Congress of the United States
Washington, DC 20515

December 19, 2025

Samantha Deshommes, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: DHS Docket No. USCIS-2025-0304, RIN 1615-AD06, Comments in Response to Proposed Rulemaking: Public Charge Ground of Inadmissibility

Dear Ms. Deshommes:

We, the undersigned Members of Congress, submit this comment in opposition to the Department of Homeland Security's (DHS or Department) proposed rule, "Public Charge Ground of Inadmissibility," published November 19, 2025 (DHS Docket No. USCIS-2025-0304).[1] We are leaders in committees that have jurisdiction over the Department of Homeland Security and the agencies whose programs will be most affected by this proposed rule. As Members of Congress, we have a strong interest in ensuring that DHS and other executive agencies appropriately apply the law that Congress has enacted. As elected officials, we serve as sources of trusted information to our constituents, who rely on us to be able to convey consistent, reliable information on federal government processes. We also have a strong interest in promoting the health and economic well-being of the nation, including by ensuring that individuals are able to access the supplemental medical, nutrition, and housing assistance for which they are statutorily eligible and that is intended to improve general health outcomes and economic opportunity for working communities. The proposed rule fails on each of these counts.

As explained further below, DHS is seeking to circumvent Congress by administratively altering the 135-year-old meaning of the term "public charge" in violation of congressional intent. Since the term was first codified as an immigration restriction in 1882, it has been consistently interpreted to mean an individual who is, or is likely to become, *primarily* dependent on the government for his or her care (*i.e.*, someone who is effectively a "charge" or ward of the state). Over the years, the method for determining such "primary dependence" has changed, but the principle itself has remained steadfast. Importantly, Congress has amended the statutory ground of inadmissibility several times since 1882, but—as discussed in detail below—it has never changed this longstanding primary meaning. Indeed, Congress has deliberately rejected the very changes that DHS now seeks to implement administratively in complete defiance of our will and intent.

[1] Public Charge Ground of Inadmissibility, 90 Fed. Reg. 52168 (proposed Nov. 19, 2025) [hereinafter "DHS NPRM"].

Nevertheless, DHS now proposes to rescind the current rule,[2] which was promulgated in 2022 to codify congressional intent. Instead of replacing the current policy with new regulations, DHS also makes clear that it plans to dramatically alter the definition of "public charge" through future guidance and other forms of informal decision making tools that lack the transparency of notice and comment and formal regulatory decision making.

The proposed rule is extremely dangerous. For these reasons and the others discussed below, we urge the Department to abandon this rulemaking and maintain the long-standing principles embodied in the 2022 public charge ground of inadmissibility regulations.

1. The Original Meaning of Public Charge.

There is little question that the term "public charge" originally referred to persons who could not care for themselves and were thus primarily dependent on the public for support. The first federal statute banning the admission of aliens based on public charge grounds was included in the Immigration Act of 1882.[3] That statute specifically denied admission to "any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge."[4] This provision was modeled on state immigration laws developed in New York and Massachusetts that sought to deny admission to individuals who could not provide for themselves and would thus end up in publicly-funded almshouses or asylums.[5] For example, a New York state law enacted in 1847 prohibited the landing of "any lunatic, idiot, deaf and dumb, blind or infirm persons, not members of emigrating families, and who are likely to become permanently a public charge."[6] These and similar statutes clearly indicated the intent to ban individuals who through mental or physical deficiencies could not care for themselves. They did not, however, ban individuals who were capable of providing for themselves, but who could also, because of their situation in life, benefit from supplemental assistance as they worked to become increasingly self-sufficient.

This original meaning is consistent with the plain meaning of the words "public charge." Black's Law Dictionary (6th ed.), for example, defines *charge* as "[a] person or thing committed to the care of another."[7] And it specifically defines *public charge* as "[a]n indigent[; a] person whom it is *necessary* to support at public expense by reason of poverty alone or illness and poverty."[8] Both of these definitions suggest individuals who are incapable of providing for themselves and are thus necessarily dependent on the public for their support. They do not suggest individuals who are capable of providing for themselves, even if they could simultaneously benefit from supplemental assistance as they do so.

