November 2, 2020

Mark Phillips  
Residence and Naturalization Chief  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security


Dear Mr. Phillips,

The American Public Human Services Association respectfully submits these comments in response to the Notice of Proposed Rulemaking, Affidavit of Support on Behalf of Immigrants, published on October 2, 2020 on the Federal Register by the Department of Homeland Security (DHS). APHSA is a bipartisan, nonprofit membership organization representing state and local health and human services agencies that seek to advance policies and practices that support the health and well-being of all children and families.

The proposed rule includes several new or increased evidentiary requirements that a sponsor must meet when signing an Affidavit of Support to provide financial support to a sponsored immigrant and accept liability for reimbursing the costs of any means-tested public benefits a sponsored immigrant receives while the Affidavit is in effect. Among these, the rule would require an Affidavit include a sponsor that has not received any means-tested public benefit on or after the effective date of the rule and within the 36-month period prior to executing the Affidavit. In the case that a petitioning or substitute sponsor does not meet this criteria, a joint sponsor must be included that meets this criteria and has not had a prior judgment entered against him or her for failing to meet a prior sponsorship or household member obligation.

DHS notes the rule provides advanced notice to public benefit granting agencies on how receipt of benefits may impact the determination of whether an Affidavit is sufficient and requests comment on if and how these agencies may modify enrollment processes and documentation for affected benefit programs. As the national association representing health and human services agencies that are responsible for implementing many of the affected benefit programs, including SNAP, TANF, and Medicaid, APHSA has focused its response to the proposed rule specifically to this question and the rule’s impacts to our member agencies and the families they serve.
APHSA opposes the proposed change to link eligibility for sponsorship to non-receipt of public benefits in the prior 36-month period, as this will cause significant undue burden for health and human services agencies. Health and human services agencies do not want nor are they suited to advise potential beneficiaries of the immigration consequences of receipt of assistance. Accordingly, agencies are not positioned to modify enrollment procedures or program documentation to reflect the changes included in this rule.

Should the proposed rule be finalized, it will lead to increased costs for health and human services agencies to verify receipt or non-receipt of benefits for sponsors over the 36-month period preceding the Affidavit. The rule does not establish how DHS will verify receipt of benefits from sponsors; however, enforcement of this rule will assuredly result in DHS or persons seeking to be sponsors requesting documentation of benefit receipt status from health and human services agencies. The financial burden of responding to these requests and producing such documentation is not accounted for in the proposed rulemaking.

APHSA is also concerned that the rule will discourage immigrants and their sponsors from accessing critical supports that form the building blocks of well-being needed to weather emergencies and periods of uncertainty. The COVID-19 pandemic has reinforced the important role benefits such as SNAP, TANF, and Medicaid play in helping millions of Americans displaced from work due to economic forces beyond their control. Federal policy should not put parents in a position to have to decline benefits that can keep their family at home from falling into a crisis in order to sponsor their family abroad.

Furthermore, the proposed rule will exacerbate the chilling effect already taking place that is leading to reduced participation in benefits and services from eligible immigrant families. Adding additional barriers to access to health and human services programs will only deepen existing structural inequities and impede upward mobility for immigrant communities that disproportionately include people of color.

Health and human services agencies play an important role providing economic opportunities for all Americans. The presumption in the proposed rule that prior receipt of public assistance is an indicator of future receipt runs counter to the mission of our members to support people on their path to economic mobility and family-sustaining work. Current evidentiary rules that prioritize recent income and assets when making a determination of eligibility for sponsorship are satisfactory in determining whether an individual will be able to provide financial support to a sponsored immigrant. Accordingly, APHSA urges the Department to rescind its proposed requirements that link eligibility for sponsorship to non-receipt of past benefits.

Thank you for the opportunity to comment on this proposed rule. For additional information, please contact Matt Lyons, Director of Policy & Research, at mlyons@aphsa.org.
Sincerely,

Duke Storen

Commissioner, Virginia Department of Social Services
Chair, APHSA Leadership Council

Matthew Lyons

Director, Policy & Research
American Public Human Services Association