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Chief, Regulatory Coordination Division  
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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 Children's Defense Fund (CDF), we write to express our strong opposition to the Notice of Proposed Rulemaking (NPRM or proposed rule) regarding "inadmissibility on public charge grounds" published in the *Federal Register* on October 10, 2018 by the Department of Homeland Security (DHS or the Department).<sup>1</sup> CDF appreciates the opportunity to submit comments on behalf of the well-being of children in immigrant families in the United States (U.S.).

CDF has been advocating for children for 45 years and seeking strong support for families through passage of laws and implementation of rules, programs and services in their best interest. CDF's Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start*, and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. This mission of course includes children in immigrant families. In addition to its national office in Washington, D.C., CDF also has offices in California, Minnesota, New York, Ohio, and Texas, and our Southern Regional Office in Mississippi, which reaches into Alabama, Arkansas, Florida, Georgia and Louisiana. Each of our offices in different ways engage regularly in advocacy for children in immigrant families.

### **Anticipated Harm to Children**

CDF believes the revised definition of "public charge" in the proposed rule would cause great harm to the children in immigrant households, whether they are immigrants or citizens themselves. Children's well-being is inseparable from their parents' and families' well-being. Help received by parents is central to children's health and well-being in both the immediate and long term. Children thrive when their parents can access needed health or mental health care,

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<sup>1</sup> See <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds> at 51114.

when their families have enough to eat, and have a roof over their heads. When such help is not forthcoming, children are harmed. Parents' stress and health challenges also impede effective caregiving and can undermine children's development. In states that have chosen to provide Medicaid coverage to all lawfully present pregnant women, a woman's fear of using health care during her pregnancy could threaten her child's future and prevent the mother from later extending or improving her immigration status and providing for her family. As explained in more detail later in our comments, a child's use of Medicaid as an adolescent could also impede his or her ability to apply for a green card as a young adult.

Parents and children will also be harmed as state and local resources become stretched and scarce due to the lack of federal support for public benefits for health, food, and housing assistance. When overall resources are in short supply and the ability of families to make it without help is compromised, children may also come to the attention of the child welfare system and be placed in foster care. This is of course harmful for the children and also of special concern for public child welfare agencies, particularly at a time when public systems are seeing their foster care caseloads grow as a result of the opioid crisis.

The proposed rule will have a chilling effect, and indeed has already had a chilling effect, on use of benefits throughout entire households, far beyond those that later apply for a change in immigration status; many children in these households who are eligible for services will forgo them. The Department's own commentary to the proposed public charge regulation acknowledges some of the harms noted above when describing the impact a chilling effect from the new public charge rule could have on children and their immigrant families. The NPRM commentary notes that the fear and misinformation may prompt families to avoid accessing important programs regardless of whether participation will actually count within the public charge determination. The proposed rule will also likely impact both U.S. citizen and other children with immigrant parents. It is important to note as well that even talk about a new public charge rule has already impeded access of children and families to a range of public benefits, some of which ended up in the proposed regulation, and others that did not. Specifically, the NPRM states:

“Disenrollment or foregoing enrollment in public benefits program by aliens otherwise eligible for these programs could lead to:

- Worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence;
- Increased use of emergency rooms and emergent care as a method of primary health care due to delayed treatment;
- Increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated;
- Increases in uncompensated care in which a treatment or service is not paid for by an insurer or patient; and

- Increased rates of poverty and housing instability; and
- Reduced productivity and educational attainment.”<sup>2</sup>

The negative impact of the chilling effect and actual effect of the new public charge rule will also jeopardize our country’s economic future. Investing in nutrition, health care, and other essential needs keeps children learning, parents working, and families strong, allowing children to grow and develop the skills they need for a lifetime of success in the U.S. The strength of America’s economic future is dependent on the well-being and success of children – our future workforce and tax base. However, rather than trying to help immigrant families stay healthy, well fed, housed, and their children learn and work their way out of poverty and into self-sufficiency, the proposed rule could jeopardize our country’s economic future by causing tax-paying people who are legally eligible for supports to forgo them. The impact of the proposed rule will likely be widespread and long term: one in four children in the U.S. — nearly 18 million children — has at least one immigrant parent. The vast majority of these children — about 88 percent or 16 million — are U.S. citizens.

For the reasons above and those described in more detail below, CDF urges the Department of Homeland Security to withdraw the proposed public charge rule in its entirety.

