

December 10, 2018

Samantha Deshommes, Chief  
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U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW  
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Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Chief Deshommes:

I am writing on behalf of Heartland Alliance in regards to the Department of Homeland Security (DHS) Notice of Proposed Rulemaking, *Inadmissibility on Public Charge Grounds*, published in the Federal Register on October 10, 2018. We welcome the opportunity to provide comment and express strong opposition to the rule in its entirety. DHS should rescind this rule and instead continue to follow the current policy outlined in the 1999 Immigration and Naturalization Service (INS) field guidance.<sup>1</sup>

Heartland Alliance has served immigrants coming to Chicago looking for a better life for 130 years. Our work in housing, healthcare, education and economic opportunity, safety, and justice has led to deep expertise in these areas and helped innumerable families exit poverty, heal from trauma, and achieve stability. We have seen over generations of assisting immigrants other marginalized groups that all of us benefit when everyone has a fair chance at success, and everyone has the equal opportunity to participate, prosper, and reach their full potential. With the proper supports, aspiring immigrants and families of all kinds can and do contribute immensely to our nation. Immigration makes our nation stronger—it always has—and we must take care to protect the human rights, needs, and dignity of the immigrant community that has contributed so much.

This proposed rule stands in stark contrast to our country's commitment to providing opportunity and facilitating the inclusion and integration of immigrants into the United States. It proposes to overturn a century of settled policy by expanding the definition of a public charge to include non-cash benefits such as Medicaid, Supplemental Nutrition Assistance Program (SNAP), and low-income housing assistance for the first time. Indeed, this significant reinterpretation goes even further by reducing the weight given to having a family sponsor and establishing new income, education, and language factors that will disproportionately penalize low-income immigrants, women, and people of color. This dramatic departure from long-standing policy is a vision of

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<sup>1</sup> *Field Guidance on Deportability Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28689, <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>

America that Heartland Alliance, along with the majority of Americans rejects: a country that excludes people experiencing poverty or who are earning lower wages but are contributing to their families and communities. We urge DHS to affirm the dignity and worth of all immigrants and to rescind this cruel policy change.

In this document we address the following nine concerns: (1) The proposed rule will inappropriately reduce immigration by low-income families, women, and people of color; (2) The new English language proficiency factor is poorly justified and discriminatory; (3) The proposed rule will discourage eligible beneficiaries and exempt populations from using public benefits; (4) The public charge assessment should not consider the use of Medicaid benefits; (5) The public charge assessment should not consider the use CHIP benefits; (6) The public charge assessment should not consider the use of SNAP benefits; (7) The rule would reduce enrollment and success rates in adult education and workforce programs; (8) The rule will increase homelessness which leads to a myriad of other negative consequences; and (9) The rule's chilling effect on immigration applications.

Heartland Alliance opposes the proposed public charge rule. If implemented this rule will limit legal immigration, punish immigrants living in poverty, and stoke fear and confusion in immigrant communities. Thank you for the opportunity to submit comments on the proposed rule. Please do not hesitate to contact me if you have any questions or need any further information.



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**Heartland Alliance’s Detailed Comments in Opposition to DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Proposed Rulemaking: Inadmissibility on Public Charge Grounds**

**1. The proposed rule will inappropriately reduce immigration by low-income families, women, and people of color**

At its core, the proposed rule change seeks to change U.S. immigration policy from one based on family reunification to one based on socioeconomic status. Family reunification has been the bedrock of our immigration policy since 1965 when its implementation ended the era of the racist quota system. Unfortunately, the proposed rule change has the potential to establish an immigration policy that favors immigrants with certain backgrounds and who hail from certain parts of the world once more.

The proposed rule defines an expanded list of factors that immigration officials must consider when processing a green card application. The new factors include whether the applicant is employed or in school, has income below 125 percent of the federal poverty level (FPL), has completed high school, and is able to speak English. These new considerations have no statutory basis and will have a harmful and widespread effect on U.S. immigration policy.

The proposed rule will directly affect 1.1 million individuals seeking to obtain lawful permanent resident (LPR) status, about half of whom already reside in the U.S. An estimated 380,000 such individuals sought a status adjustment through a pathway that would be subject to a public charge determination under the proposed rule. It is difficult to know how many of these individuals would be denied a green card under the proposed rule but a recent study did show that recent green card recipients frequently had one or more negative factors. The study estimated that 69% of green card recipients had at least one negative factor, including 43% who were not employed or in school, 33% who earned less than 125% FPL, 25% who did not have a high school diploma, and 39% who did not speak English well or at all.<sup>2</sup> This represents a sizable proportion of those granted LPR status and admitted into the country and the new rule could deny millions of similarly situated immigrants in the years to come.

