



December 19, 2025

Regulatory Coordination Division
Office of Policy and Strategy
Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, Maryland 20746

Submitted electronically via regulations.gov

Re: DHS Docket No. USCIS-2025-0304: Public Charge Ground of Inadmissibility

Families USA, the longtime national, non-partisan health care consumer advocacy organization, appreciates the opportunity to comment on the U.S. Citizenship and Immigration Services (USCIS) and Department of Homeland Security (DHS) proposed rule, Public Charge Ground of Inadmissibility (herein after “proposed rule”).

For over 40 years, our work has focused on advancing quality, affordable health care for all and ensuring that every family is able to regularly see a health care provider and get medical treatment when needed. **Families USA strongly opposes this proposed rule and urges DHS and USCIS to withdraw it, as the rule will penalize lawfully present immigrants for accessing important and life-saving services, instill fear across immigrant communities, and have lasting harmful impacts on public health for everyone.** Our health system and public health is stronger when everyone has access to quality health care, including primary and preventive care. Barriers to care, whether based on immigration status or otherwise, have negative health impacts on individuals, families, and the community as a whole.

The proposed rule would rescind the current public charge inadmissibility provisions promulgated by the *Public Charge Ground of Inadmissibility* final rule that went into effect on December 23, 2022 (“2022 Final Rule”). This shift in policy not only disregards guidance in place since 1999 (which the 2022 Final Rule codified), but would deeply harm lawfully residing immigrants and their families, nonimmigrants living in the U.S. on a temporary basis, and certain U.S. citizens by penalizing middle- and lower-income immigrants for accessing public benefits and services they may need and to which they are entitled. The proposed rule will negatively impact the health and well-being of people in all walks of life, including: legal immigrants who are essential to our country’s workforce and bolster the U.S. economy in jobs that range from health care to construction to temporary farmwork; U.S. citizens who seek to bring in a fiancé or close family member from another country; international students; and legal visitors already in the U.S. (temporarily living in our country for business, work, or study) who are extending their legal stays, adjusting their status to a different visa category or on a legal pathway to become lawful permanent residents. In short, this proposed rule attacks immigrants

who are here lawfully – whom our nation has welcomed for decades, who pay taxes and make major contributions to our society and economy – and discourages them from getting the care and basic human services they need to be healthy.

We firmly oppose the proposed rule and express deep concern to USCIS and DHS over the implications this policy change will have on immigrant safety, access to important and life-saving services, and the rights of people with nonimmigrant status. While our comments focus on the proposed provisions regarding health care programs given our area of expertise, we also oppose the proposed provisions regarding other public benefits, which are also harmful to health and well-being of legal immigrants: these proposals are unjustified and should be withdrawn.

Removal of Public Charge Definitions

Families USA strongly opposes USCIS’ and DHS’ proposal to remove the 2022 Final Rule’s definition for “likely to become a public charge.” The 2022 Final Rule defines “likely to become a public charge” to mean: “likely at any time to become primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or long-term institutionalization at government expense.”ⁱ This regulatory definition, codified under 8 C.F.R. § 212.21, is consistent with long-term policy and makes clear that “public charge” refers only to people who:

- (1) depend on benefits that provide cash-assistance (including SSI, TANF, or State, Tribal, territorial, or local cash benefit), and/or
- (2) require institutionalized long-term government assisted care (such as Medicaid-funded nursing home or mental health institutionalized care).

Under the 2022 definition, if a person receives other types of public benefits – including Medicaid or Medicare coverage, Supplemental Nutrition Assistance Program (SNAP) funding, or housing assistance – they would not be considered a “public charge” under the law. The 2022 Final Rule recognizes that, like many working Americans, legal immigrants may need support (for example, through health insurance coverage) while they move up the economic ladder or should they find themselves between jobs during an economic downturn; needing some support does not mean that a person is *primarily* dependent on the government for assistance.

The 2022 Final Rule adopts the current U. S. Immigration and Naturalization Service (INS) definition of public charge – published in the 1999 *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds* (and still in effect)ⁱⁱ – and follows INS’ sound reasoning for the circumstances under which someone is likely to become a public charge. In excluding benefits such as Medicaid from its public charge determination, INS noted that “reluctance to access” health benefits “has an adverse impact not just on the potential recipients, but on public health and general welfare.” INS further explained, “non-cash benefits (other than

institutionalization for long-term care) are by their nature supplemental and do not, alone or in combination, provide sufficient resources to support an individual or family.” Ultimately, INS concluded, “**...participation in such non-cash programs is not evidence of poverty or dependence.**”ⁱⁱⁱ

INS guidance recognizes that use of programs like Medicaid does not indicate someone is dependent on the government; rather, these programs support individuals and their families in their economic well-being, supporting entire communities in the process:

