



December 10, 2018

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

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Madam/Ms. Deshommes,

On behalf of The Children's Defense Fund-New York, we write to offer comments in response to the Department of Homeland Security's (DHS) Notice of the Proposed Rulemaking to express our strong opposition to the changes regarding "public charge" published in the Federal Register on October 10, 2018.

CDF-NY submits comments on behalf of children in the United States, especially young children, children with disabilities, children of color, low-income children, immigrant children, and children in complex families. For 45 years, CDF has been advocating for children and seeking strong support for families through the passage of laws and implementation of rules, programs, and services in their best interest. CDF's Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start*, and a *Moral Start* in life and a successful passage to adulthood with the help of caring families and communities.

In New York, CDF-NY has a unique approach to improving conditions for children, combining research, public education, policy development, community organizing and advocacy. A recognized authority in the endeavor to protect children and strengthen families, CDF-NY serves as a resource and partner for children, families and organizations throughout New York City and State.

CDF-NY has worked with countless young people since its establishment, whether they were citizens, immigrants, or children of immigrants. Many of the youth have shared stories about their use of public benefits and the support that public assistance programs has provided in their lives. Many of our young people have gone on to beat the odds against them and become American success stories. Who is to say

whether these immigrants and their children won't go on to be the next great entrepreneur, scientist, or the next president?

CDF-NY is alarmed by the proposed rulemaking because, if applied as currently drafted, it will result in sicker, poorer, and hungrier children across New York and the U.S. It is yet another attack on immigrant families, following the inhumane separation of children from their parents, severe limitation of refugees and asylees, rescindment of DACA, and prioritization of arrest, detention, and deportation. As our comments outline in detail, the proposed rule includes virtually every existing safety-net program intended to protect low-income families. This will force immigrant children and families to choose between essential supports to which they are entitled to and their rights to immigration benefits. Based on the concerns outlined in our comments, we:

- Condemn the expansion of the public charge rule to include additional public benefits and programs that are essential to meeting the basic needs of immigrant children and their families; and,
- Request that the Department of Homeland Security immediately withdraw the proposed rule.

Public Charge

Public charge has been a term historically used in immigration law to refer to a person likely to become dependent on the government for financial and material support. The inquiry was first incorporated in the nineteenth century as part of so-called “Anti-Irish” laws designed to keep Irish immigrants out of the country.¹ They were grounded in baseless and racist arguments that such immigrants would deplete strained American resources. Today, a person is assessed for public charge when he/she applies to enter the U.S., applies to adjust their status to become a lawful permanent resident (LPR), and/or applies to extend their visa or change their visa type. The more likely an immigrant is to become a public charge, the higher the chance they may be denied admission to the U.S. or lawful permanent resident status or change their status.

The existing rules on public charge assess immigrants under two main criteria: whether they use cash assistance programs like SSI and TANF and whether they use long-term care benefits.² These criteria are considered in a “totality of circumstances” approach that also takes into account immigrants’ age, health, family status, assets, resources, financial status, education, and skills to determine their likelihood of being/becoming a public charge.

¹ Lanard, Noah. “An Old Anti-Irish Law Is at the Heart of Trump's Plan to Reshape Legal Immigration.” *Mother Jones*, 6 Sept. 2018, www.motherjones.com/politics/2018/09/an-old-anti-irish-law-is-at-the-heart-of-trumps-plan-to-reshape-legal-immigration/.

² Protecting Immigrant Families. “Public Charge a New Threat to Immigrant Families.” https://www.clasp.org/sites/default/files/publications/2018/04/2018_publiccharge.pdf.

