

December 16, 2025

Submitted via www.regulations.gov

Kristi Noem
Secretary of Homeland Security
Washington, DC 20024

Re: DHS Docket No. USCIS-2025-0304, U.S. Citizenship and Immigration Services

My name is Trudy Taylor Smith. I am an attorney, and I am writing in my capacity as senior administrator of Policy and Advocacy for Children's Defense Fund-Texas (CDF-TX) to express our organization's strong opposition to the proposed changes regarding the public charge ground of inadmissibility, which were published in the Federal Register on November 19, 2025.¹

CDF-TX is a nonprofit advocacy organization committed to ensuring every child grows up with dignity, hope, and joy. Established in 1999, CDF-TX has connected more than one million children and youth to affordable health care, equipped young Texans to pursue education and personal development, and advocated for resources that nurture the next generation of leaders. Our mission is rooted in the belief that every child deserves a safe and supportive pathway to adulthood, guided by the strength of caring families and communities and supported by access to the resources they need to thrive. Today, CDF-TX remains steadfast in advocating for family-centered policies, delivering vital resources, and uplifting the voices of youth, families, and communities across our state.

Our outreach and enrollment teams in East Texas and the Rio Grande Valley promote the health and well-being of Texas children and communities by connecting parents and caregivers with information about public benefits programs that they and their children are eligible for, helping them apply for programs including the supplemental Nutrition Assistance Program (SNAP), Medicaid, and the Children's Health Insurance Program (CHIP), and keeping families connected to these vital resources by assisting with renewal applications.

We are concerned about the devastating impacts that the proposed changes to "public charge" could have on the children we serve who hold U.S. citizenship and live in mixed-status households with immigrant family members. Across the United States, an estimated 5.1 million U.S. citizen children live with an undocumented family member,² and Texas is home to more than one million of these children.³ Of the U.S. citizen children in

¹ United States, Department of Homeland Security. "Public Charge Ground of Inadmissibility." 90 Fed. Reg. 52,170 (Nov. 19, 2025). <https://www.govinfo.gov/content/pkg/FR-2025-11-19/pdf/2025-20278.pdf>. Accessed 5 Dec. 2025.

² American Immigration Council. "Mass Deportation: Devastating Costs to America, Its Budget and Economy." Oct. 2024, p. 3, www.americanimmigrationcouncil.org/research/mass-deportation. Accessed 25 Nov. 2025.

³ American Immigration Council. "Map the Impact: Immigrants in Texas." 2025. map.americanimmigrationcouncil.org/locations/texas/. Accessed Nov. 25, 2025.

our state, 11.4% live with at least one undocumented parent,⁴ and 34% of all children in Texas have at least one foreign-born parent (including parents who are refugees, Lawful Permanent Residents, and naturalized U.S. citizens).⁵

The proposed rule would remove the regulations that provide “bright line” guidance to immigration officers by making clear that when it comes to public benefit use, only past receipt of cash assistance for income maintenance or long-term institutionalization at government expense should be considered in the public charge assessment.

Additionally, the proposed rule would also remove the current regulations’ definition of “receipt of public benefits,” which explicitly states that applying for or receiving public benefits on behalf of family members is not considered to be “receipt” of benefits. This change could permit DHS officers to consider use of public benefits by an applicant’s family member as “receipt” of benefits when determining whether the applicant is a public charge. Without a clear prohibition on considering benefits used by family members, the rule will cause families to worry about whether the receipt of benefits by their family members—including U.S. citizen children—will be held against them in a public charge assessment, deterring immigrant parents from enrolling their eligible U.S. citizen children in a wide range of public benefits programs.

The clarity in the current rule has allowed CDF-TX and our outreach and enrollment teams to confidently tell the families we serve, the nonprofit organizations and community groups with whom we partner, and the enrollment assisters and healthcare providers across Texas who look to us for guidance, that it is safe for eligible individuals to access programs like SNAP, Medicaid, and CHIP. The ambiguity that results from the proposed rule will cause chaos for both families and the advocates and service providers that work alongside them. The proposed rule will also create fear—not only in the immigrant community, but among many U.S. citizens—and will have a chilling effect on U.S. citizen children’s access to healthcare, nutrition assistance, and other vital resources in our state.

Texas children in mixed-status families already face significant barriers to accessing healthcare and other vital resources.

