



Submitted via <https://www.regulations.gov/commenton/USCIS-2025-0304-0001>

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Secretary of Homeland Security  
Washington, D.C. 20528

Re: DHS Docket No. USCIS-2025-0304, U.S. Citizenship and Immigration Services

Community Catalyst is submitting this comment in response to the Department of Homeland Security's (DHS, or the Department) Notice of Proposed Rulemaking (NPRM) to express our strong opposition to the changes regarding "public charge," published in the Federal Register on November 19, 2025.

Community Catalyst is a leading non-profit national health advocacy organization dedicated to advancing a movement for health equity and justice. We partner with local, state, and national advocates to leverage and build power so all people can influence decisions that affect their health. Health systems will not be accountable to people without a fully engaged and organized community voice. We work every day to ensure people's interests are represented wherever important decisions about health and health care are made: in communities, state houses, and on Capitol Hill.

The NPRM departs sharply from the historic and statutory understanding of public charge, which has long limited adverse determinations to cases in which an individual is likely to become primarily dependent on government support. It also disregards strong reliance interests developed by immigrant families, states, health care providers, and community-based organizations under the 1999 Field Guidance and the 2022 Final Rule. DHS itself acknowledges that the proposed rule would result in worsened health outcomes, increased uncompensated care, and heightened poverty and instability, yet fails to justify these harms or to demonstrate that the proposal is necessary to implement the statute.

**For these reasons, and as detailed below, the proposed rule is unlawful, arbitrary and capricious under the Administrative Procedure Act, and deeply harmful. DHS should withdraw the NPRM in its entirety and retain the 2022 regulations. If the Department seeks to pursue changes to public charge policy in the future, it must do so through full notice-and-comment rulemaking that preserves clear standards, protects reliance interests, and minimizes harm.**

The following comments address three main points:

- By removing current effective and lawful regulatory guardrails, the proposed rule expands the public charge concept beyond its historical bounds and creates uncertainty and fear.
- The chilling effect of the proposed rule would cause significant and permanent harm.
- The proposed rule will give USCIS officers boundless discretion that will fundamentally reshape America's immigration system.

**I. By removing current effective and lawful regulatory guardrails, the proposed rule expands the public charge concept beyond its historical bounds and creates uncertainty and fear.**

The proposed rule would rescind the 2022 final rule on public charge as a basis of admissibility. However, the Department does not provide any legitimate justification for rescinding these regulations, which are both lawful and effective. The proposal does not offer any regulatory language to replace the current rules. Instead, DHS states that at some future date, after this rule is finalized, they will create new tools and guidance to direct USCIS officers in making public charge assessments. The Department provides no indication that they intend to offer public notice or the opportunity to comment on those tools and guidance when they are created.

The public charge law enacted in 1882 drew on older “poor laws” and was aimed to stop newly arrived immigrants from becoming entirely dependent on public support systems like poorhouses or almshouses.<sup>1</sup> The meaning of “public charge” as used in the Immigration and Nationality Act (INA) has long been understood and repeatedly ratified by Congress, and by 100 years of legal precedent and case law. The field guidance issued in 1999 reflects this longstanding meaning, explaining that public charge means an immigrant who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense.” The 2022 final rule that DHS seeks to remove similarly reflects this long-standing legal precedent and practice.

In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) codified the totality of circumstances test for the public charge grounds of inadmissibility, requiring immigration officials to consider five specific factors: age; health; family status; assets, resources, and financial status; and education and skills. The same year, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) which imposed major restrictions on immigrant eligibility for public benefits. Recognizing that confusion about the IIRIRA and PRWORA requirements was causing a chilling effect that was deterring immigrants from accessing benefits – for themselves or their children – in 1999, the Immigration and Naturalization Service (INS, then part of the Department of Justice (DOJ)) set out to provide additional clarity by publishing field guidance with clarity on the rules adjudicators were directed to follow. Specifically, the 1999 guidance provided reassurance that receipt of non-cash benefits, with the single exception of government support for institutionalization for long-term care, would not be considered in the public charge determination, because people did not rely on them for their primary means of support. Benefits such as health insurance, food assistance, and childcare subsidies would not be considered. The only benefits that could be considered were public cash assistance for income maintenance and long-term institutionalization at government expense.

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<sup>1</sup> Torrie Hester, Hidetaka Hirota, Mary E. Mendoza, et al. “Historians’ Comment on DHS Notice of Proposed Rule, Inadmissibility on Public Charge Grounds.” October 2018 (Historians’ Comment). <https://www.ilcm.org/wp-content/uploads/2018/10/Historians-comment-FR-2018-21106.pdf>.

Now DHS claims that, in the absence of regulatory language, they will administer the policy consistent with statutory requirements and case law. Even if DHS were to follow this interpretation faithfully, the removal of the regulatory language undoubtedly will have a significant chilling effect, meaning that people who are eligible for public benefit programs would be less likely to enroll themselves or their family members in those programs. Without clear guidance that immigrants can use in making decisions and that service providers can rely on to offer advice, we will see a return to the confusion and harm that immigrants and broader communities were experiencing before the 1999 field guidance was published.

However, the NPRM, while paying lip service to the need to respect precedent and previous policy, simultaneously signals that the Administration intends to adopt a much more exclusionary concept of public charge. The rejection of any clear specification of which public benefits can be considered in the public charge assessment suggests that the Administration proposes to ignore more than 140 years of precedent and include receipt of any type of public benefit at any time for any duration by people with low incomes as relevant to the public charge determination. In the cases brought against the 2019 final rule, the courts rejected such an approach.<sup>2</sup>

Moreover, the proposed rule repeatedly emphasizes the importance of allowing immigration officers to make decisions based on their subjective opinions. But, the relevant statutory language in the INA says “in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status...”<sup>3</sup> For adjustment of status, the statute indicates that it’s the opinion of the Attorney General, not the individual officer that should prevail. This is further evidence that the current regulations are closer to statutory intent than the newly proposed rule.

The NPRM suggests that its understanding of public charge is more consistent with congressional intent than the 1999 guidance. However, Congress has made multiple changes to immigrant eligibility for benefits since the 1999 guidance was first introduced, including laws that make benefits more accessible, such as allowing immigrant children to receive Supplemental Nutrition Assistance Program (SNAP, formerly food stamps), and giving states the option to cover immigrant children and pregnant people under the Children’s Health Insurance Program (CHIP), and laws that make benefits less accessible, such as the recently enacted H.R. 1 (P.L 119-21). If Congress did not agree that the long-standing interpretation of public charge was consistent with the INA or PRWORA, it has had multiple opportunities to direct DHS to act otherwise.

***a. Removing the regulatory guardrails creates rational uncertainty and fear.***

***i. The proposed rule provides no guidance regarding benefits that will be considered.***

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<sup>2</sup> *New York v. United States Dep’t of Homeland Sec.*, Case 19-3595, 89-90, August 4, 2020 (2d Cir. 2020).

<https://ccrjustice.org/sites/default/files/attach/2020/08/465-1.pdf>

<sup>3</sup> 8 U.S.C. § 1182(a)(4)(A).

By refusing to provide any guidance on what benefits will and will not be considered in a public charge assessment, the Administration is intentionally creating fear and uncertainty among immigrants that will predictably discourage them and their families from accessing benefits for which they are eligible. Throughout the NPRM the Department uses multiple terms, none of which are defined, to describe the programs that USCIS officials will be allowed to consider in a public charge assessment. This inconsistency already exacerbates the confusion and fear generated by the proposed rule. Each term the department uses has a different potential meaning. The regulatory language regarding bonds, the proposed revisions to Form I-485, and the paragraph with the clearest statement of what would happen if the proposed removal of 8 CFR 212.22 is finalized all use the term “means-tested public benefit.”<sup>4</sup> Other terms used at various points in the proposed rule include “public benefits” (used 165 times), “public benefit programs” (used 12 times), and “public resources” (used 13 times). In one place, it simply says “DHS proposes to eliminate these definitions that limit the *benefits* that are considered as part of the public charge inadmissibility determination”<sup>5</sup> (emphasis added). In another place it says “the receipt of *any type of public benefits* by a qualified alien is relevant and indeed critical to determining whether an alien is actually self-sufficient”<sup>6</sup> (emphasis added). Uncertainty about the Department’s intentions is the only logical response.

There are a vast number of programs and services that an immigration official might decide fall under the heading of a “public benefit” or “public resource” including many not limited to low-income people. It is beyond imagination that DHS intends that *all* these benefits should count in the public charge determination. But the proposed rule does not provide any guidance on which programs would *not* be considered; indeed, it explicitly rejects the concept of doing so. Without clear guidance, states, local governments, and organizations that help families enroll in benefits would be unable to provide definitive reassurance to immigrants and their family members that these programs were safe to use. Refusing to articulate *which benefits* will count both has enormous chilling effects and leaves an excessive amount to the discretion of individual immigration officers, who are not experts in public benefits and cannot reasonably be expected to understand the details of hundreds (or thousands) of programs.