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[2] *Public Charge Ground of Inadmissibility*, 87 Fed. Reg. 55472 (Sept. 9, 2022) (codified at 8 C.F.R. pts. 103, 212, 213 & 245)

[3] Immigration Act of August 3, 1882, ch. 376, § 2, 22 Stat. 214.

[4] *Id.*

[5] HIDETAKA HIROTA, EXPELLING THE POOR: ATLANTIC SEABOARD STATES & THE 19TH-CENTURY ORIGINS OF AMERICAN IMMIGRATION POLICY 2 (Oxford Univ. Press 2017).

[6] Act of May 5, 1847, ch. 195, § 3, 1847 N.Y. Laws 451.

[7] BLACK'S LAW DICTIONARY 233 (6th ed. 1990).

[8] *Id*. (emphasis added).

This original meaning of public charge was thereafter reinforced over the years, through additional legislation and judicial and administrative case law. In the decades following 1882, for example, Congress passed numerous laws that continued to list the term "public charge" after other, more specific conditions for individuals who would be generally incapable of providing for themselves and would thus become primarily dependent on public support. In 1891, Congress excluded "[a]ll idiots, insane persons, paupers or persons likely to become a public charge."[9] In 1907, Congress expanded on the categories of excludable individuals to include "epileptics" and "professional beggars," while also adding a new catch-all provision that clearly reflected the congressional intent behind its list of specific exclusions.[10] This catch-all provision covered "persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living."[11] In 1917, Congress again included this catch-all provision in its revised list of excludable aliens.[12]

This public charge language remained unchanged for the next 35 years until Congress enacted the Immigration and Nationality Act of 1952,[13] the modern codification of immigration and naturalization law. In that act, Congress excluded various groups of individuals who could become primarily dependent on the government for support. These included: (1) those with "a physical defect, disease, or disability . . . of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living;" (2) those who are "paupers, professional beggars, or vagrants;" and (3) those "who, 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, are likely at any time to become public charges."[14] It is the language in this third category that has survived into current law, while the first two categories were subsequently eliminated.

The contemporaneous interpretations of the judiciary and executive officers tasked with administering the various acts above further confirm the congressional intent behind the public charge provisions. For example, a federal court in 1887 analyzed the original public charge language from the Immigration Act of 1882 and concluded that "the ultimate fact which the commissioners are called on to decide [is] whether these immigrants were unable to take care of themselves."[15] In 1949, the Board of Immigration Appeals (BIA or Board) sustained the appeal of a mother and child who had been excluded on the 1917 public charge grounds after their husband/father was excluded for criminal reasons.[16] The Board noted that the mother was "quite

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[9] Act of March 3, 1891, ch. 551, § 1, 26 Stat. 1084. A substantially similar provision was included in a bill enacted in 1903. *See* Act of March 3, 1903, ch. 206, § 2, 32 Stat. 1213.

[10] Act of February 20, 1907, ch. 1134, § 2, 34 Stat. 898.

[11] *Id.*

[12] Act of February 5, 1917, ch. 29, § 3, 39 Stat. 874.

[13] Pub. L. No. 82-414, 66 Stat. 163.

[14] *Id.* §§ 212(a)(7), (8), and (15)

[15] *In re O'Sullivan*, 31 F. 447, 449 (C.C.S.D.N.Y. 1887).

[16] *Matter of T—*, 3 I. & N. Dec. 641 (BIA 1949).

capable of earning her own livelihood independent of her husband" and the child had training in an industry that "presents a wide field for employment in this country."[17]

Similarly, the Attorney General determined in 1964 that the public charge provision in the 1952 Act requires the presence of some "specific circumstances, such as mental or physical disability, advanced age, or other facts reasonably tending to show that the burden of supporting the alien is likely to be cast on the public."[18] The Attorney General further concluded that "[a] healthy person in the prime of life cannot ordinarily be considered likely to become a public charge, especially where he has friends or relatives in the United States who have indicated their ability and willingness to come to his assistance in case of emergency."[19] In 1988, the BIA sustained the appeal of an alien who had been denied immigration benefits under the same public charge provision, in part because her family had received "public cash assistance" while being unemployed for nearly four years.[20] In sustaining the appeal, the Board noted that the alien was "young" and had no "physical or mental defect which might affect her earning capacity."[21] The Board also noted that the alien had recently begun working, and that during the time when she was absent from the workforce, she had been caring for her children.[22]

2. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

In support of the proposed rule, DHS places considerable weight on changes to the public charge provision under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA),[23] as well as changes to public benefit eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).[24] Neither act, however, did anything to change the longstanding meaning of the public charge provision. PRWORA limited immigrant eligibility for certain means-tested federal benefits, but it did not modify or address the public charge ground of inadmissibility in any way. IIRIRA did modify the public charge statute in several ways, including by: (1) codifying the "totality of the circumstances" test that had developed through case law over the years;[25] (2) requiring adjudicators to consider certain specific factors—age; health; family status; assets, resources, and financial status; and education and skills—when applying that test;[26] and (3) requiring a legally enforceable affidavit of support, while limiting the categories of people who could provide such affidavits.[27] The act did not, however, affect the longstanding meaning of public charge.

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[17] *Id.*

[18] *Matter of Martinez-Lopez*, 10 I. & N. Dec. 409 (AG 1964).

[19] *Id*.

[20] *Matter of A—*, 19 I. & N. Dec. 867 (BIA 1988).

[21] *Id*.

[22] *Id*.

[23] Pub. L. No. 104-208, 110 Stat. 3009.

[24] Pub. L. No. 104-193, 110 Stat. 2105.

[25] Pub. L. No. 104-208 § 551 (codified at 8 U.S.C. § 1182(a)(4)).

[26] *Id.*

[27] *Id.* (codified at 8 U.S.C. § 1183a).

The fact that IIRIRA and PRWORA did not change the longstanding meaning of the "public charge" ground was immediately understood by the various public agencies tasked with administering the statute. In 1997 and 1998, both the Immigration and Naturalization Service (INS) and the State Department clarified to their respective officers that IIRIRA now required legally enforceable affidavits of support, but that the act had otherwise failed to change the substance of the public charge ground. On December 16, 1997, for example, the INS issued guidance stating that "[e]xcept for the new requirements concerning the enforceable affidavit of support, [IIRIRA] has not altered the standards used to determine the likelihood of an alien to become a public charge nor has it significantly changed the criteria to be considered in determining such a likelihood."[28] Similarly, on June 8, 1998, the State Department issued a cable clarifying that IIRIRA's principal change was to require "a legally enforceable affidavit of support" and that the act had "not changed the long-standing legal presumption that an able-bodied, employable individual will be able to work upon arrival in the United States" and thus not become a public charge.[29] A separate cable noted that "[t]here is no ground of ineligibility based solely on the prior receipt of public benefits" and that "in most cases, prior receipt of benefits, by itself, should not lead to an automatic finding of ineligibility."[30]

Subsequently, on May 26, 1999, the INS published two documents in the Federal Register to "help alleviate public confusion over the meaning of the term 'public charge' in immigration law and its relationship to the receipt of Federal, State, and local public benefits" and to "provide aliens with better guidance as to the types of public benefits that will and will not be considered in public charge determinations."[31] The first was a Notice of Proposed Rulemaking in which the INS proposed to define "public charge" to mean an individual "who is likely to become . . . primarily dependent on the Government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at Government expense."[32] The second was INS Field Guidance that "both summarize[d] longstanding law with respect to public charge and provide[d] new guidance on public charge determinations."[33] Through this Field Guidance, the INS was able to immediately

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[28] IMMIGRATION AND NATURALIZATION SERV., DEP'T OF JUSTICE, PUBLIC CHARGE: INA SECTIONS 212(A)(4) AND 237(A)(5) – DURATION OF DEPARTURE FOR LPRS AND REPAYMENT OF PUBLIC BENEFITS (Dec. 16, 1997).

