



October 31, 2018

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
Washington, D.C. 20528

Dear Madam Secretary:

As President and CEO of Lutheran Services in America, I write to offer comments on the Department of Homeland Security's Notice of Proposed Rulemaking: Inadmissibility on Public Charge Grounds (DHS Docket No. USCIS-2010-0012). If finalized, the proposed rulemaking changes to the "public charge test" would put the health and well-being of millions of people at risk. We urge you to rescind this rule and instead craft policies that allow immigrant children and families to be healthy and safe.

Lutheran Services in America leads one of the largest health and human services networks in the U.S. with over \$22 billion in annual revenue, made up of over 300 Lutheran social ministry organizations that touch the lives of 1 in 50 Americans each year. Guided by God's call to love and serve our neighbors, we empower our faith-based member organizations in their mission to lift up the nation's most vulnerable people by serving seniors, children, youth and families, people with disabilities, immigrants and refugees and the homeless.

We are especially concerned that the expansion of the "public charge test" in this proposed rule would include receipt of federal housing assistance, Supplemental Nutrition Assistance Program (SNAP, or food stamps) benefits, Medicare Part D low-income subsidies and Medicaid benefits. These programs are structured in significant measure as work supports, helping working, taxpaying immigrants remain healthy, stay in their homes and put food on the table as they move up the economic ladder. In fact, more than 91 percent of people who would be affected by the public charge rule are employed and they have a significant economic impact: should these immigrants leave the United States, the total cost to the U.S. economy could amount to \$164.4 billion.¹ As these immigrants spend more time in the country, they tend to increase their economic impact and earning potential. Discouraging families from making use of public programs when they need them as a temporary support only makes it harder for them to contribute at their fullest capacity to the American economy.

Further, these rule changes are likely to have a "chilling effect" on enrollment in federal public assistance programs beyond those who would actually be directly impacted by the revised public charge test. The Fiscal Policy Institute, an independent, nonpartisan,

¹ See, e.g., New American Economy, *Economic Impact of Proposed Rule Change: Inadmissibility on Public Charge Grounds* (Oct. 11, 2018), <https://research.newamericaneconomy.org/report/economic-impact-of-proposed-rule-change-inadmissibility-on-public-charge-grounds/>

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nonprofit research and education organization, estimates that this “chilling effect” could extend to 24 million people in the United States. This estimate includes anyone in a family that has received any food, health, or housing supports and where at least one member of the family is a non-citizen. It also includes 9 million children under 18 years old, the large majority of whom (7.8 million of the 9 million) are United States citizens.² Research from the Kaiser Family Foundation demonstrates that when there are changes around immigration and public benefits, even people who are not directly targeted by the rule will be affected.³

Indeed, multiple reports have shown that—prior to implementation of this rule—a significant number of immigrants are withdrawing from public assistance programs, even programs such as WIC (formally the Special Supplemental Nutrition Program for Women, Infants, and Children), which is not included in the proposed rule. Even before the proposed rule change was published, local government agencies in at least 18 states reported drops of up to 20 percent in WIC program enrollment and received calls from immigrant families demanding to be dropped from the rolls. Agency officials have attributed these decreases to fears about the immigration policy changes that the Administration first previewed earlier this year, with immigrants worried that enrolling any member of their family in any government public benefit program would jeopardize their ability to secure a visa or permanent residency status.⁴

While the rule change as published would not include the use of public benefits by U.S. citizen children as a negative factor in a parent’s public charge test, given the impact of the chilling effect we nevertheless expect a significant portion of these children to be

² See, e.g., Fiscal Policy Institute, *FPI Estimates Human & Economic Impacts of Public Charge Rule: 24 Million Would Experience Chilling Effects* (Oct. 10, 2018), <http://fiscalspolicy.org/public-charge> .

³ See, e.g., Kaiser Family Foundation, *Proposed Changes to “Public Charge” Policies for Immigrants: Implications for Health Coverage* (September 24, 2018), <https://www.kff.org/disparities-policy/fact-sheet/proposed-changes-to-public-charge-policies-for-immigrants-implications-for-health-coverage/> .