Even if it were clear that only “means-tested public benefit” programs would be considered, it would still be unclear exactly which programs DHS would consider. Without guardrails, immigration officials would be free to come up with their own definitions of “means-tested benefits” leaving open questions about whether any number of programs might be counted. The benefits of health programs are well established.

Community Catalyst strongly opposes including health programs in public charge determinations. We also strongly encourage the Department to specifically exclude these programs in any future rulemaking or guidance about public charge.

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<sup>4</sup> 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-365>.

<sup>5</sup> 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-327>.

<sup>6</sup> 2025 NRPM <https://www.federalregister.gov/d/2025-20278/p-280>.

The proposed rule asserts that use of any benefit is relevant to a public charge assessment, but neither provides a logical argument nor offers data to support this claim. A sense of the overreach of this statement rule is offered by an analysis of the 2018 proposed rule that found that more than half of all U.S. born citizens could have been found at risk of becoming a public charge if the rule were applied to them. This is because that rule, like the proposed rule, allowed the consideration of supplemental benefits that are widely used by working individuals and their families.<sup>7</sup>

*ii. The proposed rule opens door to consideration of benefits used by family members.*

The proposed rule appears to leave room for officers to consider benefits used by family members who are not seeking to adjust their status. The rule removes the regulatory definition of “receipt (of public benefits)” (8 CFR Part 212.21(d)) that explicitly states that applying for or receiving benefits on behalf of family members is not considered “receipt.” It also fails to provide such reassurance in the preamble, as the 2019 final rule did.<sup>8</sup>

Without that clear language, it is impossible for immigrants to know whether use of benefits by family members – including U.S. citizen children – will harm them when they seek to obtain lawful permanent resident (LPR) status, or for providers to offer them meaningful reassurance. Moreover, the affirmative choice to remove this clear statement from the regulations sends a message that is far stronger than if such exclusion had never been part of the regulations. The NPRM provides no justification for this removal.

***b. Strong reliance interests have developed on the part of immigrant families, state and local governments, and a wide array of institutions on the policies clarified in 1999 and formalized in the 2022 regulations.***

The Department acknowledges that “the regulated public may be relying on aspects of the regulatory scheme in the 2022 Final Rule, which, in many respects substantively aligns with the 1999 Interim Field Guidance”<sup>9</sup> and seeks comments on what aspects of the 2022 Final Rule might have engendered reliance interests, and how DHS should best address such reliance interests given its stated objective for the rulemaking.

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<sup>7</sup> Danilo Trisi, *Trump Administration’s Overbroad Public Charge Definition Could Deny Those Without Substantial Means a Chance to Come to or Stay in the U.S.* Center on Budget and Policy Priorities, 2019. <https://www.cbpp.org/sites/default/files/atoms/files/5-30-19pov.pdf>.

<sup>8</sup> 2019 Final Rule: <https://www.federalregister.gov/d/2019-17142/p-499>. Of note, the 2019 final rule discussed this reassurance in the context of arguing that the rule could not be considered to discriminate against certain citizen children on the basis of their parents’ nationality, as their receipt of benefits would not be considered in the public charge assessment.

<sup>9</sup> 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-412>.

Key elements that have engendered reliance interests are:

- The statement that no benefits would be considered other than cash assistance for income maintenance and institutionalization for long term care;
- The statement that applications for or use of benefits by family members would not be considered in a public charge determination; and
- The provisions excluding use of benefits while in an immigration status that is not subject to a public charge assessment.

**c. *The withdrawal of regulations to be replaced eventually by unspecified guidance and tools is an attempt to make an end run around the Administrative Procedure Act.***

The Department states that it will, following the finalization of the proposed rule, “formulate appropriate policy and interpretive tools that will guide DHS officers in making individualized, fact-specific public charge inadmissibility determinations, based on a totality of the alien’s circumstances, that are consistent with the statute and congressional intent, and comply with past precedent.”<sup>10</sup> But the policy and tools are not provided now, and the rule provides no indication that the Administration intends to submit them to public comment and review. It appears that the policy guidance that will be developed will serve as a regulation in all but name, and that this is an attempt to avoid the required public notice and comment.<sup>11</sup> Any guidance or tools that are created to direct officers’ legal decisions should be made available for notice and comment because of their significant impact on the legal rights of applicants.<sup>12</sup> Simply asking for open-ended feedback and recommendations on what to include in such tools is not a substitute for notice and comment.

The proposed rule asserts that “removing the current regulations would provide DHS greater flexibility to adapt to changing circumstances,” such as the legislative changes that recently occurred under H.R. 1.<sup>13</sup> but we urge the Department to appropriately modify the regulations as needed in response to new laws, not to avoid regulations entirely.

**d. *The rule suggests that USCIS will rely on illegally obtained data and unproven tools.***

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<sup>10</sup> 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-105>.

<sup>11</sup> “It is well-established that an agency may not escape the notice and comment requirements ... by labeling a major substantive legal addition to a rule a mere interpretation....We must still look to whether the interpretation itself carries the force and effect of law, ... or rather whether it spells out a duty fairly encompassed within the regulation that the interpretation purports to construe.” *Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1024 (D.C. Cir. 2000); *see also General Electric Co. v. EPA*, 290 F.3d 377 (D.C. Cir. 2002).

<sup>12</sup> Administrative Conference of the United States. *Interpretive Rules of General Applicability and Statements of General Policy*. Recommendation 76-5. n.d. Accessed November 25, 2025.

<https://www.acus.gov/sites/default/files/documents/76-5.pdf>.

<sup>13</sup> 2025 NPRM, <https://www.federalregister.gov/d/2025-20278/p-287>

The proposed rule states “as the administration persists in its efforts to reduce the siloing of data, 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.”<sup>14</sup> This section suggests that DHS plans to build a tool that officers will use as they make public charge determinations. This is particularly alarming in the context that DHS has been illegally obtaining information from the Internal Revenue Service (IRS)<sup>15</sup> and benefit granting agencies, including the Social Security Administration<sup>16</sup> and the state agencies that operate SNAP<sup>17</sup> and Medicaid<sup>18</sup>. This data is being linked without required privacy safeguards and with reckless disregard for accuracy.<sup>19</sup> Misreading this data has already generated ludicrous results, such as the claim that hundreds of 150-year-olds are claiming Social Security benefits.<sup>20</sup> Using this data in public charge assessments, where there is no opportunity for appeals, is both dangerous and illegal.

It is possible that the planned tool may be an automated decision-support tool that makes recommendations to immigration officers.<sup>21</sup> Empirical research shows that automated decision systems reflect the biases and errors of the underlying data.<sup>22</sup> Moreover, when they are not directly programmed, but emerge out of existing data, they act as a “black box.” Without knowing which information they are relying on to make decisions and how it is being weighted, the public cannot assess the logic behind recommendations or hold it accountable.<sup>23</sup>

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<sup>14</sup> 2025 NPRM, <https://www.federalregister.gov/d/2025-20278/p-287>

<sup>15</sup> *Center for Taxpayer Rights vs. Internal Revenue Service*, 1:25-cv-00457, (D.D.C.)

<https://www.courtlistener.com/docket/69646607/center-for-taxpayer-rights-v-internal-revenue-service/>.

<sup>16</sup> Social Security Administration, Privacy Act of 1974, System of Records, 90 FR 50879, November 11, 2025. <https://www.federalregister.gov/documents/2025/11/12/2025-19849/privacy-act-of-1974-system-of-records>.

<sup>17</sup> *State of California v. United States Department of Agriculture*, 3:25-cv-06310, (N.D. Cal.).

<https://www.courtlistener.com/docket/70945300/state-of-california-v-united-states-department-of-agriculture/>.

<sup>18</sup> *State of California v. U.S. Department of Health and Human Services*, 3:25-cv-05536 (U.S. District Court for the Northern District of California). <https://clearinghouse.net/case/46754/>

<sup>19</sup> Makena Kelly and Vittoria Elliott, “DOGE Is Building a Master Database to Surveil and Track Immigrants,” *Wired*, 18 April 2025. <https://www.wired.com/story/doge-collecting-immigrant-data-surveil-track/>.

<sup>20</sup> David Gilbert. “No, 150-Year-Olds Aren’t Collecting Social Security Benefits.” Tags. *Wired*, February 17, 2025. <https://www.wired.com/story/elon-musk-doge-social-security-150-year-old-benefits/>.