[29] DEP'T OF STATE, I-864 AFFIDAVIT OF SUPPORT: UPDATE NO. 14 – COMMITMENT TO PROVIDE ASSISTANCE, UNCLAS STATE 102426 (cable dated June 8, 1998). The cable further provided that "[t]he presumption that the applicant will find work coupled with the fact that the [affidavit of support] is a legally enforceable contract will provide in most cases a sufficient basis to accept a sponsor's . . . technically sufficient [affidavit] as overcoming the public charge ground." *Id.*

[30] DEP'T OF STATE, I-864 AFFIDAVIT OF SUPPORT UPDATE NO. ONE – PUBLIC CHARGE ISSUES, UNCLAS STATE 228862 (cable dated Dec. 1997). The cable further clarified that "[i]f there is a sufficient Affidavit of Support and the applicant appears to be able to support him/herself and dependents, a public charge finding may not be appropriate notwithstanding the petitioner's reliance on public assistance." *Id.*

[31] IMMIGRATION AND NATURALIZATION SERV., DEP'T OF JUSTICE, FIELD GUIDANCE ON DEPORTABILITY AND INADMISSIBILITY ON PUBLIC CHARGE GROUNDS, 64 Fed. Reg. 28,689 (May 26, 1999) [hereinafter "1999 INS Field Guidance"].

[32] Inadmissibility and Deportability on Public Charge Grounds, 64 Fed. Reg. 28,676, at 28,677 (proposed May 26, 1999) [hereinafter "1999 INS NPRM"].

[33] 1999 INS Field Guidance, 64 Fed. Reg. 28,689.

adopt the definition in the proposed rule as a means of addressing public confusion "while allowing the public an opportunity to comment on the proposed rule."[34]

The INS provided several reasons for deciding to adopt the definition of public charge in both the 1999 proposed rule and the Field Guidance. Each of these reasons reflect the widely-understood congressional intent behind the public charge statute:

1. First, the INS noted that uncertainty following IIRIRA was "undermining the Government's policies of increasing access to health care and helping people to become self-sufficient."[35] As the INS explained, "confusion about the relationship between the receipt of public benefits and the concept of 'public charge'" had "deterred eligible aliens and their families, including U.S. citizen children, from seeking important health and nutrition benefits that they are legally entitled to receive."[36] Furthermore, this "reluctance to access benefits has an adverse impact not just on the potential recipients, but on public health and the general welfare."[37]

2. Second, the INS observed that non-cash benefits "are by their nature supplemental and do not, alone or in combination, provide sufficient resources to support an individual or family."[38] Thus, by focusing only on cash assistance for income maintenance, the Service could "identify those who are primarily dependent on the government for subsistence without inhibiting access to non-cash benefits that serve important public interests."[39]

3. Third, the INS acknowledged that "federal, state, and local benefits are increasingly being made available to families with incomes far above the poverty level, reflecting broad public policy decisions about improving general public health and nutrition, promoting education, and assisting working-poor families in the process of becoming self-sufficient."[40] INS therefore concluded that "participation in such non-cash programs is not evidence of poverty or dependence."[41]

The INS also noted that its proposed definition was consistent with the advice provided by federal benefit-granting agencies, including the Department of Health and Human Services, the Department of Agriculture, and the Social Security Administration. Each department had concurred that "receipt of cash assistance for income maintenance is the best evidence of primary dependence on the Government" because "non-cash benefits generally provide supplementary

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[34] *Id.*
[35] 1999 INS NPRM, 64 Fed. Reg. 28,677.
[36] 1999 INS Field Guidance, 64 Fed. Reg. 28,689.
[37] *Id.* at 28,692.
[38] *Id*.
[39] *Id*.
[40] *Id*.
[41] *Id*.

support . . . to low-income working families to sustain and improve their ability to remain self-sufficient."[42]

3. The 2022 Public Charge Grounds of Inadmissibility Regulations.

In 2022, DHS codified this longstanding meaning of public charge. As in the 1999 Interim Field Guidance, DHS would now consider the receipt of public cash assistance for income maintenance or long-term institutionalization at government expense to determine whether an individual is primarily dependent on the government for subsistence.[43] DHS's proposal excluded most non-cash benefits from consideration, consistent with congressional intent.[44] While past and present use of public benefits may be an indication of whether or not an individual is a public charge, it has long been understood that most non-cash benefits "are by their nature supplemental and do not, alone or in combination, provide sufficient resources to support an individual or family."[45] As such, the rule was consistent with the intent of Congress to apply the public charge ground of inadmissibility to those who are primarily dependent on the government for subsistence.