### **The Proposed Public Charge Rule Expands the Reach of the Public Charge Determination to Harm More Immigrant Families and Children**

There are six important proposed changes to the existing public charge rule that make it particularly harmful to immigrant families and their children.

First, the NPRM seeks to expand who may be deemed a public charge in the consideration of an application for lawful permanent resident status and/or lawful admission. It would expand the designation from someone who relies on the government as their main source of support to include any immigrant who simply “receives one or more public benefits.”<sup>3</sup> This shift drastically increases the scope of who can be considered a public charge to include not just people who receive benefits as the main source of support, but also people who draw on benefits to help them work, raise their families, and succeed in the future.

Second, the proposed rule expands the types of benefits considered in a public charge test to include basic needs benefits, not just those that provide income support or long-term care. The additional public benefits specified include Medicaid (with a few exceptions), the Supplemental Nutrition Assistance Program (SNAP), the Medicare Part D Low Income Subsidy, and federal housing assistance programs including Section 8 Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, and Public Housing.

Third, the proposed new public charge rule also seems to be suggesting in various places that the benefits being examined were chosen based on their overall enrollment and cost rather than their relevance to a family’s needs. Examining the use of a program, in part because of its cost when

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<sup>2</sup> *Id.* at 51270.

<sup>3</sup> *Id.* at 51157.

assessing whether a particular individual may become a public charge, seems to be contrary to the individualized assessment required by the Immigration and Nationality Act, and instead to have an overall goal of reducing government expenditures.

Fourth, the proposed public charge rule also introduces an unprecedented income test. Families with incomes below 250 percent of the federal poverty line, or nearly \$63,000 for a family of 4, would find it difficult to become green card holders. Targeting lower-income families will only exacerbate hunger and food insecurity, unmet health care needs, homelessness, and other serious problems, leading to greater poverty and less economic/professional mobility.

Fifth, the new public charge rule also introduces other factors in considering a person's likelihood of becoming a public charge, including age, health, family status, and education. The proposal gives negative weight to children or seniors, limited English proficiency, poor credit history, limited education, or a large family. It fails to recognize that families draw on benefits, often sporadically, to help them work, raise their families and succeed in the future.

Sixth, while the new rule asserts that the use of benefits directly by children in households where other immigrants are applying to DHS for entry will not be counted toward the adult's assessment for public charge, it does provide that in the case of a young adult under 21, use of benefits as a child within 36 months of their own application will be counted in the public charge determination. Discouraging adolescents from receiving health, nutrition, housing, or educational supports as they move forward in life will only make it harder for them to achieve economic security in the future.

### **The Proposed Public Charge Rule Would Have a Chilling Effect on Families' and Children's Access to Essential Benefits**

Beyond those families directly subject to a new rule, expanding the public charge determination will have a broad chilling effect and deter many entire immigrant households from accessing *any* essential public benefits out of fear it will negatively impact their immigration status. The complexity and severity of implications stemming from the rule will cause fear and uncertainty among immigrant families even if they are entitled to benefits. In other words, even immigrants and family members who are not subject to this rule – including U.S. citizen children – will be deterred from receiving benefits to which they are entitled due to general confusion and fear.

The proposed rule would prevent some immigrants from using the programs their own tax dollars help support. It would increase poverty, hunger, ill health and unstable housing by discouraging enrollment in programs that improve health, food security, nutrition, and economic security, with profound consequences for families' well-being and long-term success. The fear created by such a rule would extend far beyond any individual who may be subject to the public charge test, harming entire communities as well as the infrastructure that serves all of us, such as schools, hospitals, and clinics. As mentioned earlier on pages 2-3, many of these consequences are identified in the NPRM, and a substantial body of evidence demonstrates they are highly significant and damaging.

In fact, the chilling effect on service use by immigrants has already been felt. Research conducted in 2017 and 2018 confirms anti-immigrant federal policy and rhetoric continues to create barriers in access to health and nutrition programs for people in immigrant families.<sup>4</sup> Health and nutrition service providers noticed an increase in canceled appointments and requests to disenroll from means-tested programs in 2017. Researchers also found that early childhood education programs reported drops in attendance and applications as well as reduced participation from immigrant parents in classrooms and at events, along with an uptick in missed appointments at health clinics. Another recent study found that immigrant families — including those who are lawfully present — are experiencing resounding levels of fear and uncertainty across all background and locations. For example, in a 2018 survey of health care providers in California, more than two-thirds (67 percent) noted an increase in parents’ concerns about enrolling their children in Medi-Cal (California’s Medicaid program), WIC and CalFresh (California’s SNAP program), and nearly half (42 percent) reported an increase in skipped scheduled health care appointments.<sup>5</sup>

### **The Proposed Public Charge Rule Would Negatively Impact Child Health**

For the specific reasons below, the Children’s Defense Fund urges the Department of Homeland Security to withdraw its proposed public charge rule, which would cause great harm to families and children who are or could benefit from Medicaid and the Children’s Health Insurance Program. Later in this section, we discuss our additional reasons for advising the Department not to add CHIP to the list of benefits reviewed in a public charge determination.

