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December 10, 2018

Samantha Deshommes
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

Dear Ms. Deshommes,

The American Public Human Services Association (APHSA), a bipartisan nonprofit membership organization representing state and local health and human service agencies through their top-level leadership, is writing in response to the Department of Homeland Security's (DHS) Request to Comment on a Notice of Proposed Rulemaking (NPRM). The NPRM, entitled Inadmissibility on Public Charge Grounds (DHS Docket No. USCIS-2010-0012) was posted in the Federal Register on October 10, 2018. Thank you for the opportunity to comment.

DHS lists a number of purposes of the NPRM including: better ensuring that applicants for admission to the United States and applicants for adjustment of state to lawful permanent resident who are subject to the public charge ground of admissibility are self-sufficient; provide clarity around existing regulations; and achieving cost savings. The NPRM proposes to expand the list of programs and factors that may be considered by the U.S. Citizenship and Immigration Services (USCIS) when determining whether some foreign nationals seeking admission into the United States as a nonimmigrant or as an immigrant, or seeks adjustment of status, is likely to become a "public charge." APHSA opposes DHS's proposed regulatory changes regarding public charge determination and recommends DHS withdraw the proposed rule.

We are health and human services practitioners on the ground dedicated to supporting thriving communities built on human potential. At the core of our work is our shared belief that all people should have the opportunity to live fulfilling, healthy lives and achieve our fullest potential regardless of where we live, where we come from, or what hardships we face. Supporting the health and well-being of all people, immigrant and mixed-status families alike, makes all communities across this country stronger. No matter their immigration status, individuals should be able to seek and access basic medical and nutrition supports, especially without fearing that doing so will jeopardize their [immigration] status and their

The American Public Human Services Association advances the well-being of all people by *influencing* modern approaches to sound policy, *building* the capacity of public agencies to enable healthy families and communities, and *connecting* leaders to accelerate learning and generate practical solutions together.

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families' futures. DHS's proposed regulatory changes regarding public charge stand in sharp contrast to these beliefs.

The combined changes outlined in the proposed rule would likely cause many low-income families with individuals subject to the public charge determination to become economically strained and disconnected. The proposed rule will likely result in a lack of permanency for parents and caregivers, as well as those outside the United States awaiting reunification. The immediate consequences of the separation of an adult family member likely include loss of earned-income and/or loss of a family caregiver, both of which would only hinder low-income families economic, social, and physical well-being. The long-term harmful impacts of family separation are well-established. For children and adolescents, loss of the attachment bond with parents is psychologically damaging regardless of the circumstances. In addition to physical and cognitive delays, it can have lifelong impacts on their ability to relate and connect with others and to give and receive support. Deficiencies in these areas can be detrimental not just to the individual but to the next generation as well. Furthermore, the parent-child relationship is bidirectional and emerging research suggests that separation from their children can lead to complex trauma in parents. These are the very sorts of outcomes APHSA's membership works tirelessly to ameliorate and prevent.

Furthermore, APHSA is deeply concerned that the proposed rule will have a "chilling effect." That is, it will likely lead many immigrants and mixed-status families—including many for whom the proposed rule does not apply—to disengage from the programs listed in the NPRM and also place these populations and their communities at a significant disadvantage to benefit from the preventative components of the health and human services system. In the NPRM, DHS notes that previous studies examining the effect of welfare reform changes in 1996 showed enrollment reductions ranging from 21 percent to 54 percent from public programs due to this chilling effect and acknowledges the likelihood that this proposed rule would similarly result in enrollment reductions. And yet, while DHS recognizes the likelihood of this impact, it does not account for the broader chilling effect in its estimates of the number of individuals who would disenroll from the various programs listed in the NPRM. Therefore, DHS severely underestimates the number of people who will likely disenroll from the programs listed in the proposed rule.