4. DHS's Proposed Rule Runs Counter to Congressional Intent.

In light of the above, there can be no question as to the congressional intent behind the public charge ground of inadmissibility. For more than 135 years, the term has meant an individual who is, or is likely to become, *primarily* dependent on the government for his or her care. In 1882, this meaning was understood to refer to individuals who could not support themselves and were likely to end up in almshouses or asylums. Today, it is understood to refer to individuals who cannot support themselves on their own and who are thus dependent on cash assistance for income maintenance or who require long-term institutional care. These minor differences in application simply reaffirm the constancy of the term's more general meaning—*primary* dependence on the government for care. Further, there is no doubt that Congress understood this to be the meaning each of the numerous times it re-employed the term in legislation since 1882. Given that Congress never altered the term's longstanding meaning, each such implementation amounts to a congressional ratification of that meaning. Indeed, Congress rejected legislative attempts to re-define the term, including in the way that DHS now seeks to do so.

Currently, DHS applies the term to an individual (1) who receives, or is likely to receive, the majority of his or her income from SSI or TANF benefits (or similar state or local cash assistance); or (2) who is institutionalized in primarily government-funded long-term care. Despite the above, DHS now proposes to deviate from the longstanding meaning of public

[42] 1999 INS NPRM, 64 Fed. Reg. 28,677.

[43] *Id.* and 87 Fed. Reg. at 10607; *and proposed* 8 C.F.R. 212.21, 87 Fed. Reg. at 10669.

[44] 87 Fed. Reg. at 10607

[45] 1999 INS Field Guidance, 64 Fed. Reg. 28,692.

charge by withdrawing the 2022 Rule and "mov[ing] away from a bright line primary dependence standard."[46]

DHS now claims "that the definitions for 'likely at any time to become a public charge' in both the 2019 Final Rule and 2022 Final Rule are too restrictive and, as a result, prevented officers from assessing whether an alien is self-sufficient and is likely to depend on their own capabilities and the resources of their families, their sponsors, and private organizations to meet their needs, as intended by Congress."[47] DHS further justifies repealing the 2022 Rule by stating it believes the rule ignores the fact that "any benefit intended to help the alien meet their needs incentivizes immigration to the United States and is inconsistent with the clear national policy regarding welfare and immigration."[48]

However, these statements go directly against congressional intent. As the INS noted in 1999, the "*primary dependence* model of public assistance was the backdrop against which the 'public charge' concept in immigration law developed in the 1800s."[49] Since then, legislators, judges, and executive officials have consistently understood the term to refer to those who are *primarily* dependent on the public for their care. This is of particular importance given the many times that Congress has sought to re-employ the term over the years—including in 1891, 1903, 1907, 1917, 1952, 1990, and 1996. At no time has Congress sought to widen the concept of public charge to include lesser forms of public assistance, even as the number and types of public assistance programs expanded over the years.

Moreover, DHS's approach of broadening the long-understood meaning of public charge simply ignores the economic reality of the immigrant experience in the United States: immigrants have substantial economic mobility. When immigrants first arrive in the United States, their employment experience may not align perfectly with the needs of the job market. They may also have limited English language skills and social connections. They do, however, have high rates of labor force participation.[50] Over time, their job skills and English proficiency improve, their social connections deepen, and their incomes rise to U.S. levels. The economic mobility of less educated, and lower income, immigrants is especially strong. Immigrants with less than a high school education are able to close the income gap with their native-born counterparts faster, catching up to the native-born within six or seven years of entry.[51] The