The use of income, educational attainment, and employment status in determining green card applications is based on a faulty premise that those who are poor when they immigrate to the U.S. will stay poor and not contribute to society. This is not born out in the experience of Heartland Alliance or in the research. Heartland Alliance has seen through decades of work in adult education, refugee resettlement programming, job training, and other programming that immigrants take full advantage of the economic opportunities provided to them given the correct supports.<sup>3</sup> Indeed, while immigrants often earn less than non-immigrants when they first arrive, they quickly catch up over time. This trend is seen even more strongly when comparing

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<sup>2</sup>Migration Policy Institute, Gauging the Impact of DHS’ Proposed Public-Charge Rule on U.S. Immigration, Nov. 2018, <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.

<sup>3</sup>Migration Policy Institute. *English Plus Integration: Shifting the Instructional Paradigm for Immigrant Adult Learners to Support Integration Success*. Brief. October 2018. <https://www.migrationpolicy.org/research/english-plus-integration-instructional-paradigm-immigrant-adult-learners>

immigrants with low educational attainment to less educated non-immigrants.<sup>4</sup> This proposed rule change does not take the economic mobility of immigrants into account in its presumptions about who is likely to become a public charge and instead simply discriminates against low-income families and those from less developed countries, predominantly people of color.

The rules income factor will also unduly penalize women and make it more likely that women will receive a negative assessment than men. Among recent lawful permanent residents, 65 percent of women had incomes less than 125% of the FPL.<sup>5</sup> Approximately two-fifths of immigrant women are low-wage workers and are overrepresented in low-wage occupations such as domestic work, retail, personal care aides, and nursing, psychiatric, and home health aides.<sup>6</sup> Immigrant women are also more likely than immigrant men to have one or more children living in their household and will therefore need even more income to reach the 125% FPL threshold.<sup>7</sup>

DHS' proposal to consider factors such as whether an applicant has completed high school will make the prospects of lawful permanent residency more difficult for immigrant women. While there is variation in educational attainment among countries of origin, immigrant women from certain countries such as Mexico, El Salvador, and China are less likely to have completed high school, and are therefore less likely to be able to overcome a negative assessment based on this factor.<sup>8</sup> Low-wage immigrant women workers are even more likely to receive a negative assessment.

## **2. The new English language proficiency factor is poorly justified and discriminatory**

The proposed rule includes, for the first time, English proficiency as a factor immigration officials must consider. This poorly justified addition violates numerous civil rights laws and is unsupported by statute, but is also contrary to American values. We believe the presence of any person in this country, regardless of their English skills, is not a burden but rather a contribution to the vibrant and rich landscape that makes up this nation.

The proposed rule 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. In addition, the public charge statute does not include English proficiency as a factor to be considered in an individual's assessment and instead refers only to "education and skills," among other factors.

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<sup>4</sup> Ku, Leighton and Pillai, Drishti, *The Economic Mobility of Immigrants: Public Charge Rules Could Foreclose Future Opportunities* (November 15, 2018). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3285546](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3285546)

<sup>5</sup> Migration Policy Institute, *Gauging the Impact of DHS' Proposed Public-Charge Rule on U.S. Immigration*, Nov. 2018, <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.

<sup>6</sup> American Immigration Council, *The Impact of Immigrant Women on America's Labor Force*, March 2017, <https://www.americanimmigrationcouncil.org/research/impact-immigrant-women-americas-labor-force>.

<sup>7</sup> Migration Policy Institute, *Immigrant Women in the United States*, March 20, 2015, <https://www.migrationpolicy.org/print/15239#.W-dshZNKjIU>.

<sup>8</sup> *Id.*

The agency offers a limited, yet erroneous number of justifications for its proposal to add English proficiency to the list of factors. For example, the agency states that those who cannot “speak English may be unable to obtain employment in areas where only English is spoken.” There is a significant difference between English proficiency and having no ability to speak the language, which the agency appears to conflate here. Many individuals have limited, but some English proficiency, and are able to fulfill many employment roles. Second, the U.S. is a deeply multilingual country, where 63 million people speak a language other than English at home. In fact, there are at least 60 counties in the United States where over 50 percent of the population speaks a language other than English, which includes some of the most heavily populated.<sup>9</sup> Thus, a person who speaks a non-English language can meaningfully contribute both in employment and civic society.

DHS also cites the 2014 Survey of Income and Program Participation data about the use of benefits by populations at various levels of English language ability, yet draws improper conclusions about the data. For example, states such as New York and California, which have higher numbers of LEP populations, also have higher income thresholds for Medicaid. Higher Medicaid eligibility thresholds means higher usage rates, and does not support a conclusion that limited English proficiency leads to higher benefit usage. In addition, DHS claims that “numerous studies have shown that immigrants’ English language proficiency or ability to acquire English proficiency directly correlate to a newcomer’s economic assimilation into the United States,” yet three out of the four studies cited use data derived from Europe, and the fourth relies on Current Population Survey data that is nearly 30 years old. This evidence is insufficient to support DHS’ proposed change.