<sup>21</sup> Estafania McCarroll. “Weapons of Mass Deportation: Big Data and Automated Decision-Making Systems in Immigration Law,” *Georgetown Immigration Law Journal*, 34, pp. 705–731, 2020. <https://www.law.georgetown.edu/immigration-law-journal/wp-content/uploads/sites/19/2020/08/Weapons-of-Mass-Deportation-Big-Data-and-Automated-Decision-Making-Systems-in-Immigration-Law.pdf>

<sup>22</sup> Virginia Eubanks. *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*. St. Martin’s Press, 2019.

<sup>23</sup> David Freeman Engstrom, and Daniel E. Ho. “Algorithmic Accountability in the Administrative State.” *Yale Journal on Regulation*, 37, no. 3 (2020). <https://www.yalejreg.com/print/algorithmic-accountability-in-the-administrative-state/>.

In health care, health insurers may be turning to artificial intelligence (AI) to expedite claims management processing, but this has also led to an increase in claims denials.<sup>24</sup> This increase in denials often strains the relationship between providers and plans, as well as providers and patients. As other federal agencies similarly assess automation as part of policy practices, we strongly encourage the Department to transparently notify and allow for public comment guardrails and tools that will be used in public charge determinations that include health programs.

## **II. The chilling effect of the proposed rule would cause significant and permanent harm.**

The chilling effect of this change will be significant and deeply harmful. This is a logical prediction, based on both historical evidence and what reasonable people would do given the lack of certainty and hostile indications provided by the current proposal.

At Community Catalyst, we work with state and local partners who have directly responded to the chilling effects of public charge in enrolling in public benefits. Our partners have focused on multi-pronged approaches to combat the chilling effect including increasing trust in government policies, building outreach strategies from an intersectional lens, and establishing relationships with legal advocates.<sup>25</sup> In the best of times, when policies and eligibility were clear, nonprofits and direct service providers across the country and particularly in states like Florida, Kansas, New Jersey and Texas, were on a trajectory to reverse the deepest harms from the 2016-2019 chilling effect. Now, those same nonprofits and direct service providers are wading through a sea of ambiguity between policy changes in helping people who are eligible for public health benefits to maintain access to critical services.

### ***a. Historical evidence shows large chilling effects that could be even larger today.***

#### *i. Chilling effects following 1996 PRWORA*

Changes in the behavior of immigrant families following the passage of the 1996 welfare law (PRWORA) provide evidence of chilling effects. A comprehensive review of studies conducted following the enactment of PRWORA showed statistical evidence of reduced use of benefits among populations whose eligibility was unchanged by the law, including refugees and U.S.-citizen children with immigrant parents.<sup>26</sup> PRWORA affected public health insurance coverage of even noncitizens

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<sup>24</sup> Healthcare Financial Management Association. Battle of the bots: As payers use AI to drive denials higher, providers fight back. (2024). <https://www.hfma.org/revenue-cycle/denials-management/health-systems-start-to-fight-back-against-ai-powered-robots-driving-denial-rates-higher/>

<sup>25</sup> *The Power of Fear & Trust: Mobilizing a Movement to Educate, Reassure, and Enroll Eligible Latinx Immigrant Communities in Public Health Benefits*, Community Catalyst (March 30, 2023). <https://communitycatalyst.org/resource/the-power-of-fear>

<sup>26</sup> Francisco I. Pedraza and Ling Zhu, "The 'Chilling Effect' of America's New Immigration Enforcement Regime," *Pathways*, Spring 2015, [https://inequality.stanford.edu/sites/default/files/Pathways\\_Spring\\_2015\\_Pedraza\\_Zhu.pdf](https://inequality.stanford.edu/sites/default/files/Pathways_Spring_2015_Pedraza_Zhu.pdf).

who had resided in the United States for more than five years (and were thus not subject to its restrictions) as adversely as those who had been in the country for fewer than five years (and thus were subject to its restrictions).<sup>27</sup> KFF (formerly the Kaiser Family Foundation) also found that after PRWORA, many immigrants did not seek public insurance because they feared it would affect their immigration status or jeopardize their ability to become a citizen.<sup>28</sup>

*ii. Impact on refugees*

Refugee eligibility for public benefits was not directly affected by PRWORA; however, between 1994 and 1998, among refugees:

- Use of food stamps fell by 60 percent;
- Use of Medicaid fell by 39 percent; and
- Use of cash assistance under Temporary Assistance for Needy Families (TANF) fell by 78 percent.<sup>29</sup>

*iii. Chilling effects of the 2019 Trump public charge rule*

The chilling effect of the 2019 rule is difficult to measure with participation data, because the rule was in effect for only a limited time, and the confounding effects of the COVID-19 pandemic, with the resulting widespread shutdowns and extensions of temporary benefits, make it hard to isolate the effects of this policy change. The best data is therefore from surveys that ask immigrants or members of immigrant families directly whether they avoided participating in public benefit programs because of concerns about immigration consequences. There are, however, some relevant studies that focus on participation changes before the start of the pandemic. These generally measure the effect of the announcement of the 2018 rule, or of the earlier widespread media coverage of the proposal.

Starting in 2018, researchers at the Urban Institute have conducted a regular survey, the Well-Being and Basic Needs Survey (WBNS), that includes questions about whether adults in immigrant families (i.e., in which the respondent or a family member living with them was not born in the U.S.) avoided participating in non-cash safety net programs because of green card concerns. This survey series confirms that the chilling effect influenced families even before the 2019 rule was finalized and continued to affect program participation even after the 2019 rule was withdrawn and replaced with

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<sup>27</sup> Robert Kaestner and Neeraj Kaushal, "Immigrant and Native Responses to Welfare Reform," *Journal of Population Economics* 18, no. 1 (2005): 69–92.

<sup>28</sup> Peter Feld and Britt Power, *Immigrants' Access to Health Care after Welfare Reform: Findings from Focus Groups in Four Cities*, KFF (formerly the Kaiser Family Foundation), 2000. [www.kff.org/medicaid/report/immigrants-access-to-health-care-after-welfare/](http://www.kff.org/medicaid/report/immigrants-access-to-health-care-after-welfare/).

<sup>29</sup> Michael E. Fix and Jeffrey S. Passel, *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform: 1994–1997*, Urban Institute, 1999. <http://www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform>.

the 2022 rule. Key findings include:

- In 2019, 15.6 percent of adults in all immigrant families, and 31 percent of adults in families that included one or more nonpermanent residents, reported avoiding applying for non-cash benefits.<sup>30</sup> This was higher, 26.2 percent, among low-income immigrant families.
- The chilling effect was twice as strong for families with children, at 20.4 percent for immigrant families with children in 2019 vs. 10.0 percent for immigrant families without. For low-income families with children, it was 31.5 percent. Similar gaps existed in other years. This is likely because families with children are more likely to have a member eligible for such benefits.
- The survey also found that 76.8 percent of adults in immigrant families with children did not understand that children's program enrollment would not be considered in their parents' public charge determinations. Chilling effects were reported across a variety of forms of support, including free or reduced-price medical care for uninsured people, and health insurance purchased through the Marketplaces.<sup>31</sup>
- Even in 2023, after the 2022 rule was fully in place and before the re-election of Donald Trump, 11.7 percent of adults in all immigrant families and 23.6 percent of adults in mixed-immigration status families reported avoiding applying for non-cash benefits.<sup>32</sup>
- The chilling effect reached even members of immigrant families in which all members of the family were citizens (6.7 percent in 2019) or in which all noncitizen members were permanent residents (16.7 percent in 2019).<sup>33</sup> This was a consistent pattern in all years of the survey series.

Researchers at KFF have conducted surveys for immigrants with similar questions since 2013. The most recent was conducted in the fall of 2019 (prior to the publication of the proposed rule) and was recently released. This study, for which all the respondents were themselves immigrants

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<sup>30</sup> Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, and Stephen Zuckerman, *Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, Urban Institute, 2020.

<https://www.urban.org/research/publication/amid-confusion-over-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-2019>.

<sup>31</sup> Jennifer M. Haley, Genevieve M. Kenney, Hamutal Bernstein, and Dulce Gonzalez, *One in Five Adults in Immigrant Families with Children Reported Chilling Effects on Public Benefit Receipt in 2019*, Urban Institute, 2020.

<https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>.

<sup>32</sup> Dulce Gonzalez, Hamutal Bernstein, Michael Karpman, and Genevieve M. Kenney. *Mixed-Status Families and Immigrant Families with Children Continued Avoiding Safety Net Programs in 2019*. Urban Institute, 2024.

<https://www.urban.org/research/publication/mixed-status-families-and-immigrant-families-children-continued-avoiding>.

