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Health Policy Institute
CENTER FOR CHILDREN
AND FAMILIES

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VIA ELECTRONIC SUBMISSION

U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Attention: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22
Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Sir/Madam:

Thank you for the opportunity to comment on DHS Docket No. USCIS-2010-0012, "Inadmissibility on Public Charge Grounds" (hereinafter referred to as "the proposed rule").

The Georgetown University Center for Children and Families (CCF) is an independent, nonpartisan policy and research center founded in 2005 with a mission to expand and improve high-quality, affordable health coverage for children and families. As part of the McCourt School of Public Policy, CCF provides research, develops strategies, and offers solutions to improve the health of children and families, particularly those with low and moderate incomes. In particular, CCF examines policy development and implementation efforts related to Medicaid, the Children's Health Insurance Program (CHIP), and the Affordable Care Act (ACA).

Our comments include numerous citations to supporting research for the benefit of DHS. We direct DHS to each of the studies cited and made available through active hyperlinks, and we request that the full text of each of the studies cited, along with the full text of our comments, be considered part of the formal administrative record on this proposed rule for purposes of the Administrative Procedures Act.

I. Summary

The proposed rule is a sweeping and radical change from current law and it should be rescinded. The proposed rule would directly impact lawfully residing immigrants wishing to adjust their immigration status as well as individuals living abroad wishing to legally immigrate to the U.S., but the ripple effects of the rule will extend to far more people. For example, the proposed rule would impact over 10 million citizen children with noncitizen parents, or approximately 1 in 7 children in the U.S., as well as immigrant communities as a whole.[1] The proposed rule aggressively reinterprets longstanding policy on public charge

and is clearly part of a broader agenda to reshape U.S. immigration policy in ways that will harm children in immigrant families and their communities.[2] By adding Medicaid, the Supplemental Nutrition Assistance Program (SNAP) and housing assistance programs to the definition of *public benefit* for public charge determinations, the proposed rule would penalize and discourage children and families from accessing needed services.

Medicaid is a critical source of coverage for children, especially children living in or near poverty and children with disabilities or other special health care needs.[3] A large body of research shows that access to Medicaid in childhood leads to longer, healthier lives, a better chance to finish high school and college, and a more prosperous future.[4] SNAP provides critical nutritional supports to vulnerable families, helping combat food insecurity which is detrimental to health and well-being.[5] Housing assistance allows children in low-income families to have stable homes, and children living in subsidized housing are more likely to be classified as "well" on a composite indicator of child health when compared to similarly situated children without housing supports.[6]

The proposed rule shifts the U.S. immigration system to favor only wealthy immigrants by unfairly targeting families with low to moderate incomes across multiple new factors in the public charge determination. The new proposed income test of at least 125 percent of the federal poverty level (FPL) is the most explicit factor targeting low income immigrants, though other factors like education and benefit use are also closely linked to income. Among recent green-card recipients, 39 percent had income of at least 250 percent FPL, a heavily-weighted positive factor under the proposed rule, while the remaining 61 percent had incomes below that level. A third of recent green-card recipients had income below 125 percent FPL, which would be considered a negative factor in the public charge determination under the proposed rule.[7]

Moreover, of the over 10 million citizen children with a noncitizen parent, almost seven million lived in families with income below 250 percent FPL in 2016.[8] Fearing negative consequences related to their parent's immigration status, citizen children living with noncitizen parents and family members (known as mixed status families) would be less likely to participate in Medicaid, SNAP, and housing assistance programs under the proposed rule even though they would remain eligible. Losing Medicaid coverage as well as SNAP and housing assistance would negatively affect the health of these citizen children and their families' financial stability.[9]