#### ***Children’s Basic Health Care Needs***

Medicaid successfully provides health coverage to 74 million of our nation’s low income people,<sup>6</sup> of whom approximately 37 million are children, making Medicaid the country’s largest insurer of children.<sup>7</sup> CHIP covers an additional 9.4 million children.<sup>8</sup> Together, these two programs serve more than one in three children in the U.S.<sup>9</sup> Thanks to Medicaid and CHIP, the number of uninsured children has dropped to record lows.<sup>10</sup> About 16.3 million immigrants (about 39 percent) live in families in which someone receives Medicaid or CHIP and about eight

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<sup>4</sup> Jennifer Laird et al, *Foregoing Food Assistance Out of Fear Changes to “Public Charge” Rule May Put 500,000 More U.S. Citizen Children at Risk of Moving into Poverty*, Columbia Population Research Center (April 5, 2018), [https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5af1a2b28a922db742154bbe/1525785266892/Poverty+and+Social+Policy+Brief\\_2\\_2.pdf](https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5af1a2b28a922db742154bbe/1525785266892/Poverty+and+Social+Policy+Brief_2_2.pdf).

<sup>5</sup> The Children’s Partnership, *California Children in Immigrant Families: The Health Provider Perspective*, <https://www.childrenspartnership.org/wp-content/uploads/2018/03/Provider-Survey-Inforgraphic-.pdf>.

<sup>6</sup> April 2018 Medicaid & CHIP Enrollment Data Highlights, *medicaid.gov*, accessed July 25, 2018, <https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/>.

<sup>7</sup> “Child Enrollment in CHIP and Medicaid by State, FY2016,” *macpac.gov*, accessed July 25, 2018, <https://www.macpac.gov/wp-content/uploads/2015/01/EXHIBIT-32.-Child-Enrollment-in-CHIP-and-Medicaid-by-State-FY-2016.pdf>.

<sup>8</sup> “Total Number of Children Ever Enrolled in CHIP,” *The Henry J. Kaiser Family Foundation*, accessed July 25, 2018, <https://www.kff.org/other/state-indicator/annual-chip-enrollment/?currentTimeframe=0&sortModel=%7B%22collid%22:%22Location%22,%22sort%22:%22asc%22%7D>.

<sup>9</sup> Carrie Fitzgerald, “Medicaid: Cost-Effective Coverage that Works for Kids,” *First Focus*, April 2018, <https://firstfocus.org/wp-content/uploads/2018/04/Medicaid-and-Kids-April-2018-.pdf>.

<sup>10</sup> The Annie E. Casey Foundation, *2017 Race for Results: Building a Path to Opportunity for All Children*, 2017, <http://www.aecf.org/resources/2017-race-for-results/>.

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

million of these are citizen children.<sup>11</sup> The rate of uninsured children was reduced by half between 2009 and 2016, from 8.6 percent to 4.5 percent.<sup>12</sup>

Children are guaranteed coverage for all medically necessary services through Medicaid's Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit that requires all children get the services they need for their unique, developmental health needs. Specifically, EPSDT ensures coverage for developmental assessments for infants and young children, well-child visits, and vision, dental and hearing screenings, as well as follow up care for any health needs identified in those screenings. This helps ensure children get the care they need to maximize their growth and development, and hence their future success in school and life in the U.S. 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.<sup>13</sup> Continuous, consistent health coverage without disruption is especially critical for young children, as experts recommend 16 well-child visits before age six, more heavily concentrated in the first two years, to monitor their development and address any concerns or delays as early as possible. Multiple studies confirm that early childhood or prenatal access to Medicaid improves health and reduces reliance on cash assistance.<sup>14</sup>

Obtaining access to care through Medicaid also offers many long-term benefits for children. They tend to do better in school, miss fewer days due to illness or injury, and are more likely to graduate high school and college, with better economic outcomes as adults compared to those not enrolled. As adults, people who were enrolled in Medicaid as children fare better on average by having better health, fewer hospitalizations and emergency room visits, earning more money and paying more taxes.<sup>15</sup>

Children are less likely to have their own health coverage or to seek care if their parents are uninsured, so the parents who go without health coverage as a result of changes to public charge will also negatively impact their children and their communities. If a parent withdraws from Medicaid, or fails to enroll their child in CHIP due to a public charge concern, the family is at risk of untreated illness, lost work days due to illness, medical debt, unpaid bills and bankruptcy. Clearly this runs counter to DHS' goal of self-sufficiency for immigrant families in our country.