[46] DHS NPRM, 90 Fed. Reg 52170
[47] DHS NPRM, 90 Fed. Reg 52186
[48] DHS NPRM, 90 Fed. Reg 52186
[49] 1999 INS NPRM, 64 Fed. Reg. 28,677.
[50] BUREAU OF LABOR STATISTICS, DEP'T OF LABOR, LABOR FORCE CHARACTERISTICS OF FOREIGN-BORN WORKERS NEWS RELEASE (May 18, 2017), https://www.bls.gov/news.release/archives/forbrn_05182017.htm ("In 2016, the labor force participation rate of the foreign born was 65.2 percent, unchanged from the prior year. The participation rate for the native born was 62.3 percent in 2016, little different from 2015.").
[51] Leighton Ku and Drishti Pillai, The Economic Mobility of Immigrants: Public Charge Rules Could Foreclose Future Opportunities (Nov. 15, 2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3285546. *See also,* Francine Blau and Christopher Mackie, The Economic and Fiscal Consequences of Immigration (National Academies Press, 2016), https://www.nap.edu/read/23550.

proposed rule effectively assumes that immigrants are not as economically mobile as they actually are.

Second, and relatedly, it is also impossible to square DHS's stated desire in the proposed rule to expand covered public benefits with the statute, legislative history, or case law. As mentioned above, public charge has consistently referred to individuals who are *primarily dependent* on the government for subsistence. It has never been modified or interpreted to refer to the receipt of supplemental benefits that may serve purposes other than to provide primary support. As the INS noted in 1999, other types of non-cash benefits "are by their nature supplemental and do not, alone or in combination, provide sufficient resources to support an individual or family."[52] The agency also acknowledged another reality—that "federal, state, and local benefits are increasingly being made available to families with incomes far above the poverty level, reflecting broad public policy decisions about improving general public health and nutrition, promoting education, and assisting working-poor families in the process of becoming self-sufficient."[53] Consequently, the INS understood that application of the public charge statute required the agency to "identify those who are primarily dependent on the government for subsistence without inhibiting access to non-cash benefits that serve important public interests."[54] DHS now proposes to reverse this history in its entirety.

This reversal not only violates the clear congressional intent behind the public charge statute, as described above; it also violates decades' worth of congressional action to change noncitizens' eligibility for certain public programs aimed at generally improving public health, nutrition, and economic opportunity. On some occasions, Congress has sought to expand the use of these types of programs, including among immigrant populations, out of a recognition that greater use of such programs broadly benefit American communities. After the most recent statutory update to public charge in 1996, Congress expanded immigrant access to various health care and nutrition programs, including providing access to the Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamps), Medicaid, and the Children's Health Insurance Program in the 2002 Farm Bill and the 2009 Children's Health Insurance Program Reauthorization.[55] In addition, by describing health, nutrition, and housing assistance as benefits at odds with self-sufficiency, the framework in the proposed rule conflicts with the goals Congress has expressed for these programs—goals that include improving public health, food security, and housing stability to help working families remain self-sufficient. The DHS framework also conflicts with choices Congress has made in Medicaid and SNAP that explicitly moved the programs towards support for low- and moderate-income workers who do not depend on government for basic subsistence.

Yet even recent actions by Congress to restrict immigrants' eligibility for federal programs indicates this proposed rule is contrary to congressional intent. The 2025 reconciliation law (H.R. 1) introduced sweeping changes to eligibility definitions for federal

[52] 1999 INS Field Guidance, 64 Fed. Reg. 28,692.
[53] *Id.*
[54] *Id.*
[55] Pub. L. No. 105-185, 112 Stat. 524; Pub. L. No. 107-171, 116 Stat. 134; Pub. L. No. 111-3, 123 Stat. 8.

public benefit programs, including Medicaid, the Affordable Care Act, and SNAP.[56] These provisions were deliberately structured to exclude certain immigration statuses from eligibility. Notably, the bill makes no reference to public charge, nor was the issue raised during floor debate. It left immigrants who may well be subject to a public charge determination in the future, such as those residing under a Compact of Free Association and Cuban and Haitian entrants, eligible for these federal programs and made no eligibility changes to the variety of other forms of assistance that could be included in a determination if this rule is finalized. It similarly left states the option to provide Medicaid and CHIP to all lawfully residing children and pregnant immigrants.