- **Medicaid coverage has been shown to decrease overall mortality**, improve access to chronic care needs, and improve enrollees’ overall health.^{iv}
- **Medicaid encourages labor market participation.** When uninsured people obtain Medicaid coverage, they report that the positive impact health insurance has on their health helps them to do a better job at work, improves workforce happiness and enables them to look for better-paying positions.^v After Montana expanded their Medicaid program to low-income adults, enrollees increased workforce participation by 6–9%, raising average wages by \$8,700.^{vi}
- **Medicaid helps lift beneficiaries out of poverty.**^{vii} With Medicaid, families have reduced exposure to medical debt, are better able to put food on the table and are less likely to be evicted from their homes.^{viii}

The 2022 Final Rule, and the decades of guidance that preceded it, allows lower-income, lawfully present immigrants to access the services they may need without fear of consequence to their legal status. Importantly, the 2022 Final Rule provides the public with a clear definition of what makes a person inadmissible as a public charge, and it establishes clear and consistent parameters to guide USCIS officers in making public charge determinations. Removing the definition – and without proposing a formal replacement to this definition – will create widespread uncertainty and could prevent lawfully present immigrants from accessing important, life-saving federal benefits for which they are eligible, such as Medicaid coverage. In addition, the proposed rule gives USCIS officers ultimate discretion to deny visa applications for lawfully present immigrants based on their own subjective interpretation of whether someone is likely to become a public charge; the absence of legal guardrails will lead to arbitrary variation in public charge determinations and invites unnecessary bias and confusion into the process. **For these many reasons, USCIS and DHS must retain a clear, easy to understand definition for public charge; the long-standing definition provided by INS and codified by the 2022 Final Rule offers clarity for USCIS officers and civilians alike, and ensures low-income, lawfully present immigrants can access programs that support their health and economic well-being.**

Removal of the Existing Public Charge Inadmissibility Framework

Families USA strongly opposes USCIS' and DHS' proposal to rescind the public charge inadmissibility framework that guides how USCIS officers make inadmissibility determinations.

Under the Immigration and Nationality Act (INA), Congress sets out five minimum factors that immigration officers must take into account to predict whether a person could become a public charge in the future: applicant's age; health; family status; assets, resources, and financial status; and education and skills.^{ix} Per regulations set up under the 2022 Final Rule, all of the minimum factors required by the statute must be analyzed in their totality and no single factor can control an inadmissibility determination. For example, under current regulation, disability alone cannot form the basis of a public charge determination. This makes sense as disability, in and of itself, does not render a person dependent on government assistance and nearly one quarter of adults with disabilities are employed.^x

In addition, the 2022 Final Rule ceased the former practice of assigning any positive or negative weight to a given factor (for example, weighting as a negative if an applicant is uninsured or disabled^{xi}); instead, the 2022 rule specified that inadmissibility determinations must be based on the totality of the evidence presented in each specific case (e.g., although the applicant is uninsured and disabled, they are not likely to become primarily dependent on the government because they have high educational attainment and are currently working with future earning potential). Finally, the rule required USCIS officers to articulate a reason for every public charge determination.

In proposing to rescind nearly all provisions of the 2022 Final Rule, USCIS and DHS have proposed to eliminate important standards that afford a fair process, one which allows immigrants to be seen for the totality of their circumstances, and not disqualified based on arbitrary weighting of various factors over others. The current process, which USCIS and DHS propose to upend, brings consistency to decision making and clarifies for people navigating the immigration system what aspects of their personal circumstances will be considered in public charge inadmissibility determinations. Instead, USCIS and DHS propose, intentionally, to add discord and confusion into an already difficult system, stating:

“DHS’ very purpose in proposing the removal of the 2022 Final Rule is to restore the case-by-case and inherently discretionary nature of the determination intended by Congress without constraining officers from considering information and evidence that is relevant to an alien's likelihood at any time of becoming a public charge.”^{xii}

What USCIS and DHS propose is to give USCIS officers unrestrained ability to consider other factors outside of the statutory minimum factors, to weight various factors however they like, ignore any factors they feel like ignoring and, ultimately, “determine inadmissibility in his or her

opinion.”^{xii} In short, **the proposed rule removes appropriate standards that offer USCIS officers guardrails in their public charge inadmissibility determinations; offer applicants clarity in how their case will be adjudicated; and ensure that immigrants without health insurance or with chronic medical conditions have a fair opportunity to have their case assessed without officers giving a biased negative weight as to how those factors impact ability to work and future likelihood of becoming a public charge. For these reasons, we strongly oppose this proposed change and ask for its withdrawal.**