Furthermore, by giving de-facto preference to individuals from English speaking nations, DHS is unraveling the efforts over decades to move us away from the pre-1965 racist quota system. This preference will unfairly advantage immigrants from Europe over those from Central American, Mexico, and Asia, unfairly handicapping immigrants of color seeking to come here. Incorporating English proficiency in a public charge assessment would also have a greater negative impact on women. Among LEP individuals, women with limited English proficiency are much less likely to participate in the labor force than men (49 percent vs. 75 percent).<sup>10</sup> Further, LEP women who have jobs are more than twice as likely to work in low-wage service occupations (45 percent vs. 20 percent) than are women with English proficiency.<sup>11</sup> Thus, the rule will also have a disproportionate impact on women if language proficiency continues to be considered.

Heartland Alliance sees the importance of English language education, but has also seen immigrants in need of such services contribute fully to their communities. We offer Vocational and English Language Training (VELT) to nearly 800 immigrants each year with limited English proficiency. VELT offers four levels of ESL, one-on-one and group tutoring, job readiness, digital literacy, and transitions counseling to English language learners, including refugees and

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<sup>9</sup> 2012-2016 American Community Survey Estimates, Table S1601.

<sup>10</sup> Migration Policy Institute, *The Limited English Proficient Population in the United States*, July 8, 2015, <https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states>.

<sup>11</sup> *Id.*

immigrants. In addition, VELT provides contextual English sector-specific vocational training in hospitality and information technology (IT). This training prepares participants for better job opportunities and helps immigrants integrate and give back to their communities.

Research from the Organization for Economic Cooperation and Development (OECD) shows a strong connection between better basic skills and higher earnings – more so than other industrialized countries.<sup>12</sup> This means that as an immigrant improves their reading, math, and spoken English skills, they will be better able to contribute economically to American society. However, individuals commonly improve their English skills through participation in education programs, including those offered at Heartland Alliance, community colleges and other higher education institutions. The prospect of decreased health care access, increased hunger, and home instability may cause affected populations to de-prioritize skills development.<sup>13</sup>

### **3. The proposed rule will discourage eligible beneficiaries and exempt populations from using public benefits**

In addition to those who will be directly impacted by the rule, many eligible beneficiaries will choose to forgo important benefits due to confusion, fear, and misinformation. A chilling effect caused by this rule could affect as many as 41.1 million non-citizens and family members of non-citizens—almost 13 percent of the entire U.S. population.<sup>14</sup> History shows that such chilling effects are likely. The chilling effect after enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in the late 1990's decreased rates of Medicaid coverage and led to immigrants avoiding treatment, delaying care, using “underground” sources of care, and seeking uncompensated care.<sup>15</sup> Confusion about the changes to public benefit eligibility and immigration policy led to a significant decline in receiving certain non-cash benefits and legal immigrants' use of public assistance programs. Even among groups of immigrants who were explicitly excluded from the 1996 eligibility changes, and U.S citizen children in mixed status families, participation dropped. In fact, researchers found that there were 25% disenrollment among children of foreign-born parents from Medicaid even though the majority of these children were not affected by the eligibility changes and remained eligible.

DHS completely ignores these likely secondary effects on immigrant communities and makes no attempt to model their impact on the overall health and well-being of the nation. Outside analyses, however, show the chilling effect may be significant. In Illinois, there are 1.76 million total immigrant residents (noncitizens and naturalized citizens).<sup>16</sup> If the proposed rule were finalized, it could deter as many as 1.04 million immigrants and their family members (including

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<sup>12</sup> *Time for the US to Reskill?* (OECD, 2013.)

<sup>13</sup> Ludden, Jennifer, "Barriers Abound for Immigrants Learning English," National Public Radio. (September 11, 2007). Available at: <https://www.npr.org/templates/story/story.php?storyId=14330106>.

<sup>14</sup> Manatt Health, *Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard* (2018), <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>.

<sup>15</sup> Leighton Ku & Alyse Freilich, Kaiser Family Found., *Caring for Immigrants: Health Care Safety Nets in Los Angeles, New York, Miami, and Houston* 7 at 13-15 (2001), <https://aspe.hhs.gov/system/files/pdf/72701/report.pdf>.1

<sup>16</sup> Jeanne Batalova, Michael Fix, and Mark Greenberg *Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use* (Washington, DC: Migration Policy Institute, 2018) <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>.