<sup>33</sup> Bernstein et al. 2020, op cit. (Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, and Stephen Zuckerman, *Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, Urban Institute, 2020. <https://www.urban.org/research/publication/amid-confusion-over-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-2019>.)

(including naturalized citizens),<sup>34</sup> includes these key findings:

- The share of immigrant adults who said they avoided applying for a government program that helps pay for food, housing, or health care in the past 12 months because they did not want to draw attention to their or a family member's immigration status rose from 8 percent to 12 percent between 2023 and 2025. Eleven percent said that they have stopped participating in such a program since January 2025 because of immigration-related worries.
- Among parents, the share who say they avoided applying for a program rose from 11 percent to 18 percent. This suggests that even though the survey did not explicitly say to include benefits received on behalf of a child, the respondents did so.

MPI researchers using American Community Survey (ACS) data found that participation in cash assistance under TANF, food assistance under SNAP, and health coverage under Medicaid declined far more rapidly for noncitizens than for U.S.-born citizens between 2016 and 2019. The share of children receiving benefits fell about *twice as fast* for all these programs among U.S. citizen children who live in households with noncitizen household members as it did among children with only citizens in their households, almost as much as participation by non-citizens themselves.<sup>35</sup> The participation decline accelerated between 2018 and 2019.

Researchers in another study used the variation in the noncitizen share of the population across counties to estimate the effects of the announcement of the 2018 proposed rule – even before it was adopted – on the share of children enrolled in Medicaid, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), and SNAP. They found that the announcement was associated with a decrease nationwide of approximately 260,000 in child Medicaid enrollment, of 149,000 in child SNAP enrollment, and 21,000 in child WIC enrollment.<sup>36</sup>

A study using New York State Medicaid data from 2014-2019 found that the initial leak of the public charge rule in 2017 resulted in significant delays in prenatal Medicaid enrollment among immigrant women and a significant decrease in birth weight among their newborn babies.<sup>37</sup> In an article published in *Annals of Family Medicine*, clinicians documented the effects of the rule in their practice,

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<sup>34</sup> Drishti Pillai et al. *KFF/New York Times 2025 Survey of Immigrants: Health and Health Care Experiences During the Second Trump Administration*. KFF, 2025. <https://www.kff.org/immigrant-health/kff-new-york-times-2025-survey-of-immigrants-health-and-health-care-experiences-during-the-second-trump-administration/>.

<sup>35</sup> Jeanne Batalova, Randy Capps, Michael Fix, *Anticipated 'Chilling Effects' of the Public-Charge Rule Are Real: Census Data Reflect Steep Decline in Benefits Use by Immigrant Families*, Migration Policy Institute, December 21, 2020. <https://www.migrationpolicy.org/news/anticipated-chilling-effects-public-charge-rule-are-real>.

<sup>36</sup> Jeremy Barofsky, Dinardo Rodriguez, and Anthony Barrows, "Spreading Fear: The Announcement of the Public Charge Rule Reduced Enrollment In Child Safety-Net Programs." *Health Affairs*, October 2020. <https://doi.org/10.1377/hlthaff.2020.00763>.

<sup>37</sup> Scarlett Sijia Wang, Sherry Glied, Claudia Babcock, and Ajay Chaudry, "Changes in the Public Charge Rule and Health of Mothers and Infants Enrolled in New York State's Medicaid Program, 2014–2019." *American Journal of Public Health* 112, no. 12 (2022): 1747–56. <https://doi.org/10.2105/AJPH.2022.307066>.

including a mother who recounted being afraid of bringing her children to the doctor.<sup>38</sup> In the wake of the COVID-19 pandemic, when many immigrants worked jobs considered “essential” for our communities, nearly half of adults reporting chilling effects said their families avoided Medicaid or CHIP.<sup>39</sup>

**b. Children, pregnant people, and mixed-status families will be disproportionately harmed.**

One in four children in the U.S. – 19 million children – have at least one immigrant (non U.S.-born) parent. Most of these children are U.S. citizens, either in mixed-immigration status households (with noncitizen parents) or with naturalized citizen parents. Children in immigrant families are more likely to face certain hardships and are already less likely to access help due in part to flawed policies that create barriers to immigrant families’ ability to access critical public benefits.<sup>40</sup> For example, comparing a period during the COVID-19 pandemic to the time immediately before it, families with immigrant mothers had greater increases in household food insecurity and being behind on their rent compared to families with U.S.-born mothers.<sup>41</sup> Given the restrictions on immigrants’ eligibility for public benefits, much of the impact of the chilling effect will fall on U.S. citizen children in immigrant families. For example, the KFF analysis cited above finds that somewhat under half of the Medicaid or CHIP enrollees who live in a household with at least one noncitizen – 5.9 million out of 13.4 million – are U.S. citizen children.<sup>42</sup> Even after H.R. 1, pregnant people and children who are lawfully present remain eligible for Medicaid or CHIP in more than half of states that have elected to provide that coverage. This is another group that could be harmed by the chilling effect.

The chilling effect of public charge will only worsen hunger, unmet health care needs, health outcomes, poverty, homelessness, and other serious problems. Like all children, children in immigrant families benefit when they have access to programs and services that help meet their basic needs and promote their development. They also benefit when their parents receive the health care and other services they need. Reductions in access to public benefits would harm children’s development, learning, educational attainment and other lifelong outcomes.

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<sup>38</sup> Haq C, Hostetter I, Zavala L, Mayorga J. Immigrant Health and Changes to the Public-Charge Rule: Family Physicians’ Response. *Ann Fam Med*. 2020 Sep;18(5):458-460. doi: 10.1370/afm.2572. PMID: 32928764; PMCID: PMC7489958.

<sup>39</sup> (Bernstein et al., 2020)

<sup>40</sup> Tanya Broder and Gabrielle Lessard *Overview of Immigrant Eligibility for Federal Programs*, National Immigration Law Center, 2024, <https://www.nilc.org/wp-content/uploads/2024/05/overview-immeligfedprograms-2024-05-08.pdf>; Kinsey Alden Dinan, *Federal Policies Restrict Immigrant Children’s Access to Key Public Benefits*, National Center for Children in Poverty, 2005. [http://www.nccp.org/publications/pdf/text\\_638.pdf](http://www.nccp.org/publications/pdf/text_638.pdf).

<sup>41</sup> Allison Bovell-Ammon, Stephanie Ettinger de Cuba, Félice Lê-Scherban, et al. “Changes in Economic Hardships Arising During the COVID-19 Pandemic: Differences by Nativity and Race.” *Journal of Immigrant and Minority Health* 25, no. 2 (2023): 483–88. <https://doi.org/10.1007/s10903-022-01410-z>.

<sup>42</sup> Artiga et al, op cit. (Samantha Artiga, Drishti Pillai, Sammy Cervantes, Akash Pillai and Matthew Raie, *Potential “Chilling Effects” of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF, 2025. <https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>)

A summary of twenty years of rigorous evaluation research found that children's access to public health insurance improved health outcomes and lowered government expenditures by a factor of 4 to 1.<sup>43</sup> When the lifetime benefits to children were factored into this analysis, the benefit-cost ratio rose to 12.66 to 1 (that is, for every dollar spent on public health insurance for children, savings to government plus benefits to children amounted to \$12.66). Additionally, in 1994 The Vaccines for Children program was funded by the federal government to attain higher levels of childhood immunization coverage for low-income populations, including the uninsured.<sup>44</sup> A 2014 CDC evaluation showed that the added coverage over the first 20 years of the program resulted in the prevention of 1.4 million hospitalizations and 56,300 deaths.<sup>45</sup>

A growing body of high-quality research now supports the claim that health insurance improves health outcomes, including reducing mortality and morbidity.<sup>46</sup> Research focused specifically on Medicaid expansion identifies benefits including financial security, some measures of health status/outcomes, and economic benefits for states and providers.<sup>47</sup> People who are unable to access preventive health care inevitably enter the health care system at more complex and expensive points.<sup>48</sup> Facing decreased access to preventive care, people without insurance (including those ineligible for insurance because of their immigration status) often put off seeking medical attention or do not fill prescriptions until health conditions have worsened. Denied access to preventive care does not eliminate people's need for services, it shifts the burden to hospital emergency departments and, ultimately, to state budgets and taxpayers. This later requires more costly interventions, including emergency care. KFF also summarizes a range of research that shows how access to health

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<sup>43</sup> Janet Currie & Anna Chorniy, *Medicaid and Child Health Insurance Program Improve Child Health and Reduce Poverty But Face Threats*, 21(8) Academic Pediatrics S146-53 (2021).

<sup>44</sup> Routine childhood vaccines provided through the program include those for diphtheria, tetanus, pertussis, polio, *Haemophilus influenzae* type b disease, hepatitis B, measles, mumps, and rubella, varicella, hepatitis A, pneumococcal disease, influenza, and rotavirus vaccine.