Based on 25 years of experience serving Texas families, CDF-TX believes the proposed rule will have a devastating impact on access to health care and other safety-net programs for millions of lawfully present immigrants and U.S. citizens, including children. Fear of immigration-related consequences already deters immigrant parents in Texas from accessing vital nutrition support for their children and causes many U.S. citizens to go without health insurance coverage through Medicaid and CHIP. Furthermore, we have seen chilling effects from similar policy changes in the past, including the enactment of Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996 and the 2019 public charge rule. In a “qualitative study of 32 geographically diverse organizations in Texas,” CDF-TX found that between 2016 and 2019, anti-immigrant

⁴ American Immigration Council, *supra* note 3.

⁵ Migration Policy Institute. “Children in U.S. Immigrant Families (By Age Group and State, 1990 versus 2023),” based on data from U.S. Census Bureau, 2023 American Community Survey (ACS) and 1990 Decennial Census. <https://www.migrationpolicy.org/programs/data-hub/charts/children-immigrant-families?width=1000&height=850&iframe=true>. Accessed 11 Dec. 2025.

policies caused many mixed-status families to “fear enrolling even their citizen children in federal benefits programs for which they qualify.”⁶

1. Chilling Effects following the enactment of PRWORA in 1996

After PRWORA was passed in 1996, the use of public benefits among populations such as refugees and U.S. children with immigrant parents declined even though the law did not change the eligibility of these groups to receive benefits.⁷ Health insurance coverage decreased not only for noncitizens who were subject to PRWORA’s restrictions due to having lived in the U.S. for fewer than five years, but also for noncitizens who had already lived in the U.S. for more than five years and were therefore exempt from the restrictions.⁸ A U.S. Department of Agriculture (USDA) Study found that food stamp use among U.S. citizen children with a noncitizen parent fell by 53% between 1994 and 1999,⁹ and the USDA calculated that in 1999, just 40% of eligible citizen children in households with noncitizen adults participated in SNAP (then known as Food Stamps), compared to 70% of all eligible children.¹⁰ The participation rate for eligible citizen children in such households decreased to 37% in 2001. But, by 2005, as overall participation rates for SNAP increased, the participation rate for this group had climbed to 62% (compared to 88% for all children).¹¹

Additionally, there were dramatic declines in the use of public benefits by refugees between 1994 and 1999, even though PRWORA did not eliminate refugees’ eligibility for these programs.¹² Among refugees over this time period, the use of food stamps fell by 53%, the use of Medicaid fell by 36%, and the use of cash assistance under Temporary Assistance for Needy Families (TANF) fell by 78%.¹³

2. Chilling Effects of the 2019 Public Charge Rule

Because the 2019 rule was only in effect for a limited time, the chilling effect it created is difficult to measure with participation data. Additionally, the confounding effects of the

⁶ Anderson, Cheasty. “Public Charge and Private Dilemmas: Key Challenges and Best Practices for Fighting the Chilling Effect in Texas, 2017-2019.” Children’s Defense Fund-Texas, Nov. 2020, p. 1, Bellaire, TX, www.childrensdefense.org/wp-content/uploads/2024/10/Public-Charge-and-Private-Dilemmas-TX_FINAL-020.pdf. Accessed Nov. 25, 2025.

⁷ Fix, Michael E., et al. “Immigrants and Welfare: Overview.” *Immigrants and Welfare: The Impact of Welfare Reform on America’s Newcomers*, edited by Michael Fix, Russel Sage Foundation, 2009.

⁸ Kaushal, Neeraj and Kaestner, Robert. “Welfare Reform and Health Insurance of Immigrants.” *Health Services Research*, vol. 40, no. 3, 2005, pp. 697-772. pmc.ncbi.nlm.nih.gov/articles/PMC1361164/.

⁹ Fix, Michael E. and Passel, Jeffrey S. “The Scope and Impact of Welfare Reform’s Immigrant Provisions.” Urban Institute, Jan. 2002. www.urban.org/sites/default/files/publication/60346/410412-Scope-and-Impact-of-Welfare-Reform-s-Immigrant-Provisions-The.PDF.

¹⁰ Cunyningham, Karen. “Trends in Food Stamp Program Participation Rates: 1999 to 2002.” USDA, Sep. 2004, Table 6, p. 22. fns-prod.azureedge.us/sites/default/files/Trends99-2002.pdf

¹¹ Wolkwitz, Kari. “Trends in Food Stamp Program Participation Rates: 1999 to 2005.” USDA, Jun. 2007, Table 5, p. 15. fns-prod.azureedge.us/sites/default/files/Trends1999-2005.pdf

¹² Fix, Michael E. and Passel, Jeffrey S., *supra* note 7.