U.S. citizen children) living in Illinois from accessing health care, nutrition or housing assistance.<sup>17</sup>

This has been the experience of Heartland Alliance as well. We operate a number of programs that serve refugee and immigrant families and immigrant survivors of torture, human trafficking and other crimes. These populations are exempt from the public charge assessment, and yet many of our participants have expressed fear and confusion around how the proposed rule affects their immigration applications and decisions related to public benefits. We have already seen participants dis-enroll from SNAP, Medicaid and other programs they are legally authorized to participate in, jeopardizing their food security, health, well-being, and economic security. As the Administration acknowledges, public benefits “play a significant role” in the lives of recipients.<sup>18</sup> These programs provide critical support to assist individuals and families to work, to attend school, and to maintain and improve their health. When individuals and families access these vital programs the entire community and country benefits and when they do not, food security, health, education, and economic security suffer. Months of speculation about the proposed rule have already resulted in a “chilling effect” of legal immigrants dis-enrolling their children (regardless of the child’s citizenship status) from health care and other public programs. And research shows that these trends can be even stronger in exempt populations, such as refugees, than in the populations who are impacted by proposed policy changes.<sup>19</sup> This is emblematic of the power of chilling effects in the immigrant community.<sup>20</sup>

#### **4. The public charge assessment should not consider the use of Medicaid benefits**

It is inappropriate for DHS to include Medicaid in the public charge assessment. Congressional intent clearly shows that use of Medicaid benefits should not count against immigrants. For example, PRWORA limited eligibility for federal means-tested public benefits such as Medicaid and SNAP to “qualified” immigrants, and defined “qualified” as being a lawful permanent resident who has held that status for five years or more. This demonstrates that Congress intended immigrants to use means-tested benefits and not to be penalized for such use. Similarly, Congress enacted the Children’s Health Insurance Program Reauthorization Act (CHIPRA) in 2009, which included the Legal Immigrant Child Health Improvement Act (ICHIA), to allow lawfully present immigrant children and those who are pregnant to enroll in Medicaid without needing to wait 5 years (i.e., “meet the 5-year bar). Congress would not have extended eligibility in this way if it thought it inappropriate for immigrants to use Medicaid.

The impact of this proposed policy would be disastrous. The inclusion of Medicaid in the proposed rule will result in decreased participation in Medicaid, which in turn, would increase

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<sup>17</sup> 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 20122016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center (MCDC) MABLE PUMA-County Crosswalk. Custom Tabulation by Manatt health, 9/30/2018. Found online at <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>.

<sup>18</sup> See 83 Fed. Reg. 51,163.

<sup>19</sup> Mitchell H. Katz & Dave A. Chokshi, *The “Public Charge Proposal and Public Health*, JAMA NETWORK (2018), <https://jamanetwork.com/journals/jama/fullarticle/2705813>.

<sup>20</sup> Neeraj Kaushal & Robert Kaestner, Welfare Reform and health insurance of Immigrants, 40 HEALTH SERVS. RES. At 713-71 (June 2005), [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361164/pdf/hesr\\_00381.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361164/pdf/hesr_00381.pdf); Fix & Passel, *supra* note 13, at 4; Namratha R. Kandula et al., *The Unintended Impact of Welfare Reform on the Medicaid Enrollment of Eligible Immigrants*, 39 HEALTH SERVS. RES. 1509 at 1519-1521 (2004).

the uninsured rate among immigrant families, negatively affecting their health and financial stability. There are also an estimated 388,000 non-citizens enrolled in the Illinois Medicaid Program. As stated above, according to the Kaiser Family Foundation, the proposed rule could lead to disenrollment rates between 15 percent and 35 percent. Therefore, statewide in Illinois between 58,200 (15% of 388,000) and 135,800 (35% of 388,000) non-citizens could disenroll from Medicaid due to the proposed rule. This would reduce access to care for families, contributing to worse health outcomes; reduced participation in nutrition and other programs would likely compound these effects.<sup>21</sup> Overall, reduced participation in Medicaid and other programs would negatively affect their health and financial stability and the growth and healthy development of their children, who are predominantly U.S.-born.<sup>22</sup>

Heartland Alliance provides primary care, dentistry, and behavioral health care services in our clinics, as well as going outside our doors to bring health care to those who need it most – on the streets, in shelters, in our grocery centers and in our own housing facilities. Medicaid serves as the backbone of these services, representing the largest source of funding for our health programs. If Medicaid coverage were to drop, not only would our clinics suffer financially but our participants would also struggle to get basic care such as prescription drugs and diagnostic testing. A significant drop in Medicaid coverage would also impede addressing urgent public health crises such as the opioid epidemic.

Most fundamentally, the inclusion of Medicaid in the public charge determination demonstrates a deep misunderstanding of the nature of the program and in health benefits more generally. Medicaid is not a subsistence benefit that results in government dependency. Rather, it is a benefit that supports low-wage work, economic achievement and reduces the likelihood of medical debt. Enrolling in Medicaid enables low-wage workers to: find and retain employment,<sup>23</sup> decrease reliance on cash assistance,<sup>24</sup> save more and contribute more to the local economy,<sup>25</sup> address previously unmet medical needs,<sup>26</sup> timely pay bills,<sup>27</sup> purchase better quality food and housing,<sup>28</sup> access credit and reduce debt,<sup>29</sup> and achieve financial stability.<sup>30</sup>

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<sup>21</sup> Proposed Changes to “Public Charge” Policies for Immigrants: Implications for Health Coverage, Kaiser Family Foundation, Sept. 24, 2018, available at: <https://www.kff.org/disparities-policy/fact-sheet/proposed-changes-to-public-charge-policies-for-immigrants-implications-for-health-coverage/>

<sup>22</sup> *Id.*

<sup>23</sup> Larisa Antonisse and Rachel Garfield, The Relationship Between Work and Health: Findings from a Literature Review, <https://www.kff.org/medicaid/issue-brief/the-relationship-between-work-and-health-findings-from-a-literature-review/>.