Over the past several decades, policymakers have worked hard to reduce the number of uninsured children and this work has paid off. In 2016, the uninsured rate for children in the U.S. reached a historic low of 4.7 percent and ethnic disparities for Hispanic children narrowed dramatically.[10] Unfortunately, these hard-fought gains have already started to erode. In 2017, the number of uninsured children increased by an estimated 276,000 to about 3.9 million. The rate of uninsured children also ticked upward to five percent overall and 7.8 percent of Hispanic children, marking the first significant increase in the child uninsurance rate since comparable data was first collected in 2008.[11] A recent study estimated that 2.1 to 4.9 million Medicaid/CHIP beneficiaries may disenroll because of this proposed rule, and the vast majority would become uninsured as a result.[12] Estimates also

show that as many as two million citizen children may disenroll from Medicaid/CHIP as a result of the proposed rule, which would increase the child uninsurance rate to seven percent overall.[13]

Note that our comments do not address every aspect of the rule that we believe would be harmful. While we do not address the proposed addition of SNAP, housing assistance, or the Low-Income Subsidy for Medicare Part D or the proposed changes to public bonds and other immigration documents and proceedings, that should not be interpreted to mean that we support these changes. Based on the narrower scope of items addressed in these comments, it is clear that the proposed rule should be rescinded in its entirety.

II. Detailed Comments

A. The proposed rule is a radical departure from current law.

Long-standing federal law and policy define public charge as a person who is likely to become primarily dependent on government for financial and material support. As clarified in the 1999 Field Guidance, public benefits considered in public charge determinations are limited to cash assistance and long-term institutional care and the threshold for use of such programs is "primarily dependent," meaning the assistance represents a majority of a person's support.[14] The proposed rule would radically change these longstanding policies by: (1) considering more public benefits and (2) lowering the threshold, as well as (3) adding a weighting system, (4) an income test, and (5) and other new factors like age and English proficiency.

(1) Adding additional programs to the definition of public benefit for public charge determinations will make it harder to obtain a green card.

Under current law, the applicant's use of two types of public benefits may be considered – cash assistance (such as Supplemental Security Income and Temporary Assistance for Needy Families) and institutional long-term care (such as Medicaid coverage of nursing home care). The proposed rule would expand the list of benefits considered to add non-emergency Medicaid,[15] the Medicare Part D Low Income Subsidy, SNAP, and housing assistance (Section 8 Housing Choice Vouchers, Section 8 Project-Based Rental Assistance and Subsidized Housing under the Housing Act of 1937). By expanding the list of benefits considered when making a public charge assessment, many more immigrant families, especially those with low to moderate incomes, could be considered a public charge. Among noncitizens who do not yet have green cards, 26 percent received at least one benefit in 2014.[16]

(2) Lowering the threshold to include simple receipt of and application for public benefits dramatically expands the scope of public charge.

Under current law, a public charge is defined as a person who is or is likely to become *primarily dependent* on public benefits. Under the proposed rule, the threshold would be lowered substantially to include a person who is or is likely to *receive one or more* public

benefits. By lowering the threshold to simple receipt of a benefit, the proposed rule dramatically expands the scope of who could be considered a public charge beyond those individuals who rely on benefits as their main source of support to include working families who use benefits to supplement earnings from low-wage work.

Exactly how past use of benefits would be taken into consideration under the proposed rule is unclear. The proposed rule sets out a complex system of categorizing benefits into two groups – monetizable and non-monetizable – and then setting thresholds for each. However, in describing the factors, the proposed rule includes as evidence of the individual's assets, resources, and financial status consideration of whether the individual has *applied for* or *been certified or approved to receive* public benefits. Including application for benefits goes far beyond the scope of a public charge determination.

For many families with low-wage workers, total work hours spike and dip unpredictably, causing fluctuations in income. Cash assistance, SNAP and housing programs are designed to help maintain family stability during these ups and downs. Low-wage workers are also more likely to work for companies that do not provide health coverage, making Medicaid a critical work support to keep workers and their families healthy and financially secure.[17]

By expanding the list of benefits considered and lowering the threshold, families will be less likely to use any benefits, even when they are needed. DHS should not consider additional benefits when making public charge determinations, nor should DHS move away from the primarily dependent standard to consider simply applying for or receiving benefits as an indication that the applicant is likely to become a public charge.