The newly proposed changes to public charge threaten to widen the criteria under which immigrants and aliens are judged. The proposed rule now includes virtually every program targeted to help those with low income. These programs include³:

- Monetizable benefits
 - Supplemental Security Income (SSI)
 - Temporary Assistance for Needy Families (TANF)
 - Supplemental Nutrition Assistance Program (SNAP)
 - Public housing defined as Section 8 Housing Choice Voucher Program
 - Section 8 Project-Based Rental Assistance
- “Non-cash” benefits
 - Non emergency Medicaid
 - Premium and cost sharing drugs Medicare Part D
 - Subsidized Housing

And as with the original 1999 rules, a “totality of circumstances” approach will weigh the use of these benefits along with factors like age; health; family status; assets, resources and financial status; education and skills. However, DHS has significantly expanded the definition of these factors to include an income threshold and to penalize those who are too young/old to work, too poor, not sufficiently educated, and unskilled.⁴

The stated primary benefit of the proposed changes to public charge is to help ensure that immigrants who apply for admission to the United States, seek an extension of stay and/or change of status, or apply for adjustment of status are self-sufficient and do not depend on public resources to meet their needs.⁵ DHS believes that immigrants must rely on their own capabilities and resources. If an individual has to depend on the government and public assistance for the basic necessities of life –food, shelter, and medical treatment– he/she is not considered self-sufficient.

CDF-NY argues that the proposed changes to public charge have the potential to do more harm than good on a variety of different levels. By expanding the list of potentially disqualifying programs, the proposed rule threatens to sweep-up thousands of immigrant and mixed-status families, who will be forced to choose between accessing essential services, or putting their immigration status at risk. Children in particular will be hurt by the inclusion of programs such as non-emergency Medicaid, SNAP, and public housing to the public charge test as their parents either fail to enroll or disenroll from programs that help keep families healthy and safe. There are harmful and chilling implications for children if the proposed rule is allowed to go forward.

The Proposed Rule Reflects an Attack on Low-Income Immigrants

While the public charge determination has always functioned as a method for limiting the number of poor immigrants entering or remaining in the U.S., the proposed rule makes it more likely that immigrants are found inadmissible because of a reliance on government resources. This is in part due to the proposed

³ Pg. 51159 of the proposed rule

⁴ Pg. 51114 of the proposed rule

⁵ Pg. 51118 of the proposed rule

income thresholds and the fact that the number of children in an immigrant's household will be calculated as part of the public charge inquiry.⁶

Large Families With Low Incomes Will Be At Higher Risk of Being Found To Be Public Charge

The more children in a family, the higher the likelihood that the family will not be able to meet the 125% and 250% of the Federal Poverty Guideline (FPG) thresholds for their income to be considered a positive factor and heavily-weighted positive factor on their immigration status. Putting this into perspective, in 2018, a family of four would have to earn at least \$31,375 to meet 125% of the FPG and at least \$62,750 to meet 250% of the FPG.⁷ For each additional family member, most likely a child, those numbers rise by about \$5,000 and \$11,000 respectively. It would be very hard for most families to meet the proposed rule's annual income thresholds considering how the average U.S. household is not be able to earn 250% of the FPG. This is supported by U.S. Census Bureau data, which shows that in 2017, the median U.S. household income was below 250% of the FPG at \$61,372.⁸ With that being the case, it is unreasonable to hold immigrants and their families to a standard that many U.S. families would not be able to meet. The income threshold has the potential to affect countless public charge determinations, all because individuals are not able to earn an income that even the average household would have trouble earning.

And even if a household was to meet the 125% of the FPG and/or 250% of the FPG income thresholds, if more than 15% of their income is made up of monetizable public benefits, an individual's public charge determination will be in jeopardy. It would be shockingly easy to reach the 15% minimum, which amounts to \$1,821/12 months, considering how the minimum would take into account public housing and housing vouchers and other monetizable benefits like SNAP, that may be vital for food and shelter.

There Is A Misguided Perception that Low-Income Immigrants Drain Limited Public Resources

Research has found that immigrants provide a positive impact on the economy and that they tend to have job participation at higher rates than native born citizens; 66% to 62% participation respectively.⁹ This active involvement in the labor force translates to an extraordinary contribution to state, local, and federal taxes. In 2014, statistics found that the immigrant population made up \$328.2 billion in taxes, of which more than \$100 billion went to state and local taxes. Clearly, immigrants are working hard and are contributing to the economy, it is just that their labor and efforts are sometimes not enough. Their low wage jobs suppress their incomes and in some cases immigrants do not earn as much as their native born counterparts. In 2017, there was a disparity of over \$150 in the median usual weekly earnings between foreign-born full-time wage and salary workers and native-born workers.¹⁰ It is cruel for the Administration to exacerbate matters by preventing immigrants from using the programs their hard-earned tax dollars help support, thereby preventing access to healthy, nutritious food and secure housing.