<sup>45</sup> Whitney, Cynthia G., Fangjun Zhou, James Singleton, Anne Schuchat, and Centers for Disease Control and Prevention (CDC). "Benefits from immunization during the vaccines for children program era-United States, 1994-2013." *MMWR Morb Mortal Wkly Rep* 63, no. 16 (2014): 352-355.

<sup>46</sup> *Health insurance saves lives, studies suggest* / Harvard T.H. Chan School of Public Health. (2025, November 12). Harvard T.H. Chan School of Public Health; HSPH. <https://hsph.harvard.edu/news/health-insurance-saves-lives-studies-suggest/>

<sup>47</sup> Madeline Guth, Garfield , R., & Rudowitz, R. (2020, March 17). *The Effects of Medicaid Expansion under the ACA: Studies from January 2014 to January 2020* / KFF. KFF. <https://www.kff.org/affordable-care-act/the-effects-of-medicaid-expansion-under-the-aca-updated-findings-from-a-literature-review/>

<sup>48</sup> 2021 National Healthcare Quality and Disparities Report [Internet]. Rockville (MD): Agency for Healthcare Research and Quality (US); 2021 Dec. ACCESS TO HEALTHCARE AND DISPARITIES IN ACCESS. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK578537/>

insurance “promotes individuals’ ability to obtain and maintain employment,” and resulted in better performance at work (for example, fewer sick days) once they got coverage.<sup>49</sup>

Many studies focus specifically on the benefits of health coverage for children, in both the short- and long-term. In the short term, children in immigrant families with health insurance coverage are more likely to have a usual source of care and receive regular health care visits and are less likely to have unmet care needs.<sup>50</sup>

Longer term benefits of health insurance for children include:

- Children enrolled in Medicaid in their early years have better health, educational and employment outcomes in adulthood.<sup>51</sup>
- Medicaid enrollment as a child is associated with a significantly lower chance of developing high blood pressure as an adult.<sup>52</sup>
- Childhood Medicaid enrollment is associated with decreased walking difficulty and mortality in adulthood.<sup>53</sup>
- Among Black people, Medicaid in childhood is associated with significantly reduced hospitalizations and emergency department visits in adulthood.<sup>54</sup>

Fears of accessing Medicaid during pregnancy also have negative consequences. Avoidance of prenatal care, high maternal stress, and poor nutrition can lead to adverse birth outcomes. A cohort study published in the *American Journal of Perinatology* examining nearly 29 million deliveries found inadequate prenatal care significantly increased the odds of preterm birth, intrauterine growth

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<sup>49</sup> Larisa Antonisse and Rachel Garfield, *The Relationship Between Work and Health: Findings from a Literature Review*, KFF, August 7, 2018. <https://www.kff.org/medicaid/the-relationship-between-work-and-health-findings-from-a-literature-review/>.

<sup>50</sup> Christine Percheski and Sharon Bzostek, “Public Health Insurance and Health Care Utilization for Children in Immigrant Families,” *Maternal and Child Health Journal* 21, 2017. <https://link.springer.com/article/10.1007/s10995-017-2331-y>

<sup>51</sup> Rourke O’Brien and Cassandra Robertson, *Medicaid and Intergenerational Economic Mobility*, University of Wisconsin—Madison, Institute for Research on Poverty, 2015, <https://search.library.wisc.edu/catalog/9910223409002121>; Andrew Goodman-Bacon, *The Long-Run Effects of Childhood Insurance Coverage: Medicaid Implementation, Adult Health, and Labor Market Outcomes*, NBER Working Paper No. 22899, 2016, [www.nber.org/papers/w2289](http://www.nber.org/papers/w2289)

<sup>52</sup> Michel Boudreault et al. “The Long-Term Impacts of Medicaid Exposure in Early Childhood: Evidence from the Program’s Origin.” *Journal of Health Economics*. Nov 2019. <https://www.ncbi.nlm.nih.gov/pubmed/26763123>

<sup>53</sup> Andrew Goodman-Bacon, “The Long-Run Effects of Childhood Insurance Coverage: Medicaid Implementation, Adult Health, and Labor Market Outcomes,” *NBER Working Paper*. Dec 2016. <http://www.nber.org/papers/w2289>

<sup>54</sup> Laura Wherry, et al. “Childhood Medicaid Coverage and Later Life Health Care Utilization.” *NBER Working Paper*. Oct 2015. <http://www.nber.org/papers/w20929>

restriction, stillbirth, and neonatal death.<sup>55</sup> Expanding Medicaid eligibility during pregnancy to previously uncovered immigrants has been found to significantly increase use of prenatal care and support more regular prenatal visits. In turn, this resulted in improved birth outcomes, as measured by increased average gestational length (e.g. fewer premature births) and birthweight among infants born to immigrant mothers.<sup>56</sup>

### *i. The Power of Fear and Trust in Thawing Chilling Effect from Public Charge Changes*

In 2022, Community Catalyst reviewed and analyzed publicly available information and data related to thawing the effect of the 2019 Public Charge rule and engaged in robust dialogue and exploratory conversations with 11 national and 14 state organizations in four priority regions: Florida, Kansas, New Jersey and Texas. This resulted in a comprehensive report, *The Power of Fear and Trust*, about the barriers Latinx immigrants continued to face in the aftermath of previous public charge ambiguity.

As part of this report, and advocacy from many partners and officials across the country, there was a clear call for increased trust in government policies and entities, including federal agencies like DHS and Health and Human Services (HHS). Following the 2022 Rule, DHS updated their website to include clear and comprehensive information about public charge.<sup>57</sup> Local DHS offices also coordinated with local stakeholders and partners encouraging people to enroll in public benefits. Centers for Medicare & Medicaid Services (CMS) also issued resources several times, including informational bulletins, reassuring eligible people and their families that using and applying for health programs would not be counted in the public charge determination in the future.<sup>58 59</sup> HHS also conducted outreach on public charge and even embedded reassuring messaging potential eligibility in general messages about health coverage changes.<sup>60</sup> Advocates, including our state partners in Texas, also worked with local agency officials to ensure outreach materials about health coverage included messages about public charge.<sup>61</sup>

Outreach strategies and relationships with legal advocates facilitated addressing fears and concerns about public charge. New changes to public charge, and even the threat of changes alone, produce

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<sup>55</sup> Sarah Partridge, et al. "Inadequate Prenatal Care Utilization and Risks of Infant Mortality and Poor Birth Outcome: A Retrospective Analysis of 28,729,765 U.S. Deliveries Over 8 Years." *American Journal of Perinatology*. Jul 2019. <https://www.ncbi.nlm.nih.gov/pubmed/22836820>.

<sup>56</sup> Sarah Miller, Laura Wherry, and Gloria Aldana. "Covering Undocumented Immigrants: The Effects of a Large-Scale Prenatal Care Intervention," NBER Working Paper 30299 (March 2024). <https://www.nber.org/papers/w30299>

<sup>57</sup> <https://www.uscis.gov/archive/public-charge-resources-0>

<sup>58</sup> <https://www.medicaid.gov/federal-policy-guidance/downloads/cib072221.pdf>

<sup>59</sup> <https://www.cms.gov/newsroom/press-releases/new-rule-makes-clear-noncitizens-who-receive-health-or-other-benefits-which-they-are-entitled-will>

<sup>60</sup> <https://x.com/HHSgov/status/1681027359548354560?s=20>

<sup>61</sup> <https://youtu.be/gLWCywz3Lno?si=w7MFSGaUjVxaeFfG>

renewed need for ongoing labor from multiple sectors to ensure citizens, documented immigrants, and undocumented immigrants, can access health care and programs they need.