<sup>24</sup> Aparna Soni et. al., *Medicaid Expansion And State Trends In Supplemental Security Income Program Participation*, <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2016.1632>; Marguerite Burns & Laura Dague, *IRP Discussion Paper: The Effect of Expanding Medicaid Eligibility on Supplemental Security Income Program Participation*, <https://www.irp.wisc.edu/publications/dps/pdfs/dp143016.pdf>;

<sup>25</sup> Karina Wagerman et. al., *Medicaid Is A Smart Investment in Children*, <https://ccf.georgetown.edu/wp-content/uploads/2017/03/MedicaidSmartInvestment.pdf>.

<sup>26</sup> Robin Rudowitz and Larisa Antonisse, *Implications of the ACA Medicaid Expansion: A Look at the Data and Evidence*, [http://nasuad.org/sites/nasuad/files/KFF\\_Implications-of-the-ACA-Medicaid-Expansion\\_May-2018.pdf](http://nasuad.org/sites/nasuad/files/KFF_Implications-of-the-ACA-Medicaid-Expansion_May-2018.pdf); Loujia Hu et. al., *The effect of the affordable care act Medicaid expansions on financial wellbeing*, <https://www.sciencedirect.com/science/article/abs/pii/S0047272718300707>; Benjamin D. Sommers et. al., *Health Insurance Coverage and Health — What the Recent Evidence Tells Us*, <https://www.nejm.org/doi/10.1056/NEJMs1706645>.

<sup>27</sup> *Id.*

<sup>28</sup> Karina Wagerman et. al., *Medicaid Is A Smart Investment in Children*, <https://ccf.georgetown.edu/wp-content/uploads/2017/03/MedicaidSmartInvestment.pdf>.

<sup>29</sup> [http://nasuad.org/sites/nasuad/files/KFF\\_Implications-of-the-ACA-Medicaid-Expansion\\_May-2018.pdf](http://nasuad.org/sites/nasuad/files/KFF_Implications-of-the-ACA-Medicaid-Expansion_May-2018.pdf). See also <http://journals.sagepub.com/doi/full/10.1177/1077558717725164>;

Most Medicaid beneficiaries, including many of Heartland Alliance's participants, are low-wage workers who lack affordable individual or employer-sponsored health insurance options. Immigrants are more likely to earn lower wages on average,<sup>31</sup> and the unstable nature of the low-wage job market is also associated with adverse health effects among its workers.<sup>32</sup> A lack of alternative affordable insurance options leads to increased barriers to accessing care, poorer health outcomes, and subsequent increased risk of job loss among this population.<sup>33</sup> Similarly, unmet mental and behavior health needs further increase the risk of joblessness.<sup>34</sup> Medicaid provides a pivotal safeguard against such unmet health care needs, thereby enabling individuals with such health conditions to obtain needed care and maintain their employment. Medicaid acts as a support for this entire category of workers as they move between jobs, seek higher-paying employment, or build up savings. Medicaid also provides financial security to individuals and families, allowing them to spend the little money they do have on better quality food, housing, schooling, and other essential services.

Medicaid safeguards low-income individuals and families against the prospect of unpredictable and unexpected high medical costs that could otherwise consume a large portion of their finances.<sup>35</sup> The money that would be used to pay for such avoidable medical costs are instead used to better provide for basic needs and to build wealth and socioeconomic success.<sup>36</sup>

The proposed rule would also cause major harm to the children of legal immigrant parents, whether they are U.S. citizens or legal immigrants themselves. Although the proposed rule exempts children who are U.S. citizens, the health of legal immigrant parents and their U.S. citizen children cannot be separated. Children thrive when their parents can access needed health care (including mental health and addiction treatment), when their families have enough to eat, and a roof over their heads. Conversely, parents' stress and health challenges impede effective caregiving and can undermine a child's development.

## 5. The public charge assessment should not consider the use CHIP benefits

We are adamantly opposed to the inclusion the Children's Health Insurance Program (CHIP) in the list of public benefits considered in the public charge test. DHS would be exceeding its regulatory authority and abusing its discretion if it were to do so. As mentioned above, Congress explicitly intended lawfully present immigrant children to access CHIP without

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<sup>30</sup> <http://www.nber.org/papers/w25053>; The Ohio Department of Medicaid, *Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly* (The Ohio Department of Medicaid, January 2017), <http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf>;

<sup>31</sup> *The Economic and Fiscal Consequences of Immigration*, National Academies Press, <https://www.nap.edu/read/23550/chapter/6#122> p 122.