⁶ Pg. 51175 of the proposed rule

⁷ "2018 Federal Poverty Guidelines." *ProJusticeMN*, www.projusticemn.org/fedpovertyguidelines/.

⁸ Fontenot, Kayla, et al. *Income and Poverty in the United States: 2017*. United States Census Bureau, 12 Sept. 2018, www.census.gov/library/publications/2018/demo/p60-263.html.

⁹ Lanard. "An Old Anti-Irish Law Is at the Heart of Trump's Plan to Reshape Legal Immigration."

¹⁰ "Foreign-born Workers: Labor Force Characteristics — 2017." *Bureau of Labor Statistics*, <https://www.bls.gov/news.release/pdf/forbrn.pdf>

The proposed rule favors only the wealthiest of immigrants. Many immigrants come to the United States to escape the violence and poverty of their home countries and to make a better life for themselves and their children. Immigrants work hard to make the most of their circumstances and to improve their quality of life, but are often relegated to low wage jobs that do not provide a sufficient income. Families should not be judged on how much money they make, but should be defined by how they are living their lives and how they are contributing to their community.

The Proposed Rule Threaten Children’s Wellbeing

Children, who are the disproportionate beneficiaries of the newly included safety-net programs, will be significantly impacted as a result of the proposed rule. By adding non-emergency Medicaid, nutritional assistance, and public housing, many immigrant children and children living in mixed-status households will no longer be able to rely on these essential programs to meet their basic needs. For generations, the programs listed in the proposed rule have served as a lifeline for vulnerable children and families, contributing to children’s educational success and escape from poverty. Bluntly, the proposed regulations will restrict children’s access to these crucial programs and put them at both short-term and long-term risk of harm.

CDF-NY stands with Senator Catherine Cortez Masto from Nevada and 22 other Democratic senators who rightly acknowledge that the proposed rule “would force legal immigrants to choose between putting food on the table and advancing their prospects for a green card” and “compromise families and communities across our country.”¹¹ In the U.S. today, one in four children have at least one immigrant parent.¹² The proposed rule will result in a nation of sicker, poorer, and hungrier children where children suffer the most.

The Addition of Non-Emergency Medicaid to the Proposed Rule Threatens Children’s Health and Broader Public Health Systems

Research has found that exposure to public health insurance programs such as Medicaid and CHIP during childhood has been linked to long-term effects like better adult health and educational attainment. Children with access to public health insurance grow up to have a lower risk of high blood pressure, diabetes, heart disease and attacks, and obesity as well as fewer hospitalizations and emergency department visits in adulthood.¹³ Their improved health correlates to better educational attainment as children have fewer sick days from school, achieve higher test scores, and have increased rates of high school and college completion as a result.¹⁴ This in turn supports a healthier, larger, and more qualified workforce and raises the chances that children will find better paying jobs to support themselves as adults. With higher paying jobs, they will be less reliant on government support later on in life. If parents choose

¹¹ “Cortez Masto, Menendez, Duckworth Lead 22 Senators Urging DHS to Withdraw 'Public Charge' Rule.” *Catherine Cortez Masto*, 9 Oct. 2018, www.cortezmasto.senate.gov/news/press-releases/cortez-masto-menendez-duckworth-lead-22-senators-urging-dhs-to-withdraw-public-charge-rule.

¹² See Protecting Immigrant Families at <https://protectingimmigrantfamilies.org/>

¹³ Wherry, Laura R et al. “The Role of Public Health Insurance in Reducing Child Poverty.” *Academic pediatrics* vol. 16,3 Suppl (2016): S98-S104. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5034870/>

¹⁴ Ibid.

to not enroll or to disenroll their children from these programs, these benefits will never be realized and children will be at a disadvantage.

