



December 10, 2018

VIA ELECTRONIC MAIL

www.regulations.gov

Ms. Kirstjen M. Nielsen
Secretary
Department of Homeland Security
Attention: USCIS-2010-0012
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: Opposition to USCIS-2010-0012; Inadmissability on Public Charge Grounds Proposed Rule

Dear Secretary Nielsen,

On behalf of the Adventist Health Policy Association (AHPA), we appreciate the opportunity to provide the comments on the proposed rule, Inadmissability on Public Charge Grounds (the “Public Charge Rule”). Our organization is the policy voice of five Seventh-day Adventist affiliated health systems that include 84 hospitals and more than 300 other health facilities in 17 states and the District of Columbia.

AHPA represents a major segment of the U.S. hospital sector. Our member hospitals operate in a variety of settings, ranging from rural Appalachia to urban areas of California and Texas. With such diverse facilities, populations served and geographical locations, we strive to provide an objective and sound policy voice that works across health care providers. Given our role in providing care to diverse patient populations, we have significant concerns regarding the public health ramifications of the proposed rule. If finalized, we believe the proposed policies would undermine the long-term health of our communities.

Below, please find AHPA’s comments and recommendations on the proposed policies. Specifically, we comment on the following:

- General Comments Surrounding the Proposal
- Redefining Public Charge
- Financial Implications
- Inclusion of the Children’s Health Insurance Program (CHIP)

General Comments

The Department of Homeland Security (DHS) has proposed to change the immigration process by expanding the definition of a “public charge”—a person who is primarily dependent on government funds for basic survival. Under the proposed rule, the use of health care, nutrition or housing programs would become grounds for denial of an immigrant’s legal status.

AHPA believes that the proposed Public Charge Rule will result in depressed health outcomes for some of our most vulnerable communities. The rule disincentivizes the lawful use of social safety programs that increase access to health care, stable housing and food security. Having access to timely, high-quality care is critical for an individual to be a healthy, productive member of society. Access to health promotion, disease prevention and treatment all depend on one’s ability to receive comprehensive care. A person’s health is also impacted by social risk factors such as housing and food security, which account for over 40 percent of individual health outcomes.¹ The inability to receive these services will jeopardize individuals’ health and cause overall health care costs to climb as immigrants increase their utilization of the Emergency Department.

AHPA is concerned that the proposed rule will decrease enrollment in social service programs for an estimated 24 million enrollees, many of whom are U.S. citizen children.² While the rule would primarily impact immigrants applying for a green card via family-based petition, the rule has the potential to create a chilling effect—where those not directly affected, such as U.S.-born children, disenroll or forgo coverage. Confusion surrounding the scope of the rule is projected to decrease enrollment in Medicaid, the Supplemental Nutrition Assistance Program (SNAP) and other safety-net programs. Earlier this year, state nutrition program administrators reported a sharp decrease in enrollment, with immigrant beneficiaries citing fear of citizenship loss as their primary reason for dropping coverage.³

Historically, policy changes surrounding public charge determinations have generated a similar chilling effect. In 1999, the Immigration and Naturalization Service’s public charge guidance created such confusion that additional clarifications were needed to reverse the “adverse impact not just on the potential recipients, but on public health and the general welfare.”⁴ **A drop in participation in critical community-wellness services will jeopardize the individual and collective health of many lawful immigrant children, elderly, disabled and those with chronic conditions.**

¹ Artiga, S., Hinton, E. [The Role of Social Determinants in Promoting Health and Health Equity](#). Kaiser. (2018)

² The Fiscal Policy Institute. [The Human & Economic Impacts of Public Charge Rule](#). (2018)

³ Baumgaertner, E. [Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services](#). (2018)

⁴ [Field Guidance on Deportability and Inadmissibility on Public Charge Grounds](#). Department of Justice. (1999)

Finally, while AHPA understands that the Department wants to promote self-sufficiency, the proposed policies will likely have the opposite effect. Individuals need to be healthy in order to attain and maintain employment. Immigrants who are able to participate in the American workforce are estimated to contribute \$150,000 of net value more than any governmental benefits they receive throughout the course of their lifetime.⁵ We view employment as an integral component of a healthy community and believe that any policy that decreases access to health care also decreases individuals' ability to work and achieve self-sufficiency.

Redefining Public Charge

The proposed rule redefines how an individual is deemed a public charge, expanding the definition to include the lawful use of Medicaid, SNAP, housing assistance and other social service programs in making determinations. It also considers including CHIP in this definition. Under the rule, a public charge could be an immigrant who uses "one or more public benefits." This represents a departure from the current immigration guidelines, which define a public charge to be one who is "*primarily dependent on the government for subsistence [emphasis added].*"⁶ Currently, a person is deemed a "public charge" only if they are determined to depend on cash assistance to sustain themselves or need long-term institutional care at the government's expense.