(3) Adding a weighting system contradicts the plain meaning of a totality of the circumstances test.

The proposed rule would add a weighting system to the factors even though the plain meaning of a totality of the circumstances test requires consideration of an individual's overall circumstances. Both of the proposed heavily-weighted positive factors are linked to income above 250 percent of FPL which exceeds the median household income in the U.S. for a family of four.[18] There are five heavily-weighted negative factors and, like the factors and evidence overall, three of the five are linked to income (employment history, currently receiving or approved to receive a public benefit, and receipt of a public benefit in the past three years). The public charge determination was designed to be a narrow tool to identify individuals likely to become "primarily dependent" on the government for support. The test was never designed to prevent immigration of low- and moderate-income families that may at some point access public programs that allow them to continue working.

(4) The new income test is arbitrary and unreasonable.

There is no statutory basis to include a specific income test in the public charge determination and it should be removed. An individual's assets, resources, and financial status are considered as part of the totality of the circumstances test under current law, but the new 125 percent of FPL threshold in the proposed rule lacks justification. In 2018, a

family of three would need to earn at least $25,975 to pass this new income test.[19] But imagine a family of three with one parent and two children – even if the parent works full-time, minimum wage earnings would amount to about $15,080 for the year, or roughly 73 percent of FPL, far below the amount needed under the proposed rule.

The proposed rule also suggests that income and assets of at least 250 percent of FPL would be a heavily-weighted positive factor, but fails to provide any justification for this threshold or for assigning this a "heavy weight" in the totality of the circumstances test. Imagine a family of four with two parents and two children – the family would need to earn $62,750 to meet this standard – more than the median household income in the U.S..[20] The vast majority of children covered by Medicaid/CHIP are in families with income below 250 percent of FPL.[21]

If this new income test, together with the restrictions on use of benefits like Medicaid, were applied to all Americans, 29 percent of U.S.-born citizens could be deemed inadmissible.[22] DHS acknowledges that the differences in receipt of non-cash benefits between noncitizens living below 125 percent of FPL and those living either between 125 and 250 percent of FPL or between 250 and 400 percent of FPL was not statistically significant, underscoring the arbitrary nature of the new income test.[23]

Moreover, many of the additional factors are highly correlated, offering no independent value. For the seven minimum factors at proposed §212.22(b) there are 18 pieces of evidence, 13 of which (72 percent) directly or indirectly measure income.[24] By including so many factors and pieces of evidence as separate items even though they essentially measure the same thing, it is clear that the proposed rule is simply designed to prevent immigrants with lower incomes from gaining green cards.

The proposed rule is based on the false premise that immigrants who are poor or use benefits in their first years in the country will remain poor or continue to use benefits and are not adding value to the economy, despite evidence to the contrary. Immigrants generally are more likely to participate in the labor force than U.S. born citizens, and low-income noncitizens are less likely to use public benefits compared to their citizen counterparts. Even though immigrants may arrive with fewer resources than U.S. citizens, over time, immigrants' job skills and English proficiency improve, their social connections deepen, and their incomes rise, eventually closing any preexisting income gaps.[25]

(5) The proposed rule adds new factors beyond the scope of the public charge statute.

New negative factors include being a child or senior, having a large family, and having a treatable medical condition. New positive factors include speaking English, having a good credit score, and earning at least 250 percent of FPL. Together with other changes in the proposed rule, these new factors would have a disproportionate impact on women and children. Among recent green card recipients, about 45 percent of children had two or more factors that would be considered negative under the proposed rule, and female applicants are more likely to be the primary caregiver for children rather than earning wages outside the home.[26]

Children should not be penalized for being children. While age is one of the statutory criteria in the public charge test, the proposal to treat being under age 18 as a negative factor is arbitrary. Children, by virtue of being children, are more likely to be eligible for public benefits and less likely to be working or have an employment history. However, this is true of all children and has no bearing on future likelihood to become a public charge. In fact, access to benefits as a child increases the likelihood that a child will grow up to be a healthy, productive adult.[27] Benefit use as a child should have no bearing on what is supposed to be a prospective test examining future likelihood of government dependency.