Without Health Insurance, Child and Adult Health Status Will Decline

Public health insurance is important for both children and adults. Children have been proven to do better when their parents are healthy –emotionally and physically. Parents need to be in good mental and physical condition in order to properly provide for their child(ren).¹⁵ If both children and their parents are prevented from having the benefit of non-emergency Medicaid, children will suffer doubly. Families need sufficient care and routine checkups and access to medical care to ensure their future and continued health and well-being.

If families are afraid to access public health insurance (e.g. non-emergency Medicaid), treatable health conditions run the risk of being left untreated until they become emergencies as well. This will result in larger medical expenses due to diagnosis and treatment, which would place a massive strain on family incomes. It will also have a prolonged impact on the current and future health of children because not having their health issues treated in a timely manner could cause them to be unwell for an extended period of time and/or lead to chronic illness. They will also suffer educationally due to all the days they are out of school.

Including such an essential program in the public charge determination runs the risk of destroying families. It takes away the positive impact of public health insurance on children’s lives if parents choose to enroll/disenroll their families from Medicaid in favor of bettering their chances of obtaining lawful permanent resident status. The proposed rule threatens the health and future of millions of children across the U.S. and risks the health and wellbeing of their parents, who are their primary caregivers.

Without Health Insurance, Family Financial Status Will Decline

Without access to non-emergency Medicaid, paying for medical care out-of-pocket will become a financial burden for immigrant families. Medicaid has an important role in promoting family economic security through its reduction of medical debt and its association with fewer bankruptcies.¹⁶ In one study, research found that low-income parents were less likely to spend around \$500-\$2,000 or more over a twelve month period in states with more generous Medicaid eligibility.¹⁷ In another study, Medicaid was determined to be the third-largest anti-poverty program and responsible for raising 2-3 million people out of poverty.¹⁸ And in a 2013 CNBC report, medical bills were found to cause 646,812 Americans to declare bankruptcy, which would have an impact on two million people –taking into consideration that the average person lives in a household of three.¹⁹ Medicaid is crucial to improving the financial well-being of low-income families and expensive medical costs can cause bankruptcy. Without Medicaid

¹⁵ Schmit, Stephanie, and Hannah Matthews. “Children Need Health Insurance—So Do Their Parents.” *Early Success*, CLASP, Feb. 2017, earlysuccess.org/sites/default/files/Children-Need-Health-Insurance-1.pdf.

¹⁶ Murphy, David. “Health Insurance Coverage Improves Child Well-Being.” *Child Trends*, 12 May 2017, www.childtrends.org/publications/health-insurance-coverage-improves-child-well.

¹⁷ Wherry. “The Role of Public Health Insurance in Reducing Child Poverty.”

¹⁸ Murphy. “Health Insurance Coverage Improves Child Well-Being.”

¹⁹ Mangan, Dan. “Medical Bills Are the Biggest Cause of US Bankruptcies: Study.” *CNBC*, CNBC, 24 July 2013, www.cnbc.com/id/100840148.

to alleviate the financial burdens of medical care, families will undoubtedly suffer. Medicaid and public health insurance could help move a family out of poverty and ensure that children have better lives. The money saved could mean the difference between paying for rent, paying the bills, and having savings.

Reducing Enrollment in Medicaid will Undermine the Public Health System that Citizens and Immigrant Families Rely Upon

In addition to the economic impact on families, there could also be a financial strain placed on the public health system if the proposed rule is allowed to pass. According to Manatt Health, Medicaid and CHIP funds, as well as hospital payments could be at risk as enrollees forgo public health insurance and hospital services. Medicaid and CHIP stand to lose an estimated \$68 billion if the 13.2 million participants who are noncitizen adults and children and/or citizen adults and children who are the family members of a noncitizen disenroll.²⁰ Likewise, hospitals could lose an estimated \$17 billion if Medicaid and CHIP enrollees forgo coverage because they provide a substantial share of the care delivered to Medicaid and CHIP participants.²¹ Doctors could be affected directly as well if fewer people go to hospitals for their medical needs.

Adding non-emergency Medicaid to the public charge test is not in the best interests of immigrant children and their families nor is it in the best interests of public health services. Public health insurance plays a key role in children's health as well as a vital role in the financial wellbeing of families and the economy. Eliminating Medicaid for immigrants will only do more financial harm than good and put the overall population at risk.