### ***Children with Disabilities and Other Special Health Care Needs***

Adding Medicaid to the public charge assessment in the proposed rule would disproportionately affect children with special health care needs. According to estimates from the National Survey

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<sup>12</sup> Joan Alker and Olivia Pham, "Nation's Uninsured Rate for Children Drops to Another Historic Low in 2016," *Georgetown University Health Policy Institute Center for Families and Children*, September 2017, <https://ccf.georgetown.edu/wp-content/uploads/2017/09/Uninsured-rate-for-kids-10-17.pdf>.

<sup>13</sup> Christine Percheski and Sharon Bzostek, "Public Health Insurance and Health Care Utilization for Children in Immigrant Families," *Maternal and Child Health Journal* 21 (2017).

<sup>14</sup> 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-Insecurityand-Immigration-Helping-Our-Youngest-First-Generation-Americans-to-Thrive.pdf>; Chloe N. East, "The Effect of Food Stamps on Children's Health: Evidence from Immigrants' Changing Eligibility," Working Paper, 2017, [http://www.chloeast.com/uploads/8/9/9/7/8997263/east\\_fskids\\_r\\_r.pdf](http://www.chloeast.com/uploads/8/9/9/7/8997263/east_fskids_r_r.pdf).

<sup>15</sup> Danilo Trisi and Guillermo Herrera, "Administration Actions Against Immigrant Families Harming Children Through Increased Fear, Loss of Needed Assistance," *Center on Budget and Policy Priorities*, May 15, 2018, <https://www.cbpp.org/research/poverty-and-inequality/administration-actions-against-immigrant-families-harming-children>.

of Children’s Health, roughly 2.6 million children in immigrant families have a disability or special health care need.<sup>16</sup> Children with special health and developmental needs tend to require medical, behavioral, and/or educational services above and beyond what children without special needs require to keep them healthy and promote positive development.

These special needs make children with disabilities in immigrant families particularly vulnerable to hardship due to the economic burdens associated with requiring specialized care. Roughly half of all children with a disability or other special health care needs rely on public insurance for a variety of services and supports, including respite care, occupational, physical, or speech therapies, and prescription drugs. These services are critical to keep children healthy and thriving, but they are typically costly – even with insurance – and are out of reach for families who lack coverage.

Parents of children with disabilities typically work fewer hours and ultimately earn less income due to their children’s caregiving needs. As a group, children with disabilities are more likely to live in low-income households and to experience food insecurity and housing instability, making programs like SNAP and housing assistance vital to their well-being.<sup>17</sup> Ensuring that children with special health care needs have access to services helps their parents maintain work and improve earnings. The proposed rule would restrict immigrant families’ access to public anti-poverty programs and further exacerbate the economic hardships that children with disabilities and other special needs already experience. At a minimum, forgoing critical services could hamper children’s developmental progress. For some families, the stakes are even higher: comprehensive coverage through these programs is necessary to keep their children alive.

A recent analysis from the California Health Care Foundation estimated that 700,000 to 1.7 million children nationwide in need of medical attention are likely to be disenrolled from Medicaid/CHIP if the proposed public charge rule is finalized.<sup>18</sup> Once disenrolled, these children are likely to become uninsured and are thus at higher risk of going without care or experiencing delays in care. Delayed or forgone care then contributes to worsening and more costly health conditions. Moreover, prevention and treatment of childhood conditions prevents children from missing school, and allows parents to be more productive. This group of disenrolled children includes (among others) approximately:

- 143,000 to 333,000 children with at least one potentially life-threatening condition, including asthma, influenza, diabetes, epilepsy, or cancer;
- 122,000 to 285,000 children on prescribed medications;
- 102,000 to 238,000 newborns; and
- 53,000 to 124,000 children with musculoskeletal and rheumatologic conditions like fractures and joint disorders.

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<sup>16</sup> Sloan Work and Family Research Network, “Questions and Answers About Employed Parents Caring for Children with Disabilities.”