DHS estimates that about 142,000 individuals would disenroll from Medicaid per year but this estimate assumes that only individuals directly affected by the public charge rule would disenroll or forego coverage. It does not account for disenrollment effects among their family members or among other noncitizen families. Analysis conducted by the Kaiser Family Foundation accounts for disenrollment and foregone coverage by both individuals directly affected by the proposed rule and by their family members and noncitizen families for whom the proposed rule would not apply.¹ The Foundation estimates that between 2.1 million and 4.9 million

¹ Kaiser Family Foundation (2018). *Estimated impacts of the proposed public charge rule on immigrants and Medicaid*. Available at <https://www.kff.org/disparities-policy/issue-brief/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid/>.



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Medicaid/Children's Health Insurance Program (CHIP) enrollees living in a family with at least one noncitizen would disenroll.

Despite acknowledging that the proposed rule will likely have a chilling effect, the NPRM makes no mention of any measures it or other federal agencies would take to inform those not subject to the public charge determination that their current and future immigration status will not be negatively impacted if they use public benefits. If DHS proceeds with the proposed rule, APHSA recommends it include additional language about efforts it will make to prevent or reduce the chilling effect.

Many of APHSA's members have already received reports of evidence of the chilling effect from their frontline employees (i.e., caseworkers, etc.) and its potential negative impacts are significant. If fewer individuals utilize basic health and nutrition programs such as Medicaid, CHIP, the Supplemental Nutrition Assistance Program (SNAP), and federal housing programs, state- and county-funded programs, as well as charitable organizations, hospitals, public health agencies, and struggling not for profit organizations will experience increased demands from those individuals and their families and increased pressure on their budgets. And while the proposed rule might result in a marginal decrease in federal spending on upstream services, downstream costs will likely increase for not only the federal government, but for states and communities as well.

Disenrollment and forgone enrollment in federally-funded health and human services programs will contribute to worse health outcomes, family and economic instability, and lack of community well-being. They would likely intensify our nation's already poor maternal and child health outcomes by discouraging children and pregnant women eligible for Medicaid and CHIP from utilizing these programs. Communities will face an increased risk for public health disease outbreaks. Individuals and families who are discouraged from accessing health and human services programs will be at greater risk for hunger, food insecurity, health instability, and housing instability—all conditions that are correlated with or proven to lead to a host of poor outcomes for children and families such as cognitive, social, and emotional developmental delays, poor academic and job performance, and lower productivity. DHS itself acknowledges these issues in the NPRM, as well as potential negative impacts on health care providers, grocery retailers, agricultural producers, and landlords.

Not only does APHSA oppose DHS's proposed regulatory changes regarding public charge because they contradict our core principles and jeopardize the health and well-being of families and communities, but also because they would create a significant administrative burden for health and human services agencies. In its analysis of the costs and benefits of the proposed rule, DHS recognizes that it would add new direct and indirect costs on various entities associated with regulatory familiarization with the provisions of the rule and that is certainly true for health and human services agencies.

Furthermore, DHS states that under the proposed rule, individuals applying for extension of stay or change of status "would be required to demonstrate that they have not received, are not currently receiving, nor are likely in the future to receive, public benefits as described in proposed 8 CFR 212.21(b)." It does not appear that DHS has considered the impact such a requirement would have on health and human services agencies. Undoubtedly, those



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individuals would turn to their local health and human services offices, increasing customer traffic and detracting from the time and resources available to workers to serve individuals and families. And while some state data systems may be able to track and generate reports on how many months an individual has been or was enrolled in public benefits programs, that data may reside in multiple systems, and other state data systems may not have such functionality at all. While modernizing interoperable systems is a priority for health and human service agencies, without continued resources to build that capacity, it remains elusive for many states.

Due to these many likely harmful impacts and APHSA's firm belief that all people should have the opportunity to live healthy lives and enrich their communities, we strongly oppose this proposed rule. For the same reasons, we strongly oppose the inclusion of CHIP should DHS choose to proceed with the proposed rule. For further information, please contact Kerry Desjardins at kdesjardins@aphsa.org or (202) 682-0100 x268.

Sincerely,

A handwritten signature in black ink that reads "Tracey Wareing-Evans".

Tracey Wareing-Evans
President and CEO
American Public Human Services Association