The Proposed Rule Will Increase Child Hunger and Poverty

In New York City alone, adding SNAP (aka food stamps) to the public charge test could mean that an estimated 75,000 immigrants who qualify for the benefit are forced to choose between the help SNAP provides and their immigration status.²² This is concerning because SNAP is essential for reducing food insecurity and poverty in children and families with children. Nearly half of all people who participate in the SNAP program are children and over two-thirds of all SNAP dollars go to families with children.²³

SNAP was designed to close the gap between resources and need for food in families. The program plays a key role in helping families and children afford nutritious food and in improving food insecurity in low-income households. In a 2014 study, researchers found that SNAP was responsible for reducing food

²⁰ Mann, Cindy, et al. "Medicaid Payments at Risk for Hospitals Under Public Charge." *Manatt*, 16 Nov. 2018, www.manatt.com/Insights/White-Papers/2018/Medicaid-Payments-at-Risk-for-Hospitals-Under-Publ.

²¹ Ibid.

²² Jorgensen, Jillian. "EXCLUSIVE: Under Trump Rule Change, 75,000 Legal Immigrants in NYC Could Have to Choose between Social Services and Permanent Residency - NY Daily News." *NY Daily News*, New York Daily News, 11 Oct. 2018, www.nydailynews.com/news/politics/ny-pol-public-charge-nyc-social-services20181010-story.html.

²³ "Chart Book: SNAP Helps Struggling Families Put Food on the Table." *Center on Budget and Policy Priorities*, 14 Feb. 2018, www.cbpp.org/research/food-assistance/chart-book-snap-helps-struggling-families-put-food-on-the-table.

insecurity in low-income households by 33% after families received benefits for six months.²⁴ In a 2015 study, SNAP was found to have reduced the overall fraction of households that were food insecure by 17% and reduced the overall fraction that had very low food insecure by 19%.²⁵ And in a 2016 study, SNAP helped raise 3.6 million children out of poverty.²⁶ Therefore, if children and their families essentially do not have access to SNAP, it is undeniable that there will be more food insecurity and poverty. One young person who has worked with CDF-NY found SNAP especially helpful during the holidays when they were given stuffing and turkey. Without SNAP, children will be at higher risk of going hungry and staying in impoverished conditions. This in turn will have chilling consequences on their health and educational attainment, as well as on the economy.

In addition, the absence of Medicaid, CHIP and SNAP will harm children's health and educational attainment. SNAP is associated with improved current and long-term health and improved graduation rates. When kids have access to SNAP, they have a lower risk of anemia, lower levels of obesity, fewer doctor visits and fewer hospitalizations.²⁷ Early access to SNAP among pregnant mothers and in early childhood has also been linked to improved birth outcomes and long-term health as adults.²⁸ Additionally, kids from low-income families who had early access to SNAP benefits were 18% more likely to graduate from high school than those who didn't.²⁹ Obstructing access to SNAP will eliminate significant benefits and will put children at risk. It is cruel to prevent children from utilizing programs and assistance that are crucial to their current and long-term wellbeing.

It is cruel to prevent any family from having access to food, shelter, and health care, but even more so to prevent low-income and impoverished families from accessing public programs that are essential to meeting their basic needs. Children especially should not have their health and wellbeing put at risk in fear of what the use of public benefits might mean to their parent's permanent legal status. Children should not have to go hungry because their parents are forgoing SNAP/food stamps in favor of keeping their family together. These are fundamental needs that the Administration is trying to limit in their ongoing attempt to vilify immigrants and it goes against everything the American Dream and our past history of immigration policy has stood for. The worries that immigrants are likely to depend on public benefits like SNAP for the entirety of their lives are also misconceived because overall benefit periods range from 1 month to 3 years.³⁰ SNAP is not a program that can be used for an unlimited period of time and immigrants should not be placed at a disadvantage for needing the help SNAP provides.