<sup>32</sup> Larisa Antonisse and Rachel Garfield, *The Relationship Between Work and Health: Findings from a Literature Review*, <https://www.kff.org/medicaid/issue-brief/the-relationship-between-work-and-health-findings-from-a-literature-review/>.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Benjamin Sommers et. al., *Health Insurance Coverage and Health — What the Recent Evidence Tells Us*, <https://www.nejm.org/doi/10.1056/NEJMs1706645>; see also Margot Sanger-Katz, *1,495 Americans Describe the Financial Reality of Being Really Sick*, <https://www.nytimes.com/2018/10/17/upshot/health-insurance-severely-ill-financial-toxicity-.html>.

<sup>36</sup> Karina Wagerman et. al., *Medicaid Is A Smart Investment in Children*, <https://ccf.georgetown.edu/wp-content/uploads/2017/03/MedicaidSmartInvestment.pdf>.

needing to wait 5 years. Therefore, by discouraging enrollment in this program, the Department will only violate Congressional intent. In Illinois, 442,000 U.S. citizen children have a non-citizen parent.<sup>37</sup> An estimated 224,000 of these children are enrolled in the Medicaid program. Using the Kaiser projected disenrollment percentages, an additional 33,600 (15% of 224,000) to 78,400 (35% of 224,000) children could disenroll in Medicaid in Illinois due to the proposed rule. Fear and the chilling effect on public benefit enrollment alone would cause this decrease in children's health coverage. The inclusion of CHIP benefits in the formal public charge determination would only exacerbate this effect.

Continuous, consistent coverage without disruptions is especially critical for young children. Child health experts recommend 16 well-child visits (more heavily concentrated in the first two years) before the age of six to monitor their development and address any concerns or delays as early as possible.<sup>38</sup> As noted by the Center for Children and Families, a child's experiences and environments early in life have a lasting impact on his or her development and life trajectory. The first months and years of a child's life are marked by rapid growth and brain development.<sup>39</sup>

## **6. The public charge assessment should not consider the use of SNAP benefits**

This proposed rule will not only create fear and confusion but will discourage participation in vital federal benefit programs like the Supplemental Nutrition Assistance Program (SNAP). This will increase hunger throughout immigrant communities, putting the health and well-being of children at risk. The new rule would punish immigrants if they receive food assistance by jeopardizing their ability to stay in the United States and making it harder for immigrant families to put food on the table. Federal nutrition programs like SNAP were designed Congress to be there for all citizens and eligible legal immigrants when they fall on hard times. This rule undermines congressional intent and our longstanding federal commitment to helping those who struggle to have enough healthy food to eat. Including SNAP as part of the proposed rule will greatly increase the number of people experiencing hunger and food insecurity.

In Illinois, there are more than 185,000 people living in families with noncitizens that receive SNAP. Additionally, there are 94,000 children in Illinois who receive SNAP who have a non-citizen parent. Even though all of those people may not be technically affected by the public charge rule changes, there is a chilling effect that is likely to impact this broader group and in some cases their citizen children. SNAP effectively eliminated child malnutrition in our country and

Food insecurity is associated with some of the most common and costly health problems among adults, including diabetes, heart disease, obesity, hypertension, chronic kidney disease,

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<sup>37</sup> Samantha Artiga, Anthony Damico, and Raphael Garfield, "Potential effects of Public Charge Changes on Health Coverage for Citizen Children," (Washington, DC: Kaiser Family Foundation, May 2018), available at: <https://www.kff.org/disparities-policy/issue-brief/potential-effects-of-public-charge-changes-on-health-coverage-for-citizen-children/>.

<sup>38</sup> Elisabeth Wright Burak, Georgetown Center for Children and Families, *Promoting Young Children's Healthy Development in Medicaid and the Children's Health Insurance Program (CHIP)*, Oct. 2018, <https://ccf.georgetown.edu/wp-content/uploads/2018/10/Promoting-Healthy-Development-v5-1.pdf>.

<sup>39</sup> *Id.*

and depression. The consequences of food insecurity are especially detrimental to the health, development, and well-being of children. Research shows a link between food insecurity and poor educational performance and academic outcomes for children — all of which have developmental, health, and economic consequences in both the short and long terms.<sup>40</sup>

The proposed changes will also have consequences well beyond the immigrant families to whom they apply. Charitable food networks and emergency systems will be strained as families turn to emergency rooms, food banks and shelters and human services providers like Heartland Alliance for help.

## **7. The rule would reduce enrollment and success rates in adult education and workforce programs**

The public charge rule would damage government and community ability to support their residents in achieving higher education and workforce policy goals. Importantly, immigrants represent 1 in 6 American workers,<sup>41</sup> and are crucial to meeting the demand for middle-skill positions such as machine operators, welders, certified nurse aides, and computer user support specialists. Training for middle-skill positions is often provided by community colleges and non profits, where some immigrants draw on public benefits such as SNAP to enable them to complete their studies. Counting these students' use of public benefits as a negative factor in the public charge test will undermine immigrants' ability to upskill and prepare for the jobs that American employers need.