<sup>17</sup> Rebecca Ulrich, “Cuts to Medicaid Would Harm Young Children with Disabilities, Center for American Progress, 2017, <https://www.americanprogress.org/issues/early-childhood/reports/2017/05/03/431766/cuts-medicaid-harm-young-children-disabilities/>.

<sup>18</sup> Leah Zallman and Karen Finnegan, Changing Public Charge Immigration Rules: The Potential Impact on Children Who Need Care published by the California Health Care Foundation, October 23, 2018.



While the proposed rule includes exceptions for Medicaid-funded services provided through the Individuals with Disabilities Education Act (IDEA), it is unclear how this carve-out would work in practice. Children with special needs cannot and do not receive Medicaid for educational services alone. The exclusion of Medicaid-funded IDEA services will most likely do little to encourage families who are fearful of participating in Medicaid to maintain their enrollment.

### ***Harms to Children Will Worsen if CHIP Is Added to the Public Charge Rule***

In response to the Department's specific request for comment on whether the Children's Health Insurance Program (CHIP) should be included in a public charge determination, the Children's Defense Fund urges you to withdraw the entire proposed rule and certainly not add CHIP to it.

CHIP is a program for working families who earn too much to be eligible for Medicaid. Making the receipt of CHIP a negative factor in the public charge assessment or including it in the public charge definition would exacerbate the problems with the proposed rule by extending its reach further to exclude moderate income working families – and applicants likely to earn a moderate income at some point in the future.

The inclusion of CHIP would also be counter to Congress' explicit intent when it expanded CHIP coverage to include lawfully present children and pregnant women in 2009. At that time, Congress recognized the public health, economic, and social benefits of ensuring these populations have access to care. This provision, known as the Legal Immigrant Children's Healthcare Improvement Act (ICHIA), gave states a new option to cover lawfully present immigrant children and pregnant women in their CHIP and Medicaid programs without the five-year waiting period. States that exercised the option increased coverage for their eligible but unenrolled children. The 34 states and the District of Columbia that took up ICHIA experienced a 24.5 percent increase in insurance coverage after the expansion compared to states that did not expand their programs.<sup>19</sup> They also experienced reductions in unmet health care needs compared to those in states that did not, which helped close the substantial gap in coverage between immigrant and non-immigrant children.<sup>20</sup>

### **The Proposed Public Charge Rule Would Negatively Impact Children's Nutrition and Food Security**

#### ***Supplemental Nutrition Assistance Program (SNAP) Prevents Food Insecurity***

As the largest federal assistance program serving children, SNAP is the first line of defense against child food insecurity.<sup>21</sup> Including SNAP in a public charge determination would significantly undermine the program's role in fighting child poverty and food insecurity as well as erode its ability to generate economic activity on the whole in times of financial downturn. Already, undocumented non-citizens are ineligible to participate in SNAP. However, U.S.-born citizen children of immigrants and children who are 'qualified' immigrants are eligible for the

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<sup>19</sup> Brendan Saloner, Neel Koyawala, and Genevieve M. Kenney, "Coverage for Low-Income Immigrant Children Increased 24.5 Percent in States that Expanded CHIPRA Eligibility," *HealthAffairs*, Vol. 33, No. 5, May 2014, <https://www.healthaffairs.org/doi/10.1377/hlthaff.2013.1363>.

<sup>20</sup> *See id.*

<sup>21</sup> United States Department of Agriculture Office of Policy Support, "Measuring the Effect of Supplemental Nutrition Assistance Program (SNAP) Participation on Food Security (Summary)," August 2013, <https://fns-prod.azureedge.net/sites/default/files/Measuring2013Sum.pdf>.



program.<sup>22</sup> As a result, 433,000 eligible immigrant children received food assistance through SNAP in Fiscal Year 2017. If and when immigrant families with children apply for Legal Permanent Residency, this proposed rule would penalize them for requesting SNAP to avoid their children going hungry.

If parents lose access to SNAP, the whole family will have less to eat. Though research shows that food-insecure parents seek to shield their children from hunger by “rationing” their own food intake, this puts additional stress on the household and keeps parents from accessing the food they need to be productive and healthy enough to provide for their families. Furthermore, if pregnant women forgo nutrition assistance for which they are eligible due to the public charge rule, their babies will lose an important support that lowers their risk of low birthweight, adult obesity, and failure to complete high school.<sup>23</sup>