²⁴ "The Positive Effect of SNAP Benefits on Participants and Communities." *Food Research & Action Center*, frac.org/programs/supplemental-nutrition-assistance-program-snap/positive-effect-snap-benefits-participants-communities.

²⁵ Ibid.

²⁶ "Facts; SNAP Strengths." *Food Research and Action Center*, www.frac.org/wp-content/uploads/frac-facts-snap-strengths.pdf.

²⁷ Felling, Christy. "Five Facts: How SNAP Helps Kids." *No Kid Hungry*, 28 Feb. 2018, www.nokidhungry.org/blog/five-facts-how-snap-helps-kids.

²⁸ Carlson, Steven, and Brynne Keith-Jennings. "SNAP Is Linked with Improved Nutritional Outcomes and Lower Health Care Costs." *Center on Budget and Policy Priorities*, 17 Jan. 2018, www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care.

²⁹ Felling. "Five Facts: How SNAP Helps Kids."

³⁰ "SNAP: Frequently Asked Questions." *Snap To Health*, www.snaptohealth.org/snap/snap-frequently-asked-questions/#howlong.

The Proposed Rule Will Negatively Impact Educational Outcomes

The proposed rule targets low-income immigrants and mixed-status families in ways that not only discourage enrollment in essential safety-net programs, but also add to a general fear among children and families regarding the administration's immigration policies. This fear results in children facing significant barriers to learning and maintaining a sense of wellbeing. The proposed regulation will, as have previous immigration policies, result in increased rates of absenteeism as children are pulled out of school and/or choose not to attend school in favor of keeping themselves and their loved ones safe. Already, some school districts have reported as much as 60% increases in absences since February of last year.³¹ This detracts from the idea that schools are safe spaces where immigrant children and their families do not have to be afraid of any negative consequences. Schools should be sanctuaries and somewhere children can feel safe and secure. They should be pathways for success, not pathways for harm and distress. As The United Nations Educational, Scientific and Cultural Organization (UNESCO) has stated, it is imperative that the nation ensures that immigrant children have access to high-quality education and that schools are maintained as safe spaces.

The Proposed Rule Does Not Consider the Long-Term Impact on the Economy

U.S. economic outcomes will suffer if the proposed rule results in immigrant families foregoing programs like SNAP and Medicaid. For example, studies show that each investment of \$5 in SNAP benefits generates \$9 in total economic activity.³² Additionally, an FPI analysis estimates that New York State would lose \$1.8 billion annually in federal benefits if just 25% of people experiencing the chilling effects make the wrenching decision to disenroll from SNAP and Medicaid benefits they qualify to get.³³ These losses would then ripple throughout the economy. This is because withdrawal of SNAP funding means a reduction in spending in grocery stores and supermarkets. Likewise, when families lose health insurance, hospitals and doctors lose income. And some spending would be reduced in other areas, as families struggle to pay food and health costs. Depending on where we are in the economic cycle, these additional losses could amount to an overall hit of \$3.6 billion to the New York State economy –with up to 25,000 jobs statewide lost in the bargain, too.³⁴

The Proposed Rule Should Not Include Children's Health Insurance Plan (CHIP)

For more than two decades, the Children's Health Insurance Program (CHIP) has been vital for those families with children who make too much income to qualify for Medicaid, but too little income to afford private health insurance. The proposed rule asks for comments regarding the addition of CHIP to the

³¹ Acevedo, Nicole. "Immigration Policies, Deportation Threats Keep Kids out of School, Report States." *NBCNews.com*, NBC Universal News Group, 20 Nov. 2018, www.nbcnews.com/news/latino/immigration-policies-deportation-threats-keep-kids-out-school-report-states-n938566.

³² "The Real Benefits of SNAP." *Snap To Health*, www.snaptohealth.org/snap/the-real-benefits-of-the-snap-program/.

³³ Kallick, David, and Jennifer Jones Austin. "The Big Chill: How Trump's 'Public Charge' Rule Would Harm New York Children." *Center for New York City Affairs*, 17 Oct. 2018, www.centernyc.org/the-big-chill-how-trumps.

³⁴ Kallick, David, and Jennifer Jones Austin. "The Big Chill: How Trump's 'Public Charge' Rule Would Harm New York Children."

public charge test, alongside Medicaid, raising the issue of significant expenses on multiple levels of government.