To accomplish these goals, states have established programs and services to equip returning adult students to persist and succeed in their education, including through assistance in accessing key public benefits. For example, in 2018 Illinois, under Heartland Alliance's leadership, passed Senate Bill 351, known as the College Hunger Bill, to facilitate access to Supplemental Nutrition Access Program (SNAP) benefits for low-income community college students enrolled in career and technical education courses of study. Research has shown that supportive services that help individuals access public benefits programs are often vital to ensuring that working adults succeed in postsecondary education.<sup>42</sup>

Evidence from prior changes in immigration policy strongly suggests that many immigrants who are *not* subject to the public charge test will nevertheless withdraw from a broad array of public programs and services out of confusion, fear, or an abundance of caution. Following the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, thousands of immigrant families withdrew from public benefits programs *for which they were eligible*.<sup>43</sup> The proposed regulation has already been widely publicized, and human

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<sup>40</sup> Food Research & Action Center, *The Impact of Poverty, Food Insecurity, and Poor Nutrition on Health and Well-Being* (Dec. 2017), available at: <http://www.frac.org/wp-content/uploads/hunger-health-impact-poverty-food-insecurity-health-well-being.pdf>

<sup>41</sup> Migration Policy Institute, *Frequently Requested Statistics on Immigrants and Immigration* (February 8, 2018), available at: <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states>

<sup>42</sup> Rand Corporation, *Connecting College Students to Alternative Sources of Support The Single Stop Community College Initiative and Postsecondary Outcomes* (Rand Corp., 2016.) Available at: [http://www.singlestopusa.org/wp-content/uploads/2016/11/RAND-Report\\_Executive-Summary-1.pdf](http://www.singlestopusa.org/wp-content/uploads/2016/11/RAND-Report_Executive-Summary-1.pdf)

<sup>43</sup> Michael Fix & Jeffery Passel, *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform*, March 1999, available at <https://www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits->

services agencies have already reported an increase in immigrants dis-enrolling from public benefits programs.<sup>44</sup> If this regulation is enacted forward, it is reasonable to assume that this type of disenrollment will continue, and will include two types of erroneous disenrollment: 1) immigrants who are *not* subject to the public charge test, and 2) immigrants who are dis-enrolling even from services that are not included in the public charge determination. This mistaken disenrollment would lower overall participation rates for adult education and workforce programs, as well as reducing the likelihood of success for participants who withdraw from services midway through.”

The public charge rule would penalize immigrants for using such benefits, thus creating a disincentive for immigrants to participate in the very programs that are intended to help them succeed in their education and contribute economically. As a result, this federal regulation would undercut state and local efforts to invest in the human capital of their residents, by discouraging qualified immigrants from even applying for public benefits programs. Since the leak of the public charge rule Heartland Alliance participants have been reluctant to transfer to local community colleges to continue their career and technical education and training for fear of how requests for financial aid and/or childcare assistance or other public benefits might impact their immigration applications.

#### **8. The rule will increase homelessness which leads to a myriad of other negative consequences**

Heartland Housing develops and manages sustainable, innovative and high-quality affordable housing that respond to local needs across the Midwest. We were one of the first supportive housing developers in the country to combine development and supportive services for residents. The proposed rule will impede access to housing for thousands of immigrant families, and will create a chilling effect that puts millions of immigrants at risk of homelessness. Low-income immigrants already face substantial barriers to housing. By chilling access to assistance from already at-risk groups, the new public charge rule threatens to push those already struggling even deeper into poverty. Heartland Alliance stands united with our partners against the public charge rule—even if the direct housing impact of the rule were reduced to zero—because the public charge rule will force immigrants and their families to forego other forms of critical assistance. This means family budgets will be tightened, directly impacting the amount of money a family has to pay for housing.

Safe, decent and affordable housing is key to a person’s economic security. Housing instability can catalyze poverty and homelessness. This is a real problem in our communities. In Illinois, there are only 59 affordable rental units for every 100 low-income renter households. A household is “rent-burdened” if it must spend more than 30% of its income on housing. Nearly half of all renters in Chicago are considered rent burdened more than a quarter were *severely* rent-burdened, paying more than 50% of their income in rent. Research

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[following-welfare-reform](#). Also see Leighton Ku & Alyse Freilich, *Caring for Immigrants: Health Care Safety Nets in Los Angeles, New York, Miami, and Houston*, Feb. 2001, available at <https://files.eric.ed.gov/fulltext/ED453330.pdf>

<sup>44</sup> Source: “Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services,” (New York Times, March 6, 2018.) Available at: [www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html](http://www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html)

continues to show that quality housing leads to positive outcomes on public health, economic independence, neighborhood vitality, and educational outcomes.<sup>45</sup>

The proposed rule will steer many immigrants away from applying for critical housing assistance, and those already participating in these programs will feel compelled to give up the lifeline assistance that keeps their families one step away from homelessness. Immigrant families, faced with the threat of separation, will be forced from housing assistance programs under the proposed public charge rule, causing increased rates of homelessness and unstable housing among an already vulnerable population.<sup>46</sup> Reduced access to other work supports like health care or nutrition will also make it harder for immigrants facing housing instability to pay rent or remain in private housing.