¹³ *Ibid* at 18.

COVID-19 pandemic, with the resulting widespread shutdowns and expansions of temporary benefits, make it hard to isolate the effects of this policy change. The best data therefore comes from surveys that asked immigrants or members of immigrant families directly whether they avoided participating in public benefit programs because of concerns about immigration consequences. However, there are also some relevant studies that focus on participation changes before the start of the pandemic. These generally measure the effect of the announcement of the proposed rule in 2018, or of the earlier widespread media coverage of the proposal.

i. Direct surveys of the chilling effect.

The Well-Being and Basic Needs Survey (WBNS) has been conducted by researchers at the Urban Institute since 2018 and includes questions about whether adults in immigrant families (defined in these surveys as families in which the respondent or a family member living with them was not born in the U.S.) avoided participating in non-cash safety net programs because of green card concerns. Key findings include:

- In 2019, 15.6% of adults in all immigrant families, and 31% of adults in families that included one or more nonpermanent residents, reported avoiding applying for non-cash benefits.¹⁴ This figure was even higher (26.2%) among low-income immigrant families.¹⁵
- The chilling effect was twice as strong for families with children: 20.4% for immigrant families with children in 2019 versus 10% for immigrant families without.¹⁶ For low-income immigrant families with children, it was 31.5%.¹⁷ Similar gaps existed in other years. This is likely because families with children are more likely to have a member eligible for such benefits. The survey also found that 76.8% of adults in immigrant families with children did not understand that children's program enrollment would not be considered in their parents' public charge determinations.¹⁸ Chilling effects were reported across a variety of forms of support, including programs not specified in the rule such as the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), free or reduced-price school lunch, free or reduced-price medical care for uninsured people, and health insurance purchased through the Marketplaces.¹⁹
- Even in 2023, after the 2022 rule was fully in place, and before the re-election of Donald Trump, 11.7% of adults in all immigrant families, and 23.6% of adults in

¹⁴ Bernstein, Hamutal et al. "Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019." Urban Institute, 2020.
www.urban.org/research/publication/amid-confusion-over-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-2019.

¹⁵ *Ibid.*

¹⁶ Haley, Jennifer M. et al. "One in Five Adults in Immigrant Families with Children Reported Chilling Effects on Public Benefit Receipt in 2019." Urban Institute, 2020.
www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

mixed-immigration status families, reported avoiding applying for non-cash benefits.²⁰

- The chilling effect reached even members of immigrant families in which all members of the family were citizens (6.7% in 2019) or in which all noncitizen members were permanent residents (16.7 percent in 2019).²¹ This was a consistent pattern in all years of the survey series.

ii. Participation data

Migration Policy Institute (MPI) researchers using American Community Survey (ACS) data found that participation in cash assistance under TANF, food assistance under SNAP, and health coverage under Medicaid declined far more rapidly for noncitizens than for U.S.-born citizens between 2016 and 2019.²² The share of children receiving benefits fell about twice as fast for all these programs among U.S. citizen children who live in households with noncitizen household members as it did among children with only citizens in their households, almost as much as participation by non-citizens themselves.²³ The participation decline accelerated between 2018 and 2019.²⁴

The declines in SNAP and TANF participation were much larger than the declines in Medicaid use,²⁵ consistent with other research that has found that immigrant parents were more likely to apply for Medicaid than for SNAP, because they could identify other “coping strategies” to acquire food, but that Medicaid was “irreplaceable” as a gateway to medical care.²⁶

Researchers in another study used the variation in the noncitizen share of the population across counties to estimate the effects of the announcement of the 2018 proposed rule, even before it was adopted, on the share of children enrolled in Medicaid, WIC, and SNAP.²⁷ They found that the announcement was associated with a decrease nationwide of approximately 260,000 in child Medicaid enrollment, more than 149,000 in child SNAP enrollment, and more than 21,000 in child WIC enrollment.²⁸

²⁰ Gonzalez, Dulce et al. “Mixed-Status Families and Immigrant Families with Children Continued Avoiding Safety Net Programs in 2023.” Urban Institute, 2024.

www.urban.org/research/publication/mixed-status-families-and-immigrant-families-children-continued-avoiding.

²¹ Bernstein, Hamutal et al. 2020, *supra* note 14.

²² Batalova, Jeanne et al. “Anticipated ‘Chilling Effects’ of the Public-Charge Rule Are Real: Census Data Reflect Steep Decline in Benefits Use by Immigrant Families.” Migration Policy Institute, 21 Dec. 2020. <https://www.migrationpolicy.org/news/anticipated-chilling-effects-public-charge-rule-are-real>.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Food Research & Action Center and the National Immigration Law Center. “Food Over Fear: Overcoming Barriers to Connect Latinx Immigrant Families to Federal Nutrition and Food Programs.” Dec. 2020, p. 11. <https://frac.org/research/resource-library/nilc-latinximmigrantfamilies>.

²⁷ Barofsky, Jeremy et al. “Spreading Fear: The Announcement of the Public Charge Rule Reduced Enrollment In Child Safety-Net Programs.” *Health Affairs*, Oct. 2020. <https://doi.org/10.1377/hlthaff.2020.00763>.

²⁸ *Ibid.*

SNAP administrative data found that the number of children in mixed-status households receiving SNAP benefits dropped by 22.5%—more than 718,000 children—from 2018 to 2019. The rate of decrease was five times the rate of the decrease among U.S. children in citizen-only households.²⁹ This decline also shows up in USDA's estimates of the participation rate for eligible citizen children in households with noncitizen adults, which fell from 80% in FY 2016 to 64% in the early months of FY 2020 (pre pandemic).³⁰ The participation rate of eligible non-citizens fell in the same time period from 66% to 52%.³¹

A study using New York State Medicaid data from 2014–2019 found that the initial leak of the public charge rule in 2017 resulted in significant delays in prenatal Medicaid enrollment among immigrant women and a significant decrease in birth weight among their newborn babies.³²

iii. CDF-TX's direct communication with impacted community members

Apart from this data, the questions and concerns that immigrant parents and caregivers in Texas communities continue to bring to CDF-TX's outreach and enrollment team staff demonstrate that even under the current public charge rule, misinformation, fear, and confusion about the policy continue to create a chilling effect on access to benefits for eligible children and adults in mixed status families.

Graciela Camarena, program director for CDF-TX's outreach and enrollment team in the Rio Grande Valley, has been working in outreach since the 1990s. In Camarena's experience, most community members do not understand what the public charge policy is and who it affects. She observes that mixed status families often do not apply for SNAP benefits, even though they would likely qualify and are struggling to put food on the table, simply because they have heard that they would have to pay back those benefits in the future. Many lawful permanent residents and even naturalized citizens in the communities where CDF-TX works mistakenly believe that they will be considered a "public charge" and could face negative immigration consequences for utilizing any public benefits programs.

3. Today's environment will produce even greater chilling effects

²⁹ Food Research & Action Center, "New Data Reveal Stark Decreases in SNAP Participation Among U.S. Citizen Children Living With a Non-Citizen." May 2021. <https://frac.org/wp-content/uploads/SNAP-Participation-Among-U.S.-Citizen-Children.pdf>. Accessed 12 Dec. 2025.

³⁰ Alma Vigil, "Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2016 to Fiscal Year 2020." USDA, Table 2, p. 14. Dec. 2022. <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-trends-fy2016-2020.pdf>. Accessed 12 Dec. 2025.

³¹ *Ibid.*

³² Wang, Scarlett Sijia et al. "Changes in the Public Charge Rule and Health of Mothers and Infants Enrolled in New York State's Medicaid Program, 2014–2019." *American Journal of Public Health*, vol. 112, no. 12, 2022, pp. 1747–56. <https://doi.org/10.2105/AJPH.2022.307066>.