When children lack the necessary resources for consistent access to healthy food, they are at risk for malnutrition and other adverse health, educational, and developmental consequences.<sup>24</sup> Not only do children remain more susceptible to food insecurity than the general population, the risk is even higher for children of immigrants.<sup>25</sup> Children of immigrants who participate in SNAP are more likely to be in good or excellent health, be food secure, and reside in stable housing. 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. Additionally, low-income children who participate in SNAP have better long-term health and educational outcomes than those who do not.<sup>26</sup> Further, an additional year of SNAP eligibility for young children with immigrant parents is associated with significant health benefits in later childhood and adolescence. Beyond its role in fighting food insecurity, SNAP benefits lifted 1.5 million children out of poverty in 2017 alone.<sup>27</sup>

SNAP benefits also contribute valuable dollars to spur local economic activity.<sup>28</sup> Deterring eligible immigrant families from participating in SNAP will make hunger and poverty worse. It will also harm local economies, groceries and agricultural producers.

Finally, historically, Congress has recognized the importance of access to nutrition benefits for immigrants and their families. Since the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) overhauled immigrant eligibility for programs in 1996 and the Immigration and Naturalization Service (INS) released field guidance in 1999, Congress passed the 2002 Farm Bill expanding SNAP for immigrant children. Section 4401 of the Farm Security

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<sup>22</sup> The United States Department of Agriculture, “SNAP Policy on Non-Citizen Eligibility,” updated March 2017, accessed August 2018, <https://www.fns.usda.gov/snap/snap-policy-non-citizen-eligibility>.

<sup>23</sup> White House Council of Economic Advisors, “Long Term Benefits of the Supplemental Nutrition Assistance Program,” December 2015, [https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/SNAP\\_report\\_final\\_nonembargo.pdf](https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/SNAP_report_final_nonembargo.pdf).

<sup>24</sup> Child Trends, “Food Insecurity: Indicators of Child and Youth Wellbeing,” Child Trends Data Bank, December 2016, <https://www.childtrends.org/indicators/food-insecurity>.

<sup>25</sup> Mariana Chilton and Maureen M. Black, et al., “Food Insecurity and Risk of Poor Health Among US-Born Children of Immigrants.” *American Journal of Public Health*, March 2009, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661461/>.

<sup>26</sup> Steven Carlson and Brynne Keith-Jennings, “SNAP is Linked with Improved Nutritional Outcomes and Lower Health Care Costs,” Center on Budget and Policy Priorities, January 2018, <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care>.

<sup>27</sup> Liana Fox, “The Supplemental Poverty Measure: 2017,” United States Census Bureau, September 2018, <https://www.census.gov/content/dam/Census/library/publications/2017/demo/p60-261.pdf>.

<sup>28</sup> Miranda Dietz, et al, California’s Health Coverage Gains to Erode without Further State Action, from the UCLA Center for Health Policy Research, November 2018.

and Rural Investment Act restored access to what was then called Food Stamps (now SNAP) to immigrant children, immigrants receiving disability benefits and any qualified alien living in the U.S. for more than five years. Because immigrants and their families will be penalized for using these programs that they are lawfully allowed to use, this proposal effectively ends their eligibility. Statutory text, congressional debate and contemporary media coverage demonstrate that the establishment of eligibility of immigrants for Food Stamps (now SNAP) was an intentional use of legislative power, and therefore the Administration must defer to Congressional intent.

### **The Proposed Public Charge Rule Would Particularly Harm Young Children**

Roughly nine million young children under age eight – approximately 26 percent of all young children – in the U.S. live with one or more immigrant parent. The vast majority of these children – 94 percent – are citizens.<sup>29</sup> As a large segment of our young child population, the experiences, development, and education of children of immigrants are consequential for our entire country. Early childhood, in particular, is a formative period of development, and children need access to enough healthy foods, safe and stable housing, and adequate health care to grow up healthy and strong.<sup>30</sup> Decades of research show the positive impact of public benefits — such as Medicaid, and SNAP — on children’s long-term health and their economic security.<sup>31</sup> When young children and pregnant women get access to these programs, they are both healthier and their families have more money in their budgets to spend on other basic needs. Forty-five percent of all children ages five and younger are covered by Medicaid or CHIP.<sup>32</sup> Putting core benefits at risk would harm young children during their years of critical brain development.

### **The Proposed Public Charge Rule Could Threaten Separation of Children from Families and Cause Their Placement in Foster Care**

Although poverty is not supposed to be a basis for a charge of child neglect, too often lack of family resources still leads to such a determination and a family coming to the attention of the child welfare system. A family’s hesitancy to access health care, food and shelter for their children because of its impact on their long-term immigrant status could result in such a finding. And the lack of resources could also make the process of family stability and family reunification more difficult.