Congress has repeatedly dictated policy regarding immigrants' use of federal benefits by altering their eligibility, not by precluding them from adjusting status. DHS has nevertheless proposed to penalize individuals for using these legally available programs or for their potential use in the future. This proposal contravenes our express congressional intent to determine eligibility for these programs for the good of the American public. Congress *chose* to make these benefits available to certain immigrants. DHS now proposes we should penalize immigrants for those congressional policy choices.

5. The Proposed Rule Would Harm American Communities across the Nation.

The proposed rule would also harm the general public. DHS admits the rule would effectively penalize individuals for receiving supplemental public benefits to which they are legally entitled.[57] Not only does this violate the clear intent to expand the use of such programs, it would have a profound negative impact on the health, safety, and economic well-being of communities across the country. Indeed, the proposed rule expressly concedes that it may make America sicker and poorer, including through: "worse health outcomes, such as increased prevalence of obesity and malnutrition (especially among pregnant or breastfeeding women, infants, and children), reduced prescription adherence, and increased use of emergency rooms for primary care due to delayed treatment"; "Higher prevalence of communicable diseases"; "increased poverty, housing instability, reduced productivity, and lower educational attainment."[58]

As DHS should know, previous revisions to the public charge statute have had a significant detrimental impact on the use of legally available benefits. Confusion related to the public charge ground of inadmissibility in the wake of IIRIRA, for example, caused significant reductions in the use of public health and nutrition programs by eligible immigrants and their family members. As the INS noted at the time:

> Although Congress has determined that certain aliens remain eligible for some forms of medical, nutrition, and child care services, and other public assistance, numerous legal immigrants and other aliens are choosing not to apply for these

[56] An Act to provide for reconciliation pursuant to title II of H. Con. Res. 14, Pub. L. No. 119-21, 139 Stat. 72 (2025).
[57] DHS NPRM, 90 Fed. Reg. 52177
[58] DHS NPRM, 90 Fed. Reg. 52218

> benefits because they fear the negative immigration consequences of potentially being deemed a "public charge."[59]

Evidence at the time included detailed accounts of pregnant women with gestational diabetes terrified of seeking care, a child with seizures rushed to the hospital but whose parents were afraid to enroll in Medicaid so he could continue treatment, farmworker women afraid to enroll in a state-funded perinatal case management program, and an outbreak of rubella.[60]

The INS further stressed that when aliens are deterred or prevented from using a wide array of public benefits, local communities bear the costs:

> According to Federal and State benefit-granting agencies, this growing confusion is creating significant, negative public health consequences across the country. This situation is becoming particularly acute with respect to the provision of emergency and other medical assistance, children's immunizations, and basic nutrition programs, as well as the treatment of communicable diseases. Immigrants' fears of obtaining these necessary medical and other benefits are not only causing them considerable harm, but are also jeopardizing the general public. For example, infectious diseases may spread as the numbers of immigrants who decline immunization services increase. Concern over the public charge issue is further preventing aliens from applying for available supplemental benefits, such as child care and transportation vouchers, that are designed to aid individuals in gaining and maintaining employment.[61]

As the INS predicted in 1999, the existence of the proposed rule has already caused significant adverse impacts in communities across the Nation.[62]

Congress has chosen to invest in nutrition, health care, and related services to help working families contribute to their maximum extent, including by improving their health and nutrition and making it easier for parents to stay employed. The policies articulated in the proposed rule have already terrified immigrant families, deterring them from seeking the help they need to lead healthier and more productive lives. DHS concedes this, stating that the rule "may decrease disposable income and increase the poverty of certain families and children, including U.S. citizen children."[63] Targeting low-income and moderate-income families will

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[59] 1999 INS NPRM, 64 Fed. Reg. 28,676.

[60] *See* Claudia Schlosberg, National Health Law Program, and Dinah Wiley, National Immigration Law Center, *The Impact of INS Public Charge Determinations on Immigrant Access to Health Care* (May 22, 1998), https://www.montanaprobono.net/geo/search/download.67362.