AHPA opposes redefining a public charge to be an immigrant who uses at least one non-cash social service program. We believe that the proposed definition does not accurately predict whether an immigrant will be able to achieve self-sufficiency. First, the rule arbitrarily sets a threshold for public benefit use at 15 percent of the Federal Poverty Level (FPL), regardless of the percentage of total income that assistance represents. For example, an immigrant family making 175 percent of the FPL and using the benefit threshold amount (approximately \$2.50 per day) would only receive 8.6 percent of its income from government aid. Under the proposed rule, this family would be deemed a public charge—despite being 91.4 percent self-sufficient.⁷ Second, the new definition is vaguely worded and does not provide immigration officials with concrete guidance on determining whether an immigrant will "likely" become a public charge in the future. AHPA is concerned that this ambiguity will result in an unequal application of the rule and unwarranted rejections. Instead, we recommend that immigration officials continue to assess the totality of an applicant's circumstances to determine whether the individual will be primarily dependent on government assistance.

⁵ [The Economic and Fiscal Consequences of Immigration](#). The National Academy of Science. (2017)

⁶ [Field Guidance on Deportability and Inadmissability on Public Charge Grounds](#). Department of Justice. (1999)

⁷ [New Rule to Deny Status to Immigrants Up to 95% Self-Sufficient](#). The CATO Institute. (2018)

Financial Implications

In addition to our concerns surrounding decreased health outcomes, AHPA fears that the proposed rule jeopardizes hospitals' ability to serve immigrant communities. A decrease in the participation rates for Medicaid and CHIP would further increase the uninsured rates among immigrants. These coverage losses would exacerbate already poor health outcomes, as more individuals wait until they are very sick to seek health care. A large number of uninsured patients would lead to higher uncompensated care and thus higher hospital bad debt. The Department acknowledges that the rule has the potential to decrease revenue for community grocers, pharmacies and agricultural producers while increasing costs for health care providers. Independent projections total the reduction in Medicaid and CHIP payments impacted through the chilling effect to be \$68 billion, annually.⁸

While AHPA commends the Department for excluding school-based health care services from public charge determinations, we are also concerned that the proposed rule endangers funding for school-based clinics serving the immigrant population. The majority of in-school providers are reimbursed by Medicaid for services provided to enrolled children and adolescents.⁹ Disenrollment in the Medicaid program would close streams of revenue for school-based clinics, speech-language pathologists, audiologists and other in-school practitioners. We believe that the Medicaid program is a critical support in helping lawful immigrant families meet their health care needs, remain active members of the American workforce and maintain self-sufficiency.

The Children's Health Insurance Program

The rule seeks comments on whether to include CHIP in the list of public benefits that would negatively impact public charge determinations.

AHPA opposes the inclusion of CHIP in the list of public benefits that negatively impact an immigration decision. Lawfully-present immigrant children as well as U.S. born-children with an immigrant parent already outpace their peers in lacking access to care.¹⁰ The inclusion of CHIP in the public benefit list would further disincentivize immigrant parents from enrolling their children in the program. One study estimates that the addition would impact over 16 million children, all of whom are American citizens.¹¹

⁸ [Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule](#). Manatt. (2018)

⁹ [Medicaid in Schools](#). The Medicaid and CHIP Payment and Access Commission. (2018)

¹⁰ Artiga, S., Ubri, P. [Living in an Immigrant Family in America](#). Kaiser. (2018)

¹¹ [Proposed Changes to "Public Charge" Policies](#). Kaiser. (2018)

AHPA commends the Department in excluding CHIP, the Women Infants and Children (WIC) program and school lunch programs from public charge determinations and urges the Department to maintain these exclusions. We believe that their continued exclusion from public charge determinations aligns with the government's commitment to protecting child welfare. Congress and states have historically demonstrated a high level of commitment to health promotion for lower-income children through Medicaid and CHIP, with 49 states now electing to cover children up to 200 percent of the FPL.¹²

Conclusion

Given its potentially damaging effect on community health, AHPA respectfully requests that the Department withdraw its proposed Inadmissability on Public Charge Grounds rule. We appreciate the opportunity to provide comments and look forward to continued collaboration with the Department to promote public health and wellbeing. If you have any questions or would like further information, please do not hesitate to contact Julie Zaiback-Aldinger, Director of Public Policy and Community Benefit, at Julie.Zaiback@ahss.org.

Sincerely,



Carlyle Walton

President

Adventist Health Policy Association

¹² [Where are States Today? Medicaid and CHIP Eligibility Levels](#). Kaiser. (2018)