Neither CHIP nor Medicaid (nor any of the additional new benefit programs) should be included in the new proposed rule. In Fiscal Year 2016, Medicaid spending was an estimated \$364 billion while CHIP spending was \$15.4 billion in comparison. As we believe Medicaid should not be included in the new proposed rule, it is even more clear that CHIP should not be considered as it is negligible in comparison to Medicaid.

In thinking about the inclusion of CHIP in public charge and its effect on children, it could only be detrimental to their health. CHIP builds on Medicaid and is designed for children and families. Children with Medicaid and CHIP have much better access to primary and preventative care and fewer unmet health needs.³⁵ CHIP provides important services such as speech and language therapies, hearing tests and hearing aids, and pediatric dental care. CHIP programs that are Medicaid expansions, and even some that are separate, also provide Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), which covers developmental services as well.³⁶ Such services and programs are vital for the health of children with special needs, children from working families, children of color, and children in rural communities. CHIP additionally helps children and families afford medical treatments and procedures. One young person CDF-NY has worked with needed an important foot surgery and CHIP covered her exorbitant medical bills.

It would be extremely malicious and excessive to include both non-emergency Medicaid and CHIP to the public charge determination when both have such a profound impact on children's health and wellbeing. It is unfortunate enough that the proposed rule wants to eliminate non-emergency Medicaid from the programs that children of immigrant families are able to comfortably access. Adding CHIP to public charge as well would cause further and more widespread harm to the health and wellbeing of children nationwide and would detract from all that CHIP does in favor of children's health, academic success, and success later in life. Children's health should not be put at risk.

The Proposed Rule Should Not Permit and Immigrant Child's Use of Benefits to be Used Against the Child in Any Future Application for Immigration Benefits

The proposed rule exempts a child's use of benefits when considering whether the parents would be a public charge. However, DHS is apparently considering punishing children whose parents do enroll them in any of the benefits listed in the proposed rule by including that information in any subsequent public charge determination of the youth themselves. As currently drafted, the proposed regulations pose a grave long-term risk, by imputing to the child the parent's decision to enroll in a program, and potentially preventing the child from obtaining an immigration benefit as a public charge.

³⁵ Paradise, Julia. "The Impact of the Children's Health Insurance Program (CHIP): What Does the Research Tell Us?" *The Henry J. Kaiser Family Foundation*, 17 July 2014, www.kff.org/medicaid/issue-brief/the-impact-of-the-childrens-health-insurance-program-chip-what-does-the-research-tell-us/.

³⁶ Ibid.

Conclusion

The Administration is attempting to change the public charge test by passing a set of rules that will broaden the scope of benefits that can be counted towards an individual's public charge determination. The rule targets low- and middle-income immigrants who are most eligible for public benefits and forces immigrant families to choose between obtaining permanent legal status and accessing basic needs like healthy food, safe housing, and health care. The consequences noted by the proposed rule –worse health outcomes, increased prevalence of communicable diseases, increased rates of poverty and health instability, and reduced productivity and educational attainment– will affect millions across the U.S., including U.S. citizens. Moreover, all children, including those who are American citizens and those whose parents are immigrants, will be more likely to suffer repercussions. When parents opt out of public assistance for fear of their own legal status, their children are less likely to be enrolled in programs for which they qualify and this puts children's health, nutrition, education, and overall wellbeing at risk. This cannot and should not be allowed to happen. The United States has a legal and moral obligation to ensure that all children are protected and treated with care, and the proposed rule goes against this obligation by harming children and taking away their ability to grow up healthy and successfully. Everyone needs a helping hand at some point in their lives so it should not be wrong for immigrants and their families to get help in the form of public benefit programs.

For these reasons CDF-NY strongly opposes the proposed changes to public charge and urges DHS to withdraw the proposed rule. CDF-NY stands ready to help highlight the chilling effects of the proposed changes and the need to ensure that children are safeguarded and treated with care.

Sincerely,

Naomi Post
Executive Director
The Children's Defense Fund-New York