⁴ See, e.g., Samantha Artiga & Barbara Lyons, Kaiser Family Foundation, *Family Consequences of Detention/Deportation: Effects on Finances, Health, and Well-Being* (Sept. 18, 2018), <https://www.kff.org/disparities-policy/issue-brief/family-consequences-of-detention-deportation-effects-on-finances-health-and-well-being/> ; Emily Baumgaertner, *Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services*, NY TIMES (March 6, 2018), <https://www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html> ; Helena Bottemiller Evich, *Immigrants, Fearing Trump Crackdown, Drop Out of Nutrition Programs*, POLITICO (Sept. 30, 2018), <https://www.politico.com/story/2018/09/03/immigrants-nutrition-food-trump-crackdown-806292> ; Deepti Hajela & Colleen Long, *Immigrants Refuse Aid for Fear it Will Doom Green Card Hopes*, AP NEWS (Oct. 3, 2018), <https://apnews.com/460423ab286a4014bfe458a6989cc3f9> .

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removed from SNAP and Medicaid programs or never enrolled at all. Loss of that coverage would have high short-term costs. Children enrolled in Medicaid are twice as likely to have routine check-ups and vaccinations as uninsured children, are more likely to receive proper treatment for chronic conditions and are less likely to have avoidable hospitalizations.⁵ Beyond that however, we know that parents' and children's health are inextricably linked and children do better when their parents are mentally and physically healthy. Parents who are enrolled in health insurance are more likely to have children who are insured, too. Safety net programs such as SNAP and Medicaid have short and long-term health benefits and are crucial levers to reducing the intergenerational transmission of poverty. If immigrant families fear enrolling in public programs, we are likely to see an increase in public health challenges, increased use of emergency department care, higher rates of uncompensated care for health providers, and more housing and food instability.

The proposed rule does not presently include receipt of benefits under the Children's Health Insurance Program (CHIP) but does request feedback on potentially including this program in the expansion of the public charge test. Given the importance of CHIP in covering children and pregnant women in working families who earn too much to qualify for Medicaid, but who cannot afford or access private healthcare coverage, any changes that would depress enrollment or usage of the program would be directly detrimental to the health and well-being of these groups.

The proposed rule also explicitly discriminates against people with chronic health conditions and disabilities. In addition to usage of public benefits such as SNAP, the rule looks at a person's health to decide if he or she will become a public charge. If someone has certain medical conditions, especially those which are considered "expensive" such as heart disease, cancer, trauma or mental illness, that counts as a negative factor. If someone doesn't have a medical condition or a disability, the rule considers that a "positive factor."

The rule also examines whether or not people can obtain private health insurance to pay for the medical costs the government thinks they will have because of their chronic health conditions or disabilities. If someone doesn't have health insurance, that is considered a negative factor. Because Medicaid is the only source for many important community services and supports since they are simply not covered by private insurance, many people with disabilities won't pass this test. This rule will force

⁵ See, Devin Miller, *AAP, Members Speak Out Against 'Public Charge' Proposal*, AAP NEWS (Oct. 16, 2018), <http://www.aappublications.org/news/2018/10/16/washington101618>.



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immigrant families to choose between surviving without needed community services or being denied entry into this country just because a family member has a disability and might need services. This rule ignores the significant contributions that individuals with disabilities make to U.S. society and, instead, creates a blanket policy that discourages immigrants with disabilities from moving to the United States or moving forward in the immigration process.

Finally, we are concerned that the proposed rule would for the first time make a specific income threshold a central issue in immigration decisions. Having an annual income of under \$15,000 for a single person or \$31,000 for a family of four would be weighed negatively and could lead to a denial. Indeed, the rule proposes to weigh a range of income factors negatively. The only income-related factor weighed as “heavily positive” is if an applicant has an income or resources of over \$30,000 for a single person or \$63,000 for a family of four (250% of the federal poverty line.) This is higher than the 2017 median household income in the United States which was only \$61,372, with significantly lower levels in certain geographic areas.⁶

We urge the Administration to reconsider this rule change and ensure that United States laws, processes and resources foster the health, safety and well-being of all immigrants.

Respectfully,

Charlotte Haberaecker
President and CEO

CC: Samantha Deshommes
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Office of Policy and Strategy,
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⁶ See, e.g., United States Census Bureau, *Income, Poverty and Health Insurance Coverage in the United States: 2017* (Sept. 12, 2018), <https://www.census.gov/newsroom/press-releases/2018/income-poverty.html>.