley, J. M., Kenney, G. M., Bernstein, H., & Gonzalez, D. (2020). One in five adults in immigrant families with children reported chilling effects on public benefit receipt in 2019. *Washington, DC: Urban Institute*. <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>

⁶ Protecting Immigrant Families (2022). https://protectingimmigrantfamilies.org/wp-content/uploads/2022/01/PIF-Research-Document_Public-Charge_COVID-19_Jan2022.pdf

services and hospitalization, and long-term rehabilitative care. It is clear that monetary supplements, like stimulus checks and tax credits, related to Covid-19 are not subject to public charge. We encourage clear language to clarify that any type of continual monetary assistance due to the effects of long-Covid will not be considered under the public charge rule. This is particularly important as cities like Chicago pilot longer term cash assistance programs to combat the economic effects of COVID-19.

Clarification of Adequate Affidavit of Support

We understand that many individuals seeking family-based immigrant visas or adjustment of status are required to submit an Affidavit of Support. As currently written, the proposed rule favorably considers an adequate Affidavit of Support in the public charge determination. We advise DHS to use specific and clearly stated language in the public charge rule that references the objective metrics (age, income, assets, other requirements) that determine “a *sufficient* Affidavit of Support.” We expect that any determinations based on an insufficient Affidavit of Support would be clearly explained in any denial documentation.

Additional Recommendations For Improving Final Rule

We strongly encourage DHS to consider improving the rule by: (1) excluding state-sponsored cash assistance programs, (2) clarifying that Medicaid is not included, even in the case of long-term nursing care; we acknowledge that including long-term Medicaid in public charge determinations creates a bias against older immigrants and those with disabilities and (3) exempting vulnerable immigrant groups (e.g., victims of domestic violence or other crimes, orphans), who may be seeking family-based adjustments, from public charge determinations. Given the fear and misinformation surrounding the public charge rule in 2018-2020,⁷ we encourage DHS to approve a rule that uses clear language and to create public-facing materials (e.g., simple one-pagers in multiple languages, clear social media tools).

Conclusion

We want this final rule to be as fair and clear as possible, which is why we urge DHS to move quickly to formalize a public charge regulation that provides critical protections for immigrant families. We hope this rule will also protect immigrant families from potential harmful changes proposed by future federal administrations. The dissemination of clearly stated information is critical to improve the public’s knowledge and understanding of the public charge rule, ensuring that all immigrants have access to safety net services in our communities.

Sincerely,

⁷ Bernstein, H., Gonzalez, D., Karpman, M., & Zuckerman, S. (2019). With Public Charge Rule looming, one in seven adults in immigrant families reported avoiding public benefit programs in 2018. *Washington, DC: Urban Institute*. <https://www.urban.org/urban-wire/public-charge-rule-looming-one-seven-adults-immigrant-families-reported-avoiding-public-benefit-programs-2018>

Haley, J. M., Kenney, G. M., Bernstein, H., & Gonzalez, D. (2020). One in five adults in immigrant families with children reported chilling effects on public benefit receipt in 2019. *Washington, DC: Urban Institute*. <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>

The Coalition for Immigrant Mental Health (CIMH) Leadership Team
CIMH Policy and Advocacy Workgroup (Co-Chairs: Sarah Cartagena and Dana Rusch, PhD)

Endorsing Organizations

Latino Policy Forum
Refugee & Immigrant Well-being Project
United Voices for Newcomers Rights
Southwest Suburban Immigrant Project
FEDEECMI/Casa Michoacán
NAMI Illinois

Endorsing Individuals

Virginia G Quiñonez, Psy.D
Sarah Cartagena
Dana Rusch
Aimee Hilado
Ané Maríñez-Lora
Daysi Diaz-Strong
Laura Perrone
Amy Hill
Louisa Silverman
Alissa Charvonia
Melissa Campbell-Langdell
Cynthia Jones-Campbell
Paul Callejas
Anna Maria Ros
Maria Vidal de Haymes
Camille Morhun
Rocio Gomez de Garcia
Beth Vande Voort
Jesus Perez
Dulce Dominguez
Nancy Luna
Laura Bohorquez
Stephanie Torres
Tara Mehta