[61] 1999 INS NPRM, 64 Fed. Reg. 28,676-77.

[62] *See* Helena Bottemiller Evich, *Immigrant Families Appear to be Dropping Out of Food Stamps*, Politico, Nov. 14, 2018, https://www.politico.com/story/2018/11/14/immigrant-families-dropping-out-food-stamps-966256; Chris Fuchs, *Driven By Fear, Green-card Holders Are Avoiding Government Aid, Advocates Say*, NBC News, Dec. 6, 2018, https://www.nbcnews.com/news/asian-america/driven-fear-green-card-holders-are-avoiding-government-aid-advocates-n944266; Lisa Schencker, *Illinois Doctors Say Trump Immigration Proposal Already Scaring Away Patients*, Chicago Tribune, Dec. 2, 2018, https://www.chicagotribune.com/business/ct-biz-immigration-proposal-scaring-people-from-medicaid-1202-story.html.

[63] DHS NPRM, 90 Fed. Reg. 52221.

only exacerbate hunger and food insecurity, unmet health care needs, poverty, and other serious problems. If it moves forward, the rule will have ripple-effects on the health, development, and economic outcomes of generations to come.

The value of access to public benefits has been documented repeatedly. Multiple studies confirm that early childhood or prenatal access to Medicaid and SNAP improves health and reduces reliance on cash assistance. Children of immigrants—the vast majority of whom are U.S. citizens—who participate in SNAP are more likely to be in good or excellent health, be food secure, and reside in stable housing.[64] Compared to children in immigrant families without SNAP, families with children who participate in the program have more resources to afford medical care and prescription medications.[65] An additional year of SNAP eligibility for young children with immigrant parents is associated with significant health benefits in later childhood and adolescence.[66] 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.[67] Children with access to Medicaid have fewer absences from school, are more likely to graduate from high school and college, and are more likely to have higher paying jobs as adults.[68] Children whose families receive housing assistance are more likely to have a healthy weight and to rate higher on measures of well-being—especially when housing assistance is accompanied by food assistance.[69] Essential health, nutrition and housing assistance prepares children to become productive, working adults.

America's future depends on ensuring that working families, including immigrant families and their children, succeed and thrive. We need to invest in these families, rather than put their healthy development and education at risk by destabilizing them.

Thank you for the opportunity to comment on the proposed rule.

Sincerely,

Jamie Raskin
Ranking Member
House Committee on the Judiciary

Richard J. Durbin
Ranking Member
Senate Committee on the Judiciary

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[64] Jennifer M. Haley, *et. al.*, *Children of Immigrants in 2022–23: National and State Patterns*, URBAN INST. (May 2025), https://www.urban.org/sites/default/files/2025-05/Children_of_Immigrants_in_2022%E2%80%9323_National_and_State_Patterns.pdf

[65] Children's Health Watch, *Report Card on Food Security and Immigration: Helping Our Youngest First-Generation Americans To Thrive* (2018), http://childrenshealthwatch.org/wp-content/uploads/Report-Card-on-Food-Insecurity-and-Immigration-Helping-Our-Youngest-First-Generation-Americans-to-Thrive.pdf.

[66] Chloe N. East, Working Paper, *The Effect of Food Stamps on Children's Health: Evidence from Immigrants' Changing Eligibility* (2017), http://www.chloeneast.com/uploads/8/9/9/7/8997263/east_fskids_r_r.pdf.

[67] Christine Percheski and Sharon Bzostek, *Public Health Insurance and Health Care Utilization for Children in Immigrant Families*, Maternal and Child Health Journal 21 (2017).

[68] Karina Wagnerman, Alisa Chester, and Joan Alker, Georgetown University Center for Children and Families, *Medicaid is a Smart Investment in Children* (March 2017), https://ccf.georgetown.edu/2017/03/13/medicaid-is-a-smart-investment-in-children/.

[69] Kathryn Bailey, Elizabeth March, Stephanie Ettinger de Cuba, et al., *Overcrowding and Frequent Moves Undermine Children's Health*, Children's HealthWatch (2011), www.issuelab.org/resources/13900/13900.pdf.

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