In addition, because the proposed rule invites USCIS officers to use any factors they like in making a public charge inadmissibility determination, this opens the door for USCIS officers to request data across systems to make public charge determinations. The proposed rule encourages this unprecedented data sharing, stating “DHS anticipates working toward the integration of immigration records with records from Federal benefit-granting agencies. The analysis of that data will inform the development of the flexible and adaptive policy and interpretive tools that will guide future public charge inadmissibility determinations.”^{xiii} Already, the Administration, through DHS, has authorized data sharing between DHS and the Centers for Medicare and Medicaid Services (CMS) to provide Immigration and Customs Enforcement (ICE) with Medicaid data in order to conduct immigration enforcement.^{xiv} This data sharing agreement is currently being challenged in a federal court by 20 states who argue the move violates federal privacy laws and the Administrative Procedure Act.^{xv} On top of concerns about lawfulness, current use of this data matching has been inaccurate, sometimes linking deceased persons to current use of benefits.^{xvi}

In addition, we note that data held by CMS is often too outdated to give an accurate picture of someone’s current health circumstances, given consistent lags in claims data and other health information. For example, older claims data in the system may indicate a serious health condition that would render someone unable to work (for example, injuries sustained in a car accident), but the applicant has now recovered and this outdated information has no bearing on their likelihood of becoming a public charge. **It is against statutory intent for USCIS and DHS to outsource their adjudication process to computerized data matching systems. If these technologies are to be used, we implore USCIS and DHS to set clear guardrails on the use of this type of information to ensure that data mining from government systems does not supersede the information provided by the applicant themselves, nor supplant the role of the USCIS officer in their statutory duty to conduct fact finding based on the totality of the applicant’s circumstances.**

Impacts on Public Health and the Health Care System

The effects of the proposed rule go far beyond individual immigrants and their families to harm the public health of the nation as a whole. A community’s overall health depends on the health of all of its members. The proposed rule will have a rippling “chilling effect” across the entire

immigrant community, not just those directly impacted by the proposed rule. Surveys assessing impact from the prior Trump Administration's 2019 Final Public Charge Rule found that 15.6% of adults in all-immigrant families and 31% of adults in families that included one or more nonpermanent residents reported avoiding applying for non-cash benefits.^{xvii} For families with children, 20.4% of immigrant families avoided accessing non-cash benefits.^{xviii}

The chilling effect from the prior Trump Administration's policy has had lasting impacts and has fundamentally changed how immigrant families access benefits and perceive their safety. Even after the 2022 Final Rule gave clear guidance to allow eligible immigrant families to access non-cash benefits, recent surveys have found that 12% of immigrant adults with legal status still avoid applying to government programs that they may be eligible for to help pay for food, housing, or health care so as to not draw attention to their families' immigration status.^{xix} As such, the proposed rule will directly impact how immigrant families choose to access public benefits that help them stay healthy, thrive, and contribute to their communities.

Beyond the impacts to individuals and communities, the proposed rule will threaten the sustainability of our nation's health care system in two important ways. First, our health care system depends on the hard work of immigrants to provide care to the American public. About 17% of all health care providers are immigrants and 40% of those immigrants are health care support workers, such as nursing aides and home health aides.^{xx} Many of these workers may rely on Medicaid for health care and coverage. If immigrant health care workers cannot access Medicaid as a result of rescinding the 2022 public charge definition, these workers would have to forego coverage themselves or change jobs to avoid a public charge determination. This could exacerbate shortages of nursing aides, home health aides and other health care support workers. The U.S. is already on track to reach a deficit of 100,000 of these critical health care workers by 2028.^{xxi}

Second, this rule will threaten the financial sustainability of safety net providers and hospitals when their immigrant patients lose access to health insurance coverage for the services they need. If eligible residents do not sign up for coverage due to fears about new public charge rules, it will lead to fewer paying patients and more uncompensated care. Community clinics and safety-net hospitals will have to stretch their resources to serve more uninsured patients, which data shows costs hospitals \$11,000 per visit for each uninsured patient.^{xxii} Community clinics already operate on thin margins and reduced insurance coverage among their patients could mean the difference between maintaining care for the whole community or closing their doors. Hospitals already face higher costs of covering care for immigrants due to recent changes under the federal budget reconciliation bill (H.R. 1) that limit reimbursement when hospitals care for uninsured immigrants in emergency situations, even as hospitals still have federal EMTALA obligations to serve all people in emergencies regardless of ability to pay. The proposed rule serves to shift additional costs to hospitals and safety-net providers, threatening their ability to serve their communities at large.

Conclusion

Families USA appreciates the opportunity to comment on the proposed rule and express our opposition to the new proposal, including our deep concern about the proposal's impact on lawfully present immigrants – including the chilling effects it will bring to the entire immigrant community who will fear the consequences of enrolling in health coverage to which they are otherwise entitled – and the repercussions on the health care system more broadly. **We urge DHS and USCIS to withdraw the proposed rule, as it would remove essential guardrails that allow immigrant families to access needed health care services and introduces bias and variability in public charge inadmissibility determinations, with lasting harmful impacts on public health.**

For questions or comments regarding the recommendations made in this letter, please reach out to Christine Nguyen, Senior Policy Analyst at Families USA at cnguyen@familiesusa.org.

Thank you for your time and consideration.

Sincerely,

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