States could see an increase in their foster care population as a result of the proposed changes in public charge, which will lead to additional pressure on an already stressed child welfare system with increased demands on the workforce and family foster homes. And the burden of the new entries could become more complex if there are additional entries as the number of parents declared a public charge and denied green cards increases. Immigration and Customs Enforcement data show that roughly half a million U.S.-citizen children experienced the

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<sup>29</sup> Bachmeier and Van Hook, Migration Policy Institute tabulation of 2014 American Community Survey (ACS) and 2008 Survey of Income and Program Participation (SIPP).

<sup>30</sup> Jack P. Shonkoff and Deborah A. Phillips, eds., *From Neurons to Neighborhoods: The Science of Early Childhood Development*, National Research Council and Institute of Medicine, 2000.

<sup>31</sup> Maya Rossin-Slater, “Promoting Health in Early Childhood” *Future of Children* 25 (2015); Hilary Hoynes, Diane Whitmore Schazensbach, Douglas Almond, “Long-Run Impacts of Childhood Access to the Safety Net,” *American Economic Review* 106 (2016); David Murphey, *Health Insurance Coverage Improves Child Well-Being*, Urban Institute, 2017, <https://www.childtrends.org/publications/health-insurance-coverage-improves-child-well>.

<sup>32</sup> Georgetown University Health Policy Institute, Center for Children and Families, *Medicaid’s Role for Young Children*, 2017, <https://ccf.georgetown.edu/wp-content/uploads/2017/02/MedicaidYoungChildren.pdf>.

apprehension, detention and deportation of at least one parent between 2011 and 2013 and those numbers have grown in the last several years.<sup>33</sup> There will be a need to find foster parents who will understand and address the trauma these children have faced and be able to communicate with them in their native language. States will also feel extra fiscal pressures as maintenance payments for these children in foster care will not be eligible for federal reimbursement under Title IV-E of the Social Security Act unless the children are citizens or legal permanent residents.

### **The Proposed Public Charge Rule Would Increase Lack of Access to Housing and Homelessness for Families with Children**

The lack of access to affordable housing remains one of the main barriers to economic stability for many families. Housing costs continue to increase in the U.S., and family income has not come close to keeping pace. About four million households with children spend more than half of their income on rent, which leaves limited resources for food, utilities, transportation, and other needs.<sup>34</sup> Despite this, access to housing assistance already remains limited for families — only one in four families who are eligible for rental assistance in the U.S. receive it, and out of households currently receiving rental assistance, nearly 40 percent include children.<sup>35</sup> Access is further limited based on immigration status — only U.S.-born individuals and/or those who are “qualified” immigrants are eligible for housing assistance.<sup>36</sup>

Recognizing the current housing crisis, the proposed public charge rule would further limit access to housing assistance for families with children by explicitly including the primary housing assistance programs that serve families with children, Section 8 Housing Choice Vouchers, Section 8 Project Based Rental Assistance and Public Housing, in the proposed rule.

For mixed-status households, assistance is prorated based on the number of eligible household members. This puts households with children, who by definition have larger households and therefore need more spacious and costly housing, at a disadvantage by limiting access to housing assistance based on eligible members, not the total household.

As rent increases continue to outpace wage increases, federal housing assistance is more critical than ever. Further limiting access to housing assistance such as Housing Choice Vouchers for families will cause higher rates of housing instability and homelessness in the U.S., which will have devastating effects on healthy child development and our nation’s future economic security. Research shows rental assistance for households with children results in significant positive effects for future child outcomes and family economic security. Housing assistance lifts about

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<sup>33</sup> Randy Capps et al., Implications of Immigration Enforcement Activities for the Well-Being of Children in Immigrant Families (Washington, DC: Migration Policy Institute and Urban Institute, 2015), 9, <https://www.urban.org/sites/default/files/alfresco/publicationexhibits/2000405/2000405-Implications-of-Immigration-Enforcement-Activities-for-the-Well-Being-of-Children-inImmigrant-Families.pdf>. See American Immigration Council Factsheet: U.S. Citizen Children Impacted by Immigration Enforcement, May 2018.

<sup>34</sup> Center on Budget and Policy Priorities, “Federal Rental Assistance,” Fact Sheet, March 2017, <https://www.cbpp.org/sites/default/files/atoms/files/4-13-11hous-US.pdf>.

<sup>35</sup> Center on Budget and Policy Priorities, “National and State Housing Fact Sheets & Data,” August 2017, available at: <https://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data>.