Federal law does not allow discrimination based on English proficiency. We strongly oppose the inclusion of an English proficiency standard under the proposed rule. An English proficiency requirement stands in stark contrast to federal civil rights laws prohibiting discrimination on the basis of English proficiency. Our country does not have a national language, and there is no law that allows the federal government to prefer those who speak English over those who are limited English proficient (LEP). In contrast to this proposal, numerous federal civil rights laws protect LEP persons from discrimination on the basis of English proficiency.[28] The public charge statute does not include English proficiency as a factor to be considered in an individual's assessment.

B. These radical changes are unjustified and will cause great harm.

The proposed rule acknowledges that its impact would be harmful with references to increasing poverty for children and families; decreasing revenues for health care providers, pharmacies, grocery retailers, agricultural producers, and landlords; and increasing costs for individuals and organizations serving immigrant families.[29] The proposed rule also acknowledges that the impact will extend beyond directly affected applicants due to the "chilling effect" – meaning that these changes will impact a broader group of immigrant families and communities – but DHS does not adequately account for these harms or the chilling effect in the regulatory analysis, nor does DHS present any rationale for proceeding notwithstanding the harm caused.[30]

(1) The proposed rule would have large ripple effects on the economy.

If immigrants and their family members forgo healthcare coverage as a result of the rule, states will lose Medicaid funding and hospitals and community health centers across the country are likely to experience a significant loss of Medicaid payments followed by an increase in uncompensated care costs. An estimated $17 billion in hospital payments[31] and $346 to $624 million in community health center revenue[32] would be at risk under the proposed rule each year. Additionally, just based on lost spending on food and health care from the reduced enrollment in SNAP and Medicaid alone, the potential ripple effects could mean a loss of 99,000 to 230,000 jobs and $15-34 billion to the U.S. economy.[33]

(2) The proposed rule would have a disproportionate and harmful impact on communities of color.

The proposed rule would increase barriers to family reunification and potentially lead to family separation if individuals are denied a green card due to public charge and unable to remain in the U.S..[34] These negative consequences would be disproportionately shouldered by immigrants of color. Over two-thirds (69 percent) of children with noncitizen parents are Hispanic and more than one in 10 (11 percent) of children with noncitizen parents are Asian.[35]

While people of color account for approximately 36 percent of the total U.S. population, of the 25.9 million people potentially deterred from seeking services by the proposed rule, approximately 90 percent are from communities of color – an estimated 70 percent are Latino, 12 percent are Asian American and Pacific Islander, and seven percent are Black.[36] The disproportionate impact of the proposed rule on communities of color underscores the discriminatory nature of this proposal as it would cause a dramatic reduction in the diversity of immigrants entering the U.S. and obtaining green cards.[37]

(3) The proposed rule would have a disproportionate and harmful impact on families with young children.

The proposed rule would disproportionately impact families with young children – about one in six infants and toddlers had noncitizen parents in 2016, compared with one in 10 adolescents.[38] Infants and toddlers experience a period of rapid brain development marked by great possibility and vulnerability, depending on their family and community contexts.[39] The first years of life are particularly crucial to a child's development. Prolonged stress brought on by trauma places healthy development at great risk. Nurturing relationships with parents and caregivers can mitigate these risks, but when stress gets in the way of consistent caring and responsive parent-child relationships, it can lead to a host of health, behavioral, social, and emotional difficulties for the child throughout his or her life.[40]

Notwithstanding the robust body of evidence highlighting the importance of stable parent-child relationships for healthy child development, the proposed rule would make it harder for parents and women in particular to stay together with their U.S. citizen children. For example, those with characteristics that DHS could potentially consider a heavily-weighted negative factor are significantly more likely to be a parent (65 percent versus 34 percent) and to be a woman (59 percent versus 27 percent) compared to those without a heavily-weighted negative characteristic.[41] This will jeopardize the health and wellness of children, especially young children, for decades to come.