*ii. Today's environment will produce even greater chilling effects.*

The chilling effect of the new proposed rule is likely to be even greater today because of fears in immigrant communities due to the extensive threats they are experiencing. These different fears reinforce and compound each other. Research has found that experience with immigration enforcement increases noncitizens' concerns about public charge. Specifically, having stayed inside to avoid police or immigration officials, having been asked to show proof of citizenship by law enforcement, and knowing someone who has been deported were all found to increase concerns about accessing public benefits related to public charge.<sup>62</sup> Further, these enforcement actions are deeply unpopular among the public.<sup>63</sup> In KFF's fall 2025 survey, 22 percent of immigrants said that they personally knew someone who has been arrested, detained or deported on immigration related charges since January, nearly three times as many as in April. Three in ten reported that they or a family member has limited their participation in activities outside the home since January due to concerns about drawing attention to someone's immigration status.<sup>64</sup>

These are all increasingly common experiences today. In early 2025, there are already reports of people eligible for health benefits skipping medical appointments in fear.<sup>65</sup> Even before any changes to eligibility for health programs, pediatricians started to see effects on how children in immigrant families access medical care.<sup>66</sup> We've worked with partners in Colorado on messaging guidance for mixed-immigration status families, where immigrant parents are concerned about accessing health services for their U.S. citizen children. For our partners in states like Georgia and Texas, these concerns have prevailed from 2016-2019 and continue to intensify now. In Clarkston, GA, advocates working with lawfully present Arab and Afghan refugee populations report seeing a decline in people seeking care throughout 2025. Since 2021, Community Health Centers in Texas have worked in coordination on outreach to immigrant and mixed-status families to assure them that accessing services would have no negative impact. So far, in 2025 health centers in Texas report seeing an increase in appointment cancellations. One health center in San Antonio, TX saw every single

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<sup>62</sup> Lei Chen, Maria-Elena De Trinidad Young, Michael A. Rodriguez, and Kathryn Kietzman. "Immigrants' Enforcement Experiences and Concern about Accessing Public Benefits or Services." *Journal of Immigrant and Minority Health* 25, no. 5 (2023): 1077–84. <https://doi.org/10.1007/s10903-023-01460-x>.

<sup>63</sup> *New Poll Shows Voters Oppose Immigration Arrests in Hospitals, Clinics, Other "Protected Areas."* (2025, August 14). NILC. <https://www.nilc.org/press/new-poll-shows-voters-oppose-immigration-arrests-in-hospitals-clinics-other-protected-areas/>

<sup>64</sup> Pillai et al. op cit.

<sup>65</sup> Kristen Schorsch, *Fearful amid ICE crackdowns, some immigrants are skipping health care*, NPR. (February 10, 2025). <https://www.npr.org/sections/shots-health-news/2025/02/10/nx-s1-5290063/migrants-chicago-delayed-health-care-immigration-crackdown-fears>

<sup>66</sup> Melissa Jenco and Sean Stangland, *Pediatricians feel 'chilling effect' of Trump administration executive orders, funding cuts*, American Academy of Pediatrics. (April 22, 2025).

appointment canceled or no-showed in one day—leaving immigrants and citizens alike forgoing medical care.

The chilling effect is also accentuated by DHS' efforts to access data about taxpayers from the Internal Revenue Service (IRS)<sup>67</sup> and about benefit recipients from the Social Security Administration<sup>68</sup> and the state agencies that operate SNAP<sup>69</sup> and Medicaid.<sup>70</sup> These efforts are in violation of privacy laws and break explicit promises the federal government has made.<sup>71</sup> Other policy changes — such as the attacks on birthright citizenship, arrests at green card interviews, the premature termination of Temporary Protected Status (TPS) for most designated groups, and the plan to review all refugee statuses granted under the previous Administration — combine to undermine immigrants' trust in government and their faith that promises will be kept.

In addition, the uncertainty about which benefits will count in a public charge determination, the degree of usage that will count, and whether benefits received by other family members will count, will also foreseeably heighten chilling effects.

**c. *The harm of the chilling effect will be substantial – and higher than DHS acknowledges.***

*i. The Department's estimates of the impact of the rule dramatically understate the harm.*

The proposed rule includes an economic impact analysis, which predicts that approximately 447,000 people will disenroll or forgo enrollment in SNAP, 364,000 in Medicaid, 64,000 in Supplemental Security Income (SSI), 59,000 in CHIP and 16,000 in cash assistance under TANF.<sup>72</sup> However, as harmful as this impact would be, it is likely a significant understatement of the harm.

The Department's primary estimates of the chilling effect are based on a 10.3 percent chilling effect. This is not based on any specific estimate of chilling effect but is rather the mathematical midpoint between a 3.3 percent estimate that is based on the share of all noncitizens who adjust status each year (e.g. assumes no chilling effect on anyone who is not adjusting in that calendar year) and a 17.3 percent estimate that purports to be derived from the Urban Institute and KFF studies.<sup>73</sup> However,

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<sup>67</sup> *Center for Taxpayer Rights v. Internal Revenue Service*, 1:25-cv-00457 (D.D.C.).

<https://www.courtlistener.com/docket/69646607/center-for-taxpayer-rights-v-internal-revenue-service/>.

<sup>68</sup> Social Security Administration, Privacy Act of 1974, System of Records, 90 FR 50879, November 11, 2025.

<https://www.federalregister.gov/documents/2025/11/12/2025-19849/privacy-act-of-1974-system-of-records>

<sup>69</sup> *State of California v. United States Department of Agriculture*, 3:25-cv-06310, (N.D. Cal.).

<https://www.courtlistener.com/docket/70945300/state-of-california-v-united-states-department-of-agriculture/>.

<sup>70</sup> *State of California v. U.S. Department of Health and Human Services* 3:25-cv-05536 (N.D. Cal.).

<https://clearinghouse.net/case/46754/>.

<sup>71</sup> Chye-Ching Huang, Brandon DeBot, Michael Kaecher, et al. *Treasury-DHS Tax Data Sharing Agreement Raises Grave Legal and Practical Concerns*, The Tax Law Center, NYU Law, April 10, 2025. <https://taxlawcenter.org/blog/treasury-dhs-tax-data-sharing-agreement-raises-grave-legal-and-practical-concerns>.

<sup>72</sup> 2025 Final Rule, Table VI.10, <https://www.federalregister.gov/d/2025-20278/page-52214>

<sup>73</sup> 2025 Final Rule, <https://www.federalregister.gov/d/2025-20278/p-480>

the Department does not show their math for this calculation, which appears to include results for all-citizen immigrant households. Moreover, this combines results from the period when the 2019 rule was in effect and from the period when the 2022 rule was in effect. Based on the studies cited above, disenrollment rates from 10 to 30 percent are more plausible, with 20 percent as a midpoint estimate. These are the rates used in a new KFF estimate of the chilling effect on Medicaid and CHIP.<sup>74</sup>

Moreover, as the KFF analysis points out, the Department's estimate of the population to which this chilling rate should be applied is demonstrably too low. DHS estimates that 3.5 million Medicaid enrollees and 570,000 CHIP enrollees lived in a household with at least one person who is not a citizen.<sup>75</sup> KFF's analysis of American Community Survey data finds that there are actually about 13.4 million Medicaid or CHIP enrollees living in a household with at least one noncitizen. In addition, there are nearly 1.8 million uninsured individuals in a household with at least one noncitizen who are eligible for Medicaid or CHIP but not enrolled and could be deterred from applying.<sup>76</sup>

*ii. Much of the impact will fall on children and pregnant people but consequences will be felt system-wide.*

One in four children in the U.S. – 19 million children – have at least one immigrant (non U.S.-born) parent. Most of these children are U.S. citizens, either in mixed-immigration status households (with noncitizen parents) or with naturalized citizen parents. Only about three percent of children in the U.S. are themselves noncitizens.<sup>77</sup> Children in immigrant families are more likely to face certain hardships and are already less likely to access help due in part to flawed policies that create barriers to immigrant families' ability to access critical public benefits.<sup>78</sup> For example, comparing a period during the COVID-19 pandemic to the time immediately before it, families with immigrant mothers had greater increases in household food insecurity and being behind on their rent compared to

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<sup>74</sup> Samantha Artiga, Drishti Pillai, Sammy Cervantes, Akash Pillai and Matthew Rae, *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF, 2025.

<https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>

<sup>75</sup> 2025 Final Rule, Table VI.10, <https://www.federalregister.gov/d/2025-20278/page-52214>

<sup>76</sup> Artiga et al, op cit. (Samantha Artiga, Drishti Pillai, Sammy Cervantes, Akash Pillai and Matthew Rae, *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF, 2025.

<https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>

<sup>77</sup> Drishti Pillai, Akash Pillai, and Samantha Artiga. *Children of Immigrants: Key Facts on Health Coverage and Care*. KFF, 2025. <https://www.kff.org/racial-equity-and-health-policy/children-of-immigrants-key-facts-on-health-coverage-and-care/>.

<sup>78</sup> Tanya Broder and Gabrielle Lessard *Overview of Immigrant Eligibility for Federal Programs*, National Immigration Law Center, 2024, <https://www.nilc.org/wp-content/uploads/2024/05/overview-immeligfedprograms-2024-05-08.pdf>; Kinsey Alden Dinan, *Federal Policies Restrict Immigrant Children's Access to Key Public Benefits*, National Center for Children in Poverty, 2005. [http://www.nccp.org/publications/pdf/text\\_638.pdf](http://www.nccp.org/publications/pdf/text_638.pdf).

families with U.S.-born mothers.<sup>79</sup> Given the restrictions on immigrants' eligibility for public benefits, much of the impact of the chilling effect will fall on U.S. citizen children in immigrant families. For example, the KFF analysis cited above finds that somewhat under half of the Medicaid or CHIP enrollees who live in a household with at least one noncitizen – 5.9 million out of 13.4 million – are U.S. citizen children.<sup>80</sup> Even after H.R. 1, pregnant people and children who are lawfully present remain eligible for Medicaid or CHIP in more than half of states that have elected to provide that coverage. This is another group that could be harmed by the chilling effect.