DHS has acknowledged in the proposed rule that there is an anticipated widespread chilling effect. In the Cost-Benefit Analysis portion of the rule,<sup>47</sup> DHS directly addresses this issue—but frames it as a positive, only accounting for allegedly “non-monetized” consequences such as increased emergency room use, worse health outcomes for pregnant women and children, and housing instability.<sup>48</sup>

This outcome will not only hurt these families while they struggle to find housing in the short term, but will lead to reduced opportunities and increased health problems for these [families in the long term](#).<sup>49</sup> Studies have shown that unstable housing situations can cause individuals to experience increased hospital visits, loss of employment, and mental health problems.<sup>50</sup> Having safe and stable housing is crucial foundation for good health, sustaining employment, and overall economic security. These effects will be particularly prominent in children, many of whom are U.S. citizens, who are part of immigrant families. Research has shown that economic and housing instability [negatively impacts children’s cognitive development](#), leading to poorer life outcomes as adults.<sup>51</sup> Housing instability is directly correlated to decreases in student retention rates and contributes to homeless students’ high suspension rates, school turnover, truancy, and expulsions, limiting students’ opportunity to obtain the education they need to succeed later in life.<sup>52</sup>

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<sup>45</sup> <http://www.howhousingmatters.org/>

<sup>46</sup> Pratt Ctr. For Community Development, *Confronting the Housing Squeeze: Challenges Facing Immigrant Tenants, and What New York Can Do* (2018), <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do>.

<sup>47</sup> 83 Fed. Reg. 51114, 51266

<sup>48</sup> 83 Fed. Reg. 51114, 51270

<sup>49</sup> Megan Sandel et al., *Unstable Housing and Caregiver and Child Health in Renter Families*, 141 *Pediatrics* 1 (2018), <http://pediatrics.aappublications.org/content/141/2/e20172199>.

<sup>50</sup> Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, Center on Budget and Policy Priorities (October 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains>; see also Linda Giannarelli et al., *Reducing Child Poverty in the US: Costs and Impacts of Policies Proposed by the Children’s Defense Fund* (Jan. 2015), <http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf>.

<sup>51</sup> Heather Sandstrom & Sandra Huerta, *The Negative Effects of Instability on Child Development: A Research Synthesis* (2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

<sup>52</sup> Mai Abdul Rahman, *The Demographic Profile of Black Homeless High School Students Residing in the District of Columbia Shelters and the Factors that Influence their Education* 55 (Mar. 2014) (Ph.D. dissertation, Howard University), available at <http://gradworks.umi.com/3639463.pdf> (citations omitted).

Additionally, as a housing provider, we are anticipating that the chilling effect of this rule will result in many eligible immigrant families to forgo housing assistance, leading to tenant turnover in assisted units. This turnover poses significant administrative costs for housing providers. Again, these costs and burdens on housing providers are not addressed in the rule. DHS should partner with HUD to perform a comprehensive study on the impact the public charge rule will have on housing providers and local housing markets more generally, before finalizing the proposed rule.

## **9. The rule's chilling effect on immigration applications**

Uncertainty and confusion about what the proposed rule means and how it will be implemented will prevent many qualified individuals from filing immigration applications out of fear of a denial based on public charge grounds. In addition, as has been well-documented, widespread misinformation and confusion created by drafts of the rule leaked to the press have resulted in a marked decline in the use of a wide variety of life-sustaining benefits by immigrant families,<sup>53</sup> as well as instability and anxiety among individuals with lawful status - including those in exempt categories such as refugees and survivors of human trafficking.<sup>54</sup>

This chilling effect will disproportionately impact applicants for lawful permanent residence through the family immigration system and unduly harm women and people of color.

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<sup>53</sup> Migration Policy Institute, *Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use*, (June 2018), available at [https://www.immigrationresearch-info.org/system/files/Chilling\\_Effects\\_Public\\_Charge\\_Rule.pdf](https://www.immigrationresearch-info.org/system/files/Chilling_Effects_Public_Charge_Rule.pdf).

<sup>54</sup> The Henry J Kaiser Family Foundation, *Living in an Immigrant Family in America: How Fear and Toxic Stress are Affecting Daily Life, Well-Being, & Health*, (December 2017), available at <https://www.kff.org/report-section/living-in-an-immigrant-family-in-america-issue-brief/>