C. The impact of the proposed rule on child health will extend far beyond individual applicants for visas and green cards.

Fears of negative consequences to immigration status are a barrier to Medicaid/CHIP enrollment for eligible children in immigrant families today, even though the federal government cannot consider use of Medicaid/CHIP in public charge determinations under current law and notwithstanding that the vast majority of eligible children are citizens but have an immigrant parent.[42] Previous experience and recent research suggest the proposed rule would have a chilling effect, likely leading to lower enrollment and higher

disenrollment among a broader group of individuals in immigrant families – even though the proposed rule would not directly affect them – due to fear of interacting with the government and confusion about the rules.[43] The potentially harmful impact of this proposed rule cannot be overstated.

A recent study estimated that 2.1 to 4.9 million Medicaid/CHIP beneficiaries may disenroll, and the vast majority would become uninsured as a result.[44] Although the study did not break out this projection by age, earlier estimates showed that 875,000 to two million citizen children could be among those who lose Medicaid/CHIP coverage.[45] Almost four million children were uninsured in 2017,[46] so an increase in the number of uninsured children of this magnitude would drive up the overall uninsurance rate a lot – from five to seven percent.[47]

Despite acknowledging the existence of a chilling effect and its potential breadth, DHS did not account for the chilling effect in its estimate of the impact of the proposed rule. Instead, DHS assumes that everyone applying for adjustment of status within a particular year (2.5 percent of noncitizens per DHS calculations) would disenroll and does not account for any chilling effects among a broader group of individuals.[48] This not only ignores past experience with chilling effects showing disenrollment rates between 15 and 35 percent, but also ignores the chilling effect that has already been documented following the informal release of earlier versions of this proposed rule and other anti-immigrant policy changes. For example, agencies in at least 18 states have reported drops of up to 20 percent in enrollment in the Women, Infants, and Children (WIC) program, and WIC is not even included in this version of the proposed rule.[49] Though national Medicaid enrollment data lags behind real time, some localities are reporting similar declines in enrollment, such as a 28 percent decline in renewals for children in Medicaid in Houston.[50] By ignoring the chilling effect, DHS grossly underestimates the impact of the proposed rule on Medicaid/CHIP disenrollment and children's insurance coverage rates and health, state and local funding, and hospital and health clinic revenues.[51]

DHS acknowledges that consequences due to the chilling effect include worse health outcomes; increased obesity and malnutrition for pregnant women, breastfeeding mothers, infants, and children; increased use of emergency rooms and emergent care; increased prevalence of communicable diseases; and increases in uncompensated care.[52] Research is clear that having health coverage helps children and families and taking it away will cause harm. Children, adults, and pregnant women with Medicaid/CHIP are significantly more likely to have a regular source of care and receive critical preventive care compared to their uninsured counterparts.[53] Covering parents provides financial security for the whole family and as parents gain health coverage, children are more likely to be covered too.[54] Having Medicaid/CHIP coverage limits exposure to high, out-of-pocket medical costs, making it easier to afford food and housing.[55]

The research is clear – losing Medicaid/CHIP coverage will negatively impact the health and wellness of children and families, as well as families' economic security. Medicaid coverage helps children grow up to be healthier adults, with greater academic and economic achievement.[56] Medicaid coverage is particularly important for groups

disproportionately impacted by the proposed rule, including young children and Hispanic children. Nearly half of all children under age six are covered by Medicaid/CHIP and health coverage and access to appropriate services during these years of rapid brain development is critical to their performance in school and success in life.[57] Medicaid is also particularly important to children of color who are disproportionately represented among beneficiaries because they are more likely to be economically disadvantaged. Hispanic children make up just 25 percent of the total population of children nationally, but 37 percent of children enrolled in Medicaid/CHIP.[58]

Asian Americans and Pacific Islanders are among the fastest growing populations in the U.S..[59] Medicaid expansion and the health insurance Marketplaces under the ACA helped to equalize the disparities in uninsured rates between whites and Asian Americans and Pacific Islanders but this progress could be undone.[60] In 2017, the child uninsured rate for Asian American and Pacific Islanders increased significantly from 3.5 to 4.1 percent.[61] The proposed rule will lead to even more Asian American and Pacific Islander children losing converge.