The proposed rule would change the lives not only of children, but of countless families and communities across the United States. These children do not live in isolation. They will grow up and live in communities where their individual success is critical to the strength of the country's future workforce and our collective economic security. It is important for America's future to do everything we can as a nation to ensure that these children succeed – and at the very minimum, stop putting their healthy development and education at risk by destabilizing their families. Forcing parents to choose between their own immigration status—or the ability to reunite their family in the future—and their children's access to these benefits is short-sighted and will harm all of U.S. society.

Reduced access to health insurance will also harm the health system as a whole. A growing pool of uninsured patients will decrease the frequency of overall patient utilization and increase uncompensated care for costly conditions, resulting in revenue losses for health care providers. An analysis of the 2018 proposed rule by the noted health care consulting firm Manatt Health estimated that it put \$17 billion of payments to hospitals at risk.<sup>81</sup> In comments on the 2022 proposed rule, America's Essential Hospitals explained "Patients forgoing public insurance programs and seeking care at hospitals without insurance strained the tight budgets of essential hospitals. The detrimental effects of the rule reached even further—it harmed the nation's health care system at large, resulting in increased health care costs and worse health outcomes."<sup>82</sup> Since the new public charge test may discourage individuals from applying for public health insurance programs such as Medicaid and Medicare, hospitals, in addition to states, may see a rise in uninsured patients, which will in turn

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<sup>79</sup> Allison Bovell-Ammon, Stephanie Ettinger de Cuba, Félice Lê-Scherban, et al. "Changes in Economic Hardships Arising During the COVID-19 Pandemic: Differences by Nativity and Race." *Journal of Immigrant and Minority Health* 25, no. 2 (2023): 483–88. <https://doi.org/10.1007/s10903-022-01410-z>.

<sup>80</sup> Artiga et al, op cit. (Samantha Artiga, Drishti Pillai, Sammy Cervantes, Akash Pillai and Matthew Raie, *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF, 2025. <https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>)

<sup>81</sup> Cindy Mann et al. *Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule*, Manatt Health, Nov 2018. <https://www.manatt.com/insights/white-papers/2018/medicaid-payments-at-risk-for-hospitals-under-publ>

<sup>82</sup> America's Essential Hospitals, *Comment on Public Charge Ground of Inadmissibility*, April 25, 2022.

<https://essentialhospitals.org/wp-content/uploads/2022/04/Public-Charge-NPRM-Comment-Letter-4-25-22-for-archive.pdf>.

cause an increase in their uncompensated care costs.<sup>83</sup> Hospitals, especially in rural and underserved areas, will absorb more uncompensated care, threatening their financial viability. Compounded by the effects of H.R. 1, hospitals will experience exponential increases in uncompensated care that are unsustainable. Lower revenues and increased uncompensated care could result in many hospitals reducing staff and payroll or eliminating clinical services used by all patients.<sup>84</sup>

**d. *Chilling effects are predictable, and DHS is obligated to minimize them.***

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits.<sup>85</sup> The proposed rule fails to meet these requirements.

The Department is well aware of the chilling effect of the public charge rules, as explained in the preamble to the 2022 final rule: “The 2019 Final Rule was associated with widespread indirect effects, primarily with respect to those who were not subject to the 2019 Final Rule in the first place, such as U.S.-citizen children in mixed-status households, longtime lawful permanent residents who are only subject to the public charge ground of inadmissibility in limited circumstances, and noncitizens in a humanitarian status who would be exempt from the public charge ground of inadmissibility in the context of adjustment of status.”<sup>86</sup>

Indeed, these chilling effects are recognized in the current proposed rule, in the discussion of likely costs of the rule. Specifically, DHS acknowledges that “elimination of certain definitions may lead to public confusion or misunderstanding of the proposed rule, which could result in decreased participation in public benefit programs by individuals who are not subject to the public charge ground of inadmissibility.”<sup>87</sup>

The proposed rule specifically recognizes harms that could “include:

- Worse health outcomes, such as increased prevalence of obesity and malnutrition (especially among pregnant or breastfeeding women, infants, and children), reduced prescription

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<sup>83</sup> Mitchell H. Katz, MD; Dave A. Chokshi, MD, MSc; *The “Public Charge” Proposal and Public Health Implications for Patients and Clinicians*, JAMA, October 1, 2018. <https://jamanetwork.com/journals/jama/fullarticle/2705813>

<sup>84</sup> Randy Haught, Akeiisa Coleman, Allen Dobson, Carson Richards, Collin McGuire, *The Impact of Proposed Federal Medicaid Work Requirements on Hospital Revenues and Financial Margins*, The Commonwealth Fund, Sept. 2025, <https://doi.org/10.26099/53k3-t446>.

<sup>85</sup> *Improving Regulation and Regulatory Review*, Executive Order 13563, January 21, 2011. <https://www.federalregister.gov/documents/2011/01/21/2011-1385/improving-regulation-and-regulatory-review>.

<sup>86</sup> 2022 Final Rule: <https://www.federalregister.gov/d/2022-18867/p-1414>

<sup>87</sup> 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-453>.

adherence, and increased use of emergency rooms for primary care due to delayed treatment.

- Higher prevalence of communicable diseases, including among U.S. citizens who are not vaccinated.
- Increased rates of uncompensated care, where treatments or services are not paid for by insurers or patients.
- Increased poverty, housing instability, reduced productivity, and lower educational attainment.”<sup>88</sup>

The proposed rule also outlines additional harms including:

- “Lower revenues for healthcare providers participating in Medicaid.
- Reduced income for companies manufacturing medical supplies or pharmaceuticals.
- Decreased sales for grocery retailers participating in SNAP.
- Economic impacts on agricultural producers supplying SNAP-eligible foods.
- Financial strain on landlords participating in federally funded housing programs.”<sup>89</sup>

At the same time, DHS claims that this is not the “intent” of the regulation and therefore suggests that it has no obligation to minimize these harms. Similarly, in the 2019 final rule, DHS acknowledged the likely chilling effect of the policy on groups not subject to a public charge determination but stated that disenrolling or forgoing enrollment would be “unwarranted” and therefore “DHS will not alter this rule to account for such unwarranted choices.”<sup>90</sup>

Given the great uncertainty created by the proposed rule about which benefits are safe to use, and whether family members’ use of benefits can be held against an applicant for status, families are likely to take a cautious view and avoid using benefits that could possibly count against them. Such a choice cannot reasonably be described as “irrational,” “unpredictable” or “unwarranted.” Therefore, the Department must take the likelihood of such choices into account. Even if deterring immigrants and their families from benefits is not the intent, the Department is required to show that it cannot achieve the goal of implementing its statutory requirements in an alternative way that causes less harm. The proposed rule makes no attempt to do so.

### **III. The rule will give USCIS officers boundless discretion that will fundamentally reshape America’s immigration system.**

#### ***a. Family-based immigration will be most impacted.***

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<sup>88</sup> 2025 NPRM <https://www.federalregister.gov/d/2025-20278/p-523>.

<sup>89</sup> 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-529>

<sup>90</sup> 2019 Final Rule: <https://www.federalregister.gov/d/2019-17142/p-535>

The U.S. immigration system has long prioritized family reunification. Immediate relatives of U.S. citizens, including spouses and minor unmarried children, and parents of adult citizens, receive top priority. The landmark Immigration and Nationality Act (INA) of 1965 made this abundantly clear in its key provisions.<sup>91</sup> Adult children and siblings of citizens, and immediate relatives of LPRs also receive preference, but are limited in both overall numbers and by per-country caps. From 2014 to 2023, family-sponsored immigrants have accounted for nearly two-thirds of all persons obtaining LPR status.<sup>92</sup> Because people seeking green cards through a humanitarian pathway are not subject to a public charge determination, and because a valid Affidavit of Support will not be enough to overcome a finding of public charge, family-based immigration will be most affected by a more restrictive public charge determination. Black, Indigenous, and women of color, particularly immigrant women, are heavily relied on to provide care in our health system.<sup>93</sup> Immigrants help meet U.S. health care needs not only by working as health care practitioners, technicians and support workers, but also by conducting biomedical research, teaching students in health science-related fields and working in health care-related manufacturing.<sup>94</sup>

If implemented as proposed, this rule could result in large numbers of noncitizens being denied LPR status. The Department does not directly estimate how many more people would be found inadmissible, but states that the “primary benefit of the proposed rule is the removal of overly-restrictive provisions” and that this will lead to “fewer inadmissible aliens entering the United States.”<sup>95</sup> A sense of the possible impact of the rule is offered by the analysis of the 2018 proposed rule – which, while sweeping, would have retained some limits on which public benefits could be considered – that found that more than half of all U.S. born citizens could have been found at risk of becoming a public charge if the rule were applied to them.