<sup>36</sup> 42 U.S. Code § 1436a - Restriction on use of assisted housing by non-resident aliens <https://www.law.cornell.edu/uscode/text/42/1436a>.

one million children out of poverty each year.<sup>37</sup> It can improve a child’s chances for long-term economic mobility — one study finds that children in households receiving Housing Choice vouchers have higher adult earnings and a lower chance of incarceration.<sup>38</sup> Housing assistance also improves child health — children of families receiving housing assistance had a 35 percent higher chance of being labeled a “well child,” a 28 percent lower risk of being seriously underweight, and a 19 percent lower risk of food insecurity.<sup>39</sup> Finally, when families receive housing assistance, they have more resources to cover the cost of nutritious food, health care, and other necessities, which leads to better health and developmental outcomes for young children.

### **The Proposed Public Charge Rule Would Hinder Economic Stability and Increase Poverty**

The proposed public charge rule would perpetuate and exacerbate poverty in numerous ways. First, the loss of Medicaid, SNAP and housing assistance – all powerful anti-poverty programs – will give immigrant families and young immigrant adults less tangible income to meet their basic needs. Second, it would make it more difficult for low-income students to remain in school full time without programs that support their physical, mental, and financial well-being, both in high school and post-secondary programs. Health, nutrition and housing benefits help children and young adults achieve a level of education that prepares them for higher-paying jobs and to meet the needs of our nation’s employers. Third, this proposed rule will undermine our nation’s global competitiveness in the long run, discouraging immigrant young adults from acquiring postsecondary degrees and credentials and pursuing areas of national need, including the fields of science, technology, engineering, and mathematics (STEM). It would weaken the STEM educational pipeline and thwart efforts to increase educational attainment levels.

By giving the emphasis it gives to wealth in the public charge determination, the proposed rule would make it extremely difficult for parents and/or young immigrant adults to meet the new income threshold of the public charge determination. An income of 250 percent of the poverty line (\$62,000 annually for a family of four) or greater will be a heavily weighted positive factor in making a public charge determination. It recognizes a family with an income below that level as a liability. As mentioned earlier, it would punish low-income immigrant parents, including immigrant young adults who are working in important, but low-wage, jobs to sustain themselves and their families.

A highly-educated workforce spurs economic growth and strengthens state and local economies. This proposed rule will undermine efforts needed to welcome immigrant families and help them expand their resources and over time to contribute to our global competitiveness.

### **Conclusion**

America is a nation of immigrants. The words inscribed on the Statue of Liberty call on us to welcome those “huddled masses yearning to breathe free.” But rather than helping families who have been less fortunate succeed, strengthening their communities and this nation, this public

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<sup>37</sup> Fredrik Andersson, John C. Haltiwanger, et al., “Childhood Housing and Adult Earnings: A Between-Siblings Analysis of Housing Vouchers and Public Housing,” National Bureau of Economic Research Working Paper No. 22721, Revised September 2018, <http://www.nber.org/papers/w22721>.

<sup>38</sup> *See id.*

<sup>39</sup> Elizabeth March, “Rx for Hunger: Affordable Housing,” *Children’s Health-Watch; Medical-Legal Partnership*, December 2009, [http://www.vtaffordablehousing.org/documents/resources/435\\_RxforhungerNEW12\\_09.pdf](http://www.vtaffordablehousing.org/documents/resources/435_RxforhungerNEW12_09.pdf).

charge proposal would force families further into the shadows harming them and their children in multiple ways. Investing in children is the most important investment we can make in our country's future. When children succeed, our nation benefits.

If implemented, the proposed changes to public charge, coupled with its inevitable chilling effect, will directly harm both children and adults in immigrant families, as their families forgo crucial supports for which they are legally eligible. Essential health, nutrition and housing assistance prepares children to be productive, working adults. Counting use of supports in these areas as a negative factor in the public charge assessment is contrary to the purpose of the public charge ground of inadmissibility.

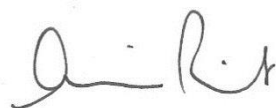
**For all these reasons, the Children's Defense Fund urges the Department to withdraw its current proposal immediately, and dedicate its efforts to advancing policies that strengthen — rather than undermine — the ability of immigrants to support themselves and their families now and in the future. If we want our communities to thrive, everyone in those communities must be able to get the care, services, and support they need to remain healthy and productive.**

Thank you for the opportunity to submit comments on the proposed public charge rule. Please do not hesitate to contact either of us to discuss this further.

Sincerely,



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