

December 10, 2018

Samantha Deshommès, Chief  
Regulatory Coordination Division, Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue, NW  
Washington, DC 20529-2140

*Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds*

Dear Ms. Deshommès,

On behalf of the Partnership for Medicaid — a nonpartisan, nationwide coalition of health care providers, safety net health plans, counties and labor — the undersigned organizations appreciate the opportunity to provide stakeholder input on the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking regarding "public charge," published in the Federal Register on Oct. 10, 2018.

As organizations representing the nation's health care safety net, we focus our comments on Medicaid and the Children's Health Insurance Program (CHIP), which play a vital role in delivering necessary health care and other related services and supports to close to 80 million low-income children, pregnant women, working individuals, seniors, people with disabilities and people with medically complex conditions in our country. Specifically, we oppose the inclusion of these vital programs in the DHS definition of "public benefit." Recognizing that the draft rule, if finalized, will lead to loss of Medicaid — and possibly CHIP — coverage by millions of people, we will describe the impact increased rates of uninsurance and lost access to care will have on our communities. As proposed, this rule would result in many Medicaid beneficiaries forgoing health coverage and services. As such, our coalition requests that DHS withdraw the rule from consideration.

The proposed rule represents a significant change in current policy. The rule would alter the public charge test dramatically by expanding the definition to include any immigrant who simply "receives one or more public benefits." Section 212.21(b)(2) of the rule newly includes Medicaid in a list of public benefits that, should individuals take advantage of them, will negatively impact individuals' efforts to extend their stay, change their visa or obtain legal permanent resident status. In the proposed rule, DHS acknowledges that individuals — including children — are likely to be impacted by forgoing enrollment in, or disenrolling from, public benefits they are eligible for, including Medicaid. As safety net providers serving as the backbone of the Medicaid program, the Partnership opposes any policy resulting in decreased enrollment among eligible individuals. If finalized, this regulation would likely lead to significant decreases in participation in Medicaid among legal immigrant families and their primarily U.S.-

born children. Over 19 million children, or one in four, live in a family with an immigrant parent, and nearly nine in 10 of these children are citizens.<sup>1</sup> In addition, more than 14 million Medicaid and CHIP enrollees live in a household with a noncitizen, and half of these individuals are U.S. citizen children.<sup>2</sup> A recent study examined the impact of the proposed rule by using disenrollment rates among Medicaid and CHIP enrollees living in household with a noncitizen ranging from 15 percent to 35 percent, based on previous research on the impact of the chilling effect during welfare reform. This study found that up to 4.9 million beneficiaries could disenroll.<sup>3</sup> Another recent analysis found that even prior to this proposed rule being released, leaked versions of the proposal instilled a growing fear among Medicaid enrollees of participation in this and other critical programs, leading them to disenroll or avoid enrolling themselves and their children.<sup>4</sup> When beneficiaries lose health coverage their continuity of care is often disrupted, which can result in them delaying necessary primary and preventive care. Ultimately, this will result in increased strain on emergency departments and other providers of last resort.

Research shows that Medicaid improves health across a variety of indicators and produces long-term improvements in health and well-being.<sup>5</sup> Access to Medicaid is particularly beneficial for children, allowing health problems to be diagnosed and treated appropriately and as early as possible, thus improving outcomes and reducing costs. Other studies show that children with access to Medicaid have greater economic success as adults.<sup>6</sup> They are more likely to attend and complete college and earn higher incomes.<sup>7</sup> Because Medicaid coverage is associated with better health outcomes as well as benefits to the economy, we strongly oppose consideration of Medicaid use in the public charge test.

Furthermore, because Medicaid is a federal-state partnership, with program design varying by state, Medicaid programs are complex. In many cases, states name Medicaid programs something other than “Medicaid.” Additionally, most states contract with private Medicaid health plans with a broad variety of names to provide coverage to eligible individuals. Given the multi-layered nature of Medicaid, it is not uncommon for enrollees to think of their coverage not as Medicaid, but as, for example, HealthChoice — the name of Maryland’s Medicaid mandatory managed care program — or Priority Partners — the name of a private health plan participating in that program. Given this, we are also concerned that enrollees fully intending to

---

<sup>1</sup> <https://www.kff.org/disparities-policy/fact-sheet/proposed-changes-to-public-charge-policies-for-immigrants-implications-for-health-coverage/>

<sup>2</sup> <https://www.kff.org/disparities-policy/press-release/proposed-changes-to-public-charge-policies-could-lead-to-declines-in-medicaid-and-chip-enrollment-as-immigrant-families-face-rising-fear-and-uncertainty-about-using-public-programs/>

<sup>3</sup> <https://www.kff.org/disparities-policy/issue-brief/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid/>

<sup>4</sup> <https://www.kff.org/disparities-policy/issue-brief/family-consequences-of-detention-deportation-effects-on-finances-health-and-well-being/>

<sup>5</sup> <https://www.cbpp.org/research/health/medicaid-works-millions-benefit-from-medicaid-effective-efficient-coverage>

<sup>6</sup> [https://ccf.georgetown.edu/wp-content/uploads/2015/08/Medicaid-at-50\\_final.pdf](https://ccf.georgetown.edu/wp-content/uploads/2015/08/Medicaid-at-50_final.pdf)

<sup>7</sup> [https://ccf.georgetown.edu/wp-content/uploads/2015/08/Medicaid-at-50\\_final.pdf](https://ccf.georgetown.edu/wp-content/uploads/2015/08/Medicaid-at-50_final.pdf)

comply with public charge will, because of confusion around the name of their coverage, unwittingly run afoul of the new rule.