By statute, the public charge determination is a forward-looking assessment, asking whether the noncitizens are likely to become primarily dependent on government aid in the future. The Department’s insistence in the preamble that any *past* receipt of assistance is relevant to this assessment is simply false and ignores the fact that individuals who enter as family-based immigrants

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<sup>91</sup> Section 201(b) of the INA (as amended in 1965), 8 U.S.C. § 1151(b).

<sup>92</sup> Congressional Research Service. *Primer on U.S. Immigration Policy*, 2025.

<https://www.everycrsreport.com/reports/R45020.html>.

<sup>93</sup> Pillai, Akash, Drishti Pillai, and Samantha Artiga. 2024. “State Health Coverage for Immigrants and Implications for Health Coverage and Care.” KFF. <https://www.kff.org/racial-equity-and-health-policy/issue-brief/state-health-coverage-for-immigrants-and-implications-for-health-coverage-and-care/>.

<sup>94</sup> Zavodny, M. (2025, November 19). *New NFAP Policy Brief: The Contributions of Foreign-Born Workers to U.S. Health Care - NFAP*. NFAP - National Foundation for American Policy. <https://nfap.com/research/new-nfap-policy-brief-the-contributions-of-foreign-born-workers-to-u-s-health-care/>

<sup>95</sup> Trisi op cit. (Danilo Trisi, *Trump Administration’s Overbroad Public Charge Definition Could Deny Those Without Substantial Means a Chance to Come to or Stay in the U.S.* Center on Budget and Policy Priorities, 2019. <https://www.cbpp.org/sites/default/files/atoms/files/5-30-19pov.pdf>).

frequently start with lower incomes but soon experience upward mobility. Focusing only on initial low earnings – and related use of benefits – misses a key part of the story.<sup>96</sup> As a recent article explained, “individuals entering as family immigrants start with lower initial earnings but quickly adapt by trying new jobs and investing in skills and education that lead to rapid earnings growth.”<sup>97</sup> Immigrants, including those with low incomes, work in important jobs and contribute to economic growth.<sup>98</sup> A recent study found that “real earnings increased by 76 percent over 12 years for immigrants from countries where family sponsorship is the primary method of immigrating to the United States” compared to 23 percent for U.S. born workers the same age over the same period.<sup>99</sup> Children of immigrants experience higher rates of social mobility than children of U.S. born. This has been true historically and remains true today despite very different labor markets and patterns of immigration.<sup>100</sup>

According to an analysis of the 2018 proposed rule by the Migration Policy Institute, the changes – even if administered in a racially neutral manner – would likely cause a significant shift in the origins of immigrants seeking visas and green cards, away from Mexico and Central America and towards Europe.<sup>101</sup> This trend would not only reduce the diversity of immigration to the United States, it would disproportionately increase family separation among immigrants of color – and U.S. citizens – already residing in the U.S.

***b. The proposed rule improperly centers the subjective opinion of immigration officers.***

The proposed rule seeks to provide immigration officers with unbounded discretion to determine which factors are relevant in making the public charge assessment. The NPRM goes so far as to state

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<sup>96</sup> Harriet Duleep, Mark Regets, and Guillermo Cantor, *The Immigrant Success Story: How Family-Based Immigrants Thrive in America*, American Immigration Council, 2018. <https://www.americanimmigrationcouncil.org/report/immigrant-success-story/>.

<sup>97</sup> Stuart Anderson, “New Immigration Policy Likely to Block Many Family Immigrants,” *Forbes*, November 25, 2025. <https://www.forbes.com/sites/stuartanderson/2025/11/25/new-immigration-policy-likely-to-block-many-family-immigrants/>.

<sup>98</sup> Daniel Costa, Josh Bivens, Ben Zipperer, and Monique Morrissey, *The U.S. Benefits from Immigration but Policy Reforms Needed to Maximize Gains*, Economic Policy Institute, 2024. <https://www.epi.org/publication/u-s-benefits-from-immigration/>. National Academy of Sciences, “The Economic and Fiscal Consequences of Immigration,” 2017, <https://www.nap.edu/read/23550/chapter/2>.

<sup>99</sup> Mark Regets, *The Economic Advancement, Adaptation and Integration of Family Immigrants in America*, National Foundation for American Policy, 2025. <https://nfap.com/research/new-nfap-policy-brief-the-economic-advancement-adaptation-and-integration-of-family-immigrants-in-america/>.

<sup>100</sup> Ran Abramitzky, et al. “Intergenerational Mobility of Immigrants in the United States over Two Centuries,” *American Economic Review*, Vol 111, No.2, 2021. [https://elisajacome.github.io/Jacome/ImmigrantMobility\\_AER.pdf](https://elisajacome.github.io/Jacome/ImmigrantMobility_AER.pdf).

<sup>101</sup> Randy Capps, Mark Greenberg, Michael Fix, and Jie Zong, *Gauging the Impact of DHS’ Proposed Public-Charge Rule on U.S. Immigration*, Migration Policy Institute, November 2018. <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.

that such discretion is “the primary source of unquantified benefits of this proposed rule.”<sup>102</sup> As discussed above, this is an inaccurate reading of the INA, which leaves the public charge assessment to the “opinion of the Attorney General at the time of application for admission or adjustment of status...”<sup>103</sup> Without guidance, immigration officers, who are not experts in public benefits, will have to decide which of hundreds of benefits (including state and local benefits) are relevant. Such discretion creates the opportunity and environment for bias to influence decisions. The proposed rule fails to make any case for why the unfettered discretion of immigration officers is so essential as to justify the high risk of discrimination affecting public charge assessments. Moreover, the proposed rule would remove the requirement contained in the current regulations that USCIS officers include in their denial of admission a specific articulation of the reasons for the determination and the factors that were considered. The 2022 final rule explained that articulation of the reasons “will help ensure that public charge inadmissibility determinations will be fair, transparent, and consistent with the law.”<sup>104</sup>

***c. The reliance on public charge bonds is a tax on those who can least afford it; it is impractical and does not alleviate the harm of the overall rule.***

The only portion of the existing regulations that the proposed rule would retain is the discussion of public charge bonds. If an officer finds that a noncitizen is only inadmissible based on public charge, and is otherwise eligible for adjustment of status, the officer may (at their discretion) offer the noncitizen an opportunity to post a public charge bond. This policy puts a fig leaf on the harshness of the proposed rescission of the 2022 public charge rule; some of those who are initially rejected may get a second chance by posting a bond. However, even this is subject to arbitrary discretion – some applicants will not even get a chance to post a bond. The use of public charge bonds is a tax on those who can least afford it. There is no evidence demonstrating that public charge bonds will achieve the desired outcome of preventing people from becoming dependent on government assistance in the future. Impoverishing immigrants and their families will make them more likely, not less, to need assistance. The bond will use up resources needed to establish immediate needs like secure housing, or get the tools and materials needed to start employment. If funds are borrowed, the payments and interest will put family budgets in a hole every month.<sup>105</sup>

## **Conclusion**

For all the foregoing reasons, **the Department should immediately withdraw its current proposal** and instead dedicate its efforts to advancing policies consistent with statute and case law that

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<sup>102</sup> 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-114>.

<sup>103</sup> 8 U.S.C. § 1182(a)(4)(A).

<sup>104</sup> 2022 Final Rule: <https://www.federalregister.gov/d/2022-18867/p-1358>.

<sup>105</sup> Color of Change and ACLU, *Selling Off Our Freedom: How insurance companies have taken over our bail system* (May 2017). [https://d11gn0ip9m46ig.cloudfront.net/images/059\\_Bail\\_Report.pdf](https://d11gn0ip9m46ig.cloudfront.net/images/059_Bail_Report.pdf)



strengthen—rather than undermine—the ability of immigrants to support themselves and their families. Our comments include numerous citations to supporting research and relevant documents, including direct links for the benefit of the Department in reviewing our comments. We direct the Department to each of the studies or documents cited and made available to the agency through active hyperlinks, and we request that the full text of each of the items cited, along with the full text of our comments, be considered part of the administrative record in this matter for purposes of the Administrative Procedure Act.

Thank you for the opportunity to comment on this regulation. If you have any questions, please contact Colin Reusch and [creusch@communitycatalst.org](mailto:creusch@communitycatalst.org).

Sincerely,  
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