CDF-TX anticipates that the chilling effect from the proposed public charge rule will be even worse than that created by the 2019 rule because it will reinforce and compound the effects other recent policy changes related to immigration enforcement, such as the rescission of DHS' long-standing sensitive locations policy in January 2025 to allow expanded immigration enforcement activity in and around hospitals,³³ and the sharing of Medicaid enrollees' personal information with ICE for immigration enforcement purposes.³⁴

- i. *Escalating immigration enforcement is creating fear that deters immigrants and their family members from accessing healthcare and essential resources*

Research has found that having stayed inside to avoid police or immigration officials, having been asked to show proof of citizenship by law enforcement, and knowing someone who has been deported are all experiences that increase an individual's concerns about accessing public benefits related to public charge.³⁵ These are all increasingly common experiences today. According to recent data released by KFF (formerly the Kaiser Family Foundation) and the *New York Times*, based on surveys conducted in the fall of 2025, before publication of the proposed rule, 22% of immigrants said that they personally knew someone who has been arrested, detained, or deported on immigration-related charges since January—nearly three times as many as in April.³⁶ Nationwide, three in ten reported that they or a family member have limited their participation in activities outside the home since January due to concerns about drawing attention to someone's immigration status.³⁷

The same survey found that since January 2025, roughly one in six immigrant parents (17%) nationwide have stopped participating in government programs that help pay for food, housing, or health care “because they did not want to draw attention to their or a family member's immigration status.”³⁸ This represents an increase from the share of

³³ U.S. Department of Homeland Security. “Memorandum re: Enforcement Actions in or Near Protected Areas.” 20 Jan. 2025. www.dhs.gov/sites/default/files/2025-03/25_0120_S1_enforcement-actions-in-near-protected-areas.pdf. Accessed 26 Nov. 2025.

³⁴ Kind, Kimberly and Seitz, Amanda. “Trump administration hands over Medicaid recipients' personal data, including addresses, to ICE.” AP News. 17 Jul. 2025. apnews.com/article/immigration-medicaid-trump-ice-ab9c2267ce596089410387bfc40eeb7. Accessed 3 Dec. 2025; U.S. Centers for Medicare & Medicaid Services, Department of Health and Human Services. “Notice of Medicaid Information Sharing Between the Centers for Medicare & Medicaid Services and the Department of Homeland Security.” 25 Nov. 2025. www.govinfo.gov/content/pkg/FR-2025-11-25/pdf/2025-20911.pdf. Accessed 3 Dec. 2025.

³⁵ Chen, Lei et al. “Immigrants' Enforcement Experiences and Concern about Accessing Public Benefits or Services.” *Journal of Immigrant and Minority Health*, vol. 25, no. 5, 2023, pp. 1077–84. doi.org/10.1007/s10903-023-01460-x.

³⁶ Pillai, Drishti et al. “KFF/New York Times 2025 Survey of Immigrants: Health and Health Care Experiences During the Second Trump Administration.” KFF, 18 Nov. 2025, p. 3. www.kff.org/immigrant-health/kff-new-york-times-2025-survey-of-immigrants-health-and-health-care-experiences-during-the-second-trump-administration/. Accessed 26 Nov. 2025.

³⁷ *Ibid.*

³⁸ *Ibid.*

immigrant parents who avoided applying for benefits programs in 2023.³⁹ Half of immigrant adults expressed concerns “about health care providers sharing information about immigration status with immigration enforcement officials.”⁴⁰ Additionally, 30% of immigrant parents reported delayed or skipped healthcare for their children in the past 12 months “due to immigration-related fears, cost or lack of insurance, and/or not being able to find services at a convenient time or location.”⁴¹ Finally, 15% of immigrant parents surveyed—and 27% of parents who are likely undocumented—reported having at least one child who is uninsured.⁴²

ii. *The chilling effect of immigration enforcement on access to healthcare and other vital supports is especially severe for children in Texas*

Out of all 50 states, Texas not only continues to have the highest rate of uninsured children in the nation, this rate is trending in the wrong direction.⁴³ According to data from the U.S. Census Bureau, 13.6% of all Texas children lacked health insurance in 2024, an alarming increase from the 11.9% of Texas children who were uninsured in 2023.⁴⁴ Since more than one million U.S. citizen children in Texas live with at least one undocumented family member⁴⁵ and many more live in households that include lawfully present immigrants, the negative impacts of immigration enforcement and policies directly affecting immigrant eligibility and access to healthcare have an outsized impact on children in our state.

Additionally, the fear of immigration enforcement is particularly strong in Texas communities because of the intensity of immigration enforcement activity taking place in our state. Over recent months, enrollment assisters and healthcare providers in Texas have told CDF-TX that escalating immigration enforcement and data sharing are generating fear that prevents immigrants from seeking medical care or enrolling their children in public benefits programs like Medicaid. ICE data shows that between Inauguration Day and July 29, 2025, 24% of all arrests the agency made were in Texas,⁴⁶ and Texas children in mixed-status families also face additional barriers to accessing healthcare due to fear created by immigration enforcement policies at the state level. For example, our state’s governor issued an executive order that went into effect last November requiring public hospitals to ask patients during the emergency room intake

³⁹ Pillai, Drishti et al., *supra* note 36 at 3.