Medicaid, CHIP, and other health benefit programs should not be included in the public charge determination because they provide essential services to children to ensure they have the opportunity to grow, thrive, and become productive adults, as well as essential services and financial security to parents and families.

D. The proposed rule will undo decades of progress in reducing the uninsured rate by enrolling eligible children in Medicaid and CHIP.

We strongly oppose the proposed rule's classification of Medicaid as a public benefit subject to scrutiny under public charge determinations. For many of the same reasons, we adamantly oppose the inclusion of CHIP. Medicaid and CHIP covered over 46 million children in 2017[62] including the children who need it most: 45 percent of infants, toddlers and preschoolers, 48 percent of children with disabilities or special needs, 80 percent of children who live at or near poverty and 100 percent of children in foster care.[63] Though Medicaid/CHIP eligibility for noncitizens is limited, about 20 percent of lawfully residing noncitizens without green cards were Medicaid beneficiaries in 2014.[64] *One in five Medicaid/CHIP-enrolled children are citizens living with noncitizen parents, and an estimated 2.2 million Medicaid/CHIP-enrolled citizen children have a noncitizen parent also covered by Medicaid.*[65] So while the proposed rule does not change Medicaid/CHIP eligibility, it will undoubtedly impact Medicaid/CHIP enrollment which contravenes Congressional mandates and regulations issued by the Department of Health and Human Services (HHS) to make it easier for those who are eligible to enroll and stay covered.

Over the past several decades, Congress has passed new laws and amended existing laws clearly aimed at expanding coverage for children and families, including: expanding Medicaid coverage for children in the 1990s;[66] creating CHIP in 1997;[67] reauthorizing CHIP in 2009 (CHIPRA) with additional resources aimed at covering more eligible but previously unenrolled children,[68] and recently extending CHIP for 10 years, including requiring states to maintain Medicaid/CHIP eligibility levels through 2027.[69] Congress also acted to expand

Medicaid to cover more parents and created new private health insurance Marketplaces for children and families under the ACA. A consistent feature of each of these legislative acts to expand coverage for children and families has been to simplify enrollment and increase outreach efforts to make it easier for eligible individuals to get and stay covered.[70]

Additionally, Congress has directed that some of these coverage expansions, enrollment simplifications, and outreach efforts are specifically aimed at improving coverage rates of immigrant children. The CHIPRA outreach and enrollment grants, as well as subsequent extensions of those grants in 2013, 2015, and 2018, target outreach dollars to immigrants, linguistic minorities, Hispanic communities, and children in mixed status households.[71] CHIPRA also created a state option to cover lawfully present immigrant children and pregnant women who meet the income eligibility criteria for Medicaid/CHIP and who have been in the country less than five years (known as the Immigrant Children's Health Improvement Act or ICHIA), which 34 states have adopted.[72] CHIPRA also enhanced federal matching rates for translation services and created a simplified process for citizenship status verification.[73] Under the ACA, there are new coverage options for immigrant parents and regulations prohibit the use of immigration status information provided as part of a Medicaid/CHIP or Marketplace application for immigration enforcement purposes.[74] The ACA also improved the availability of translated information for non-English speakers and increased enrollment efforts in Hispanic communities.[75] The proposed rule is inconsistent with the Congressional intent of these and other policies directing HHS to make it easier for children, including immigrant children, to get and stay covered.