If finalized, this regulation could have a devastating economic impact on states, hospitals and other health care providers. States will lose billions in Medicaid funding that they rely on, and hospitals across the country are likely to experience a significant loss of Medicaid payments followed by an increase in uncompensated care for those individuals who do eventually seek care. According to a recent analysis, an estimated \$68 billion in health care services for Medicaid and CHIP would be at risk due to the “chilling effect” of this proposed regulation.<sup>8</sup> A loss of Medicaid coverage and dollars will have a negative impact on public and population health efforts due to uninsured individuals not accessing needed health care services. Further, this rule will likely widen existing health disparities, as the populations that are affected are largely communities of color.

Additionally, DHS asks for input on whether CHIP should be included in section 212.21(b)(2). CHIP is among the most successful of all public health care programs in our nation, and has in its 20 years of existence drastically reduced the number of children who are uninsured. According to the Kaiser Family Foundation, between 1997 when CHIP was enacted through 2012, the uninsured rate for children fell by half, from 14 percent to 7 percent. Today, nearly 9 million children across the U.S. depend on CHIP for their health care, as do approximately 370,000 pregnant women. CHIP has a positive impact on health outcomes, including reductions in avoidable hospitalizations and child mortality, and non-health circumstances, such as reducing school absences. CHIP, like Medicaid, improves health, which translates into educational gains with potentially positive implications for both individual economic well-being and overall economic productivity.<sup>9</sup> Given the success CHIP has had in bringing needed health care services to our nation’s children, our belief that defining CHIP as a public benefit will have a dangerous chilling effect on enrollment, and for many of the same reasons we request that Medicaid be excluded from consideration, the Partnership strongly urges DHS to continue to exclude CHIP from consideration in a public charge determination in the final rule.

As a network of providers caring for very vulnerable adults, families, women and children, we are extremely concerned about the impact the proposed changes would have on our patients’ health and livelihoods. Through our work in hospitals, health centers and communities, we see how health insurance coverage — particularly through Medicaid — helps our patients care for themselves, address chronic health conditions, combat addiction and mental health problems, and care for their children.

Overall, due to the above-mentioned anticipated decrease in Medicaid enrollment due to the chilling effect of this regulation, we anticipate an increase in uninsurance and an increase in uncompensated care that will negatively impact safety-net providers, states, cities and counties. In fact, recent data show a disturbing increase in the number of uninsured children,

---

<sup>8</sup> <https://www.manatt.com/Insights/White-Papers/2018/Medicaid-Payments-at-Risk-for-Hospitals-Under-Publ>

<sup>9</sup> <https://www.kff.org/medicaid/issue-brief/the-impact-of-the-childrens-health-insurance-program-chip-what-does-the-research-tell-us/>.

the first time there has been an increase in nearly a decade.<sup>10</sup> We recommend that DHS exclude Medicaid and continue to exclude CHIP from consideration in a public charge determination in the final rule. Furthermore, given the proposed rule's potential to reduce access to additional critical services not explored in detail in this letter, such as nutrition and housing assistance, we urge DHS to withdraw it altogether. We appreciate the opportunity to provide comments on the proposed rule, and we look forward to working with the administration to ensure all Medicaid beneficiaries have access to high-quality health coverage, care and services. If you have any questions, please contact Amanda Cook at the Children's Hospital Association, First Co-Chair of the Partnership for Medicaid, at (202) 753-5328 or [Amanda.cook@childrenshospitals.org](mailto:Amanda.cook@childrenshospitals.org).

Sincerely,

American Academy of Family Physicians  
American Academy of Pediatrics  
American College of Obstetricians and Gynecologists  
American Dental Education Association  
American Health Care Association  
American Health Care Association/National Center for Assisted Living  
America's Essential Hospitals  
Association for Community Affiliated Plans  
Association of Clinicians for the Underserved  
Catholic Health Association of the United States  
Children's Hospital Association  
The Jewish Federations of North America  
Medicaid Health Plans of America  
National Association of Community Health Centers  
National Association of Pediatric Nurse Practitioners  
National Association of Rural Health Centers  
National Council for Behavioral Health  
National Health Care for the Homeless Council  
National Hispanic Medical Association

---

<sup>10</sup> [https://ccf.georgetown.edu/wp-content/uploads/2018/11/UninsuredKids2018\\_Final\\_asof1128743pm.pdf](https://ccf.georgetown.edu/wp-content/uploads/2018/11/UninsuredKids2018_Final_asof1128743pm.pdf)