

October 9, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Nielsen:

We write today to express our grave concerns regarding the Department of Homeland Security's ("the Department") proposed regulation that would upend longstanding policy regarding the meaning and application of the "public charge" provisions of immigration law. If finalized, the regulation would mark a fundamental change from our nation's historic commitment to welcoming immigrants, radically reshaping our legal immigration system.¹ By expanding the definition of who is classified as a public charge, the Department would force legal immigrants to choose between putting food on the table and advancing their prospects for a green card. Given the serious chilling effect this policy would have on millions of hardworking families and children across this nation, we strongly urge you to immediately withdraw the rule.²

Under current immigration law, immigrants are already required to prove that they will not be a burden on our country—they must show they have adequate means of financial support and they cannot be dependent on cash assistance from the government. Multiple studies show that immigrants contribute greatly to our economy by paying billions of dollars in taxes, starting businesses, and creating jobs.³ However, this rule attempts to raise the bar so high as to close the door on building the American Dream to hardworking immigrant families that have been the foundation of this country.

The federal government has long recognized that certain benefits like health care, nutrition, and housing assistance help families thrive when they fall on hard times and should not be considered a barrier to obtaining permanent legal status in this country. Under the current public-charge policy, immigration officers can only consider cash assistance and long-term care benefits when making a public charge determination.⁴ Your new proposed rule seeks to penalize

¹ Department of Homeland Security, U.S. Citizenship and Immigration Services, Notice of Proposed Rulemaking, "Inadmissibility on Public Charge Grounds," September 21, 2018, https://www.dhs.gov/sites/default/files/publications/18_0921_USCIS_Proposed-Rule-Public-Charge.pdf.

² Jeanne Batalova, "Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use," Migration Policy Institute, June 2018, "www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families."

³ Cesar Maximiliano Estrada, "How Immigrants Positively Affect the Business Community and the U.S. Economy," Center for American Progress, June 22, 2016, <https://www.americanprogress.org/issues/immigration/news/2016/06/22/140124/how-immigrants-positively-affect-the-business-community-and-the-u-s-economy/> and Sari Pekkala Kerr and William R. Kerry, "Immigrants Play a Disproportionate Role in American Entrepreneurship," Harvard Business Review, October 3, 2016, <https://hbr.org/2016/10/immigrants-play-a-disproportionate-role-in-american-entrepreneurship>.

⁴ USCIS, *Public Charge* (June 26, 2017), <https://www.uscis.gov/greencard/public-charge>.

lawfully-present immigrant families who receive non-cash benefits including Medicaid, Supplemental Nutrition Assistance Program (SNAP), and housing assistance—potentially rendering individuals who use these benefits ineligible for permanent residency. This drastic expansion of what benefits can be considered in a public charge determination would be an extreme departure from how the statute has been interpreted over many decades.

Frightening people away from critical resources would compromise families and communities across our country. The wellbeing of children and parents are inextricably linked. It is impossible to single out one member of a family without having a ripple effect on children and other members of the household. One in four children in America have at least one foreign-born parent, and children of immigrants make up 31 percent of all children in families that receive relevant benefits. Furthermore, over nine million of these children are U.S. citizens.⁵ Experts believe this change could result in thousands, if not millions, of children losing access to essential benefits because of a broad “chilling effect” that will cause immigrants to withdraw their children from government services.⁶ Even before this rule was formally announced, states across the country saw decreases in enrollment in Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) amounting to as much as 20 percent, and state agency officials attribute much of this decline to fears about this immigration policy.⁷

The nutrition, health, and stability that impacted services provide have been repeatedly shown to help children succeed. For instance, children who receive SNAP or Medicaid are more likely to finish high school, grow up to be healthier adults, and achieve greater economic success.⁸ If this rule goes into effect, hardworking families would try to make ends meet with less – hurting children – for no other reason than to advance this administration’s anti-immigrant agenda.

In light of the serious and detrimental consequences that would result from this proposed regulation, we strongly urge the administration to reverse course and withdraw the proposed public charge rule.

Sincerely,

Catherine Cortez Masto
United States Senator

Robert Menendez
United States Senator

⁵ Batalova, *supra* note 2.

⁶ *Id.*

⁷ Helena Bottemiller Evich, “Immigrants, fearing Trump crackdown, drop out of nutrition programs,” Politico, September 3, 2018, <https://www.politico.com/story/2018/09/03/immigrants-nutrition-food-trump-crackdown-806292>.

⁸ Steven Carlson et al., “SNAP Works for America’s Children,” Center on Budget and Policy Priorities, September 29, 2016, <https://www.cbpp.org/research/food-assistance/snap-works-for-americas-children> and Alisa Chester et al., “Medicaid at 50: A Look at the Long-Term Benefits of Childhood Medicaid,” Georgetown University Center for Children and Families, July 27, 2015, <https://ccf.georgetown.edu/2015/07/27/medicaid-50-look-long-term-benefits-childhood-medicaid/>.

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