These Medicaid, CHIP and other health-related policy changes, together with the persistent work to improve coverage for children at the federal, state, and local levels, have paid off. In 2016, the uninsured rate for children in the U.S. reached a historic low of 4.7 percent and ethnic disparities for Hispanic children narrowed dramatically.[76] Between 2008 and 2016, the uninsurance rate among citizen children with a noncitizen parent fell by 10 percentage points, narrowing the gap between citizen children with and without noncitizen parents from nine percentage points to 2.6 percentage points.[77] Not by coincidence, the Medicaid/CHIP participation rate increased by 15.5 percentage points to 93.3 percent for citizen children with noncitizen parents over that same time period, nearly closing the gap between citizen children with and without noncitizen parents.[78]

Unfortunately, these hard-fought gains have already started to erode. In 2017, five percent of children overall were uninsured and 7.8 percent of Hispanic children were uninsured, marking the first significant increase in the child uninsurance rate since comparable data was first collected in 2008.[79] If implemented, the proposed rule would reverse longstanding Medicaid/CHIP policy goals and reduce citizen children's access to health care, causing financial stress for their families as well as harming their long-term development, educational and work prospects, and health and well-being, limiting their potential and ability to contribute to society later in life.[80]

III. Conclusion

Immigrant households in the U.S. already face unique structural and cultural barriers to economic security, including barriers that prevent them from accessing critical assistance. As a result, children in immigrant families are more likely to be living in low-income households than children in U.S.-born families.[81] The proposed rule would further exacerbate this disparity by negatively impacting the ability of low-income, immigrant families to live healthy, productive lives. Immigrant families are an important and vibrant part of our communities and the U.S. economy. Most children of immigrants are bilingual, speaking English along with Spanish, Hindi, Chinese languages, Arabic languages, French or Vietnamese. And while children of immigrants are less likely than their peers to have parents with a high school degree, they are just as likely to be enrolled in school themselves and are likely to attain a higher level of education than their parents, going on to become productive members of our community.[82]

The proposed rule will directly harm children and adults as families choose not to access crucial benefit programs out of fear and confusion. This could drive the uninsured rate for children up significantly, disproportionately harming communities of color. Therefore, we urge that the proposed rule be withdrawn in its entirety, and that long-standing principles clarified in the 1999 Field Guidance remain in effect.

If you have questions regarding our comments, you may contact us at (202) 784-3138.

Sincerely,

Joan Alker
Research Professor
Executive Director

Kelly Whitener
Associate Professor of the Practice

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[1] S. Artiga, A. Damico, and R. Garfield, "Potential Effects of Public Charge Changes on Health Coverage for Children" (Washington: Kaiser Family Foundation, May 2018), available at http://files.kff.org/attachment/Issue-Brief-Potential-Effects-of-Public-Charge-Changes-on-Health-Coverage-for-Citizen-Children.

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[9] Ibid.
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[11] J. Alker and O. Pham, "Nation's Progress on Children's Health Coverage Reverses Course" (Washington: Georgetown University Center for Children and Families, November 2018), available at https://ccf.georgetown.edu/wp-content/uploads/2018/11/UninsuredKids2018_Final_asof1128743pm.pdf.
[12] S. Artiga, R. Garfield, and A. Damico, "Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid" (Washington: Kaiser Family Foundation, October 2018), available at http://files.kff.org/attachment/Issue-Brief-Estimated-Impacts-of-the-Proposed-Public-Charge-Rule-on-Immigrants-and-Medicaid.
[13] S. Artiga, A. Damico, and R. Garfield, "Potential Effects of Public Charge Changes on Health Coverage for Citizen Children" (Washington: Kaiser Family Foundation, May 18, 2018), available at https://www.kff.org/disparities-policy/issue-brief/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children/.
[14] "Field Guidance on Deportability and Inadmissibility on Public Charge Grounds," 64 *Federal Register* 27-99, May 26, 1999, available at https://www.uscis.gov/ilink/docView/FR/HTML/FR/0-0-0-1/0-0-0-54070/0-0-0-54088/0-0-0-55744.html.
[15] The NPRM proposes to include Medicaid except for emergency Medicaid, school-based Medicaid benefits, Medicaid benefits under the Individuals with Disabilities Education Act, and Medicaid for children of U.S. citizens with citizenship pending. It is unclear how some of these exclusions could be operationalized.
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