⁴⁰ *Ibid* at 3-4.

⁴¹ *Ibid* at 3.

⁴² *Ibid* at 17.

⁴³ United States, Census Bureau. “Health Insurance Coverage by State: 2023 and 2024.” *American Community Survey Briefs*, Sep. 2025, p. 10, <https://www2.census.gov/library/publications/2025/demo/acsbr-024.pdf>. Accessed 26 Nov. 2025.

⁴⁴ *Ibid* at 10.

⁴⁵ American Immigration Council, *supra* note 3.

⁴⁶ Garcia, Uriel J., et al. “New data shows 1 in 4 ICE arrests happened in Texas under Trump’s immigration crackdown.” *The Texas Tribune*, 3 Nov. 2025. www.texastribune.org/2025/11/03/texas-trump-immigration-crackdown-ice-arrests-deportation/.

process whether they are lawfully present,⁴⁷ and our state legislature recently passed a law that will require county sheriffs across the state to enter into agreements that deputize local law enforcement to carry out federal immigration enforcement activities.⁴⁸

Now more than ever, immigrant and mixed status families in the communities CDF-TX serves are fearful about the repercussions of applying for and receiving public benefits, and they do not trust the programs and systems through which these benefits are distributed. It is impossible to distinguish between the fear created by the proposed new public charge rule and the fear generated by the broader escalation of immigration enforcement that forms the backdrop for this policy change. However, what is clear to CDF-TX's outreach and enrollment staff is that people are going without the benefits they need and are eligible for, simply because they do not want to be targeted by the state in some way for doing so.

The proposed rule will result in adverse outcomes that shock the conscience.

The proposal states that if the rule is finalized, then forthcoming policy guidance will consider current or past use of any public benefit in determinations of whether someone is a public charge. Without clear guardrails to limit the kinds of public benefits programs that immigration officers may consider in determining whether someone is likely to become a public charge, the rule would permit DHS to use past or current receipt of any public benefits—including state and local benefits—as justification to deny an application for lawful permanent residence. This unfettered discretion would result in unconscionable public charge determinations that undermine public health and safety and shock the conscience.

For example, there is nothing in the proposed rule to prevent DHS from denying a mother's application for lawful permanent residence under the public charge ground of inadmissibility, simply because she sought prenatal care using Medicaid Perinatal coverage to ensure the health of her unborn child. Ensuring a healthy start for every child, regardless of the immigration status of their parents, creates long-term economic and health benefits for our state. In fact, providing prenatal care to undocumented mothers (whose children will be born U.S. citizens) can reduce infant mortality and other complications "while saving thousands of dollars per child" in healthcare spending.⁴⁹ Yet the proposed policy could penalize a woman for seeking regular medical care during

⁴⁷ State of Texas, Office of the Governor. *Executive Order GA-46: Relating to the collection of information by the Health and Human Services Commission to assess costs to the Texas public hospital system imposed by the federal government's open-border policies*. 8 Aug. 2024, gov.texas.gov/uploads/files/press/EO-GA-46_HHSC_Alienage_Data_IMAGE_08-08-2024.pdf.

⁴⁸ State of Texas, Legislature, Senate. An act relating to agreements between certain sheriffs and the United States Immigration and Customs Enforcement to enforce federal immigration law and a grant program to cover the costs of implementing those agreements. <https://capitol.texas.gov/tlodocs/89R/billtext/pdf/SB00008F.pdf#navpanes=0>. 89th Legislature, Senate Bill 8, Enacted 20 Jun. 2025.

⁴⁹ Anderson, Ron J. "Why We Should Care for the Undocumented." *Virtual Mentor*, vol. 10 no. 4, 2008, pp. 245-248. doi: 10.1001/virtualmentor.2008.10.4.oped1-0804. <https://journalofethics.ama-assn.org/article/why-we-should-care-undocumented/2008-04>. Accessed 1 Dec. 2025.

pregnancy, even if she was lawfully present at the time. This is not in the public interest. Deterring expectant mothers from seeking medical care will result in more pregnancy complications, worse health outcomes for infants and their mothers, and needless suffering and deaths.

Similarly, the proposed rule would permit DHS to deny a green card to a survivor of domestic violence because she reported her abuser to the police and received victim services through the local police department to ensure her safety and that of her children. This practice will empower abusers while trapping women and children in dangerous situations, putting their lives at risk, and deterring them from reporting crimes or seeking help, even when they experience severe physical or sexual violence.

Moreover, the proposed rule would permit DHS to deny a green card to anyone who has called an ambulance for themselves or a family member in a medical emergency, or to anyone who received a free vaccine—or had their child vaccinated—as part of a public health initiative to stop the spread of infection during the COVID pandemic. Deterring these kinds of pro-social behaviors would place public health and safety at risk.

Even if a local county or municipality has chosen to provide legal aid services to noncitizens, DHS could potentially deny an immigrant's green card application if they ever accessed those services to understand and enforce their rights or to apply for immigration relief that they were entitled to under law.

Furthermore, under the proposed rule, an adolescent or adult who is accused of a crime and is represented by a public defender could later be deemed a public charge and denied a green card, even if they were acquitted or had their charges dismissed. The U.S. Constitution guarantees the right to be legal representation in a criminal case, and no one should be intimidated out of exercising their right to counsel when their liberty is at stake.

The new rule is so broad and ambiguous that it could even permit DHS to deny a green card to a parent whose U.S. citizen child receives state-based financial aid from a public college or university. Given the soaring cost of higher education, such a policy could discourage a significant proportion of young people from low- or even middle-income families from pursuing higher education at all, unfairly depriving them of the opportunity to advance in their careers and achieve financial security, solely because their parents were not born in the United States. Such a result would be devastating not only for these students, but for entire states—especially states such as Texas, where immigrants make up a sizable portion of the total population. It would reduce revenue for our state's public higher education system, shrink our skilled workforce, and cripple our state's economy.

Finally, the new rule would even permit DHS to deny a green card to a parent whose U.S. citizen child receives free or reduced-price school lunches. If immigrant parents are afraid to sign their children up for a school meal program that they qualify for, then millions of children from low-income families will go hungry and will struggle to learn as a result. This will compromise their brain development, academic achievement, and overall health. Such a policy outcome would be both cruel and counterproductive. Our nation does not benefit from preventing a large proportion of our population from reaching its full potential in terms of health, educational attainment, and workforce participation.

The proposed rule will undermine CDF-TX's ability to carry out our outreach and enrollment work to serve Texas families.

CDF-TX's outreach and enrollment teams are deeply embedded in their communities. They are a trusted source of information and help for parents and caregivers, school districts, and other community stakeholders, and they have a significant, positive impact on the lives of children and families. Our team members help families understand which programs they qualify for, raise awareness about the benefits of applying for and using these programs, and help families navigate the complicated application and enrollment process to obtain the health insurance and other vital resources they and their children need to thrive.

In the Rio Grande Valley, school social workers have expressed gratitude to CDF-TX Program Director Graciela Camarena and her team for their collaboration with the local school districts to help unhoused students obtain SNAP and Medicaid benefits they need and did not know they could get. The team also regularly receives calls from school district parental engagement departments requesting guidance or referrals to assist immigrant parents who are unsure whether their U.S. citizen children are eligible for benefits, and if so, whether it is safe to apply for them without triggering negative immigration consequences for themselves in the future.

Recently, a grandmother shared with a member of Camarena's team that she was very worried about how she would be able to afford the medications needed to manage her grandson's asthma, and that he had missed many days of school because he did not have an inhaler available as needed. As it turned out, the grandson was eligible for Medicaid coverage that would allow him to obtain the inhaler he needed. The CDF-TX team was able to make a transformative impact on his life by helping his grandmother understand how to apply, navigate the enrollment process, and obtain Medicaid coverage for her grandson. After receiving assistance from CDF-TX to obtain health insurance for their children under Medicaid, parents and caregivers often express a sense of relief to Camarena and her team about knowing their children can now access healthcare when they need it, as well as preventative care.

A change in the public charge policy—especially one that does not exclude benefits received under the current policy from consideration in future public charge determinations—will undermine the trust that Camarena and the rest of CDF-TX's outreach and enrollment staff have spent years building in their communities. Individuals, families, school personnel, organizational staff, and others look to our staff as trusted messengers who provide accurate information and hands-on assistance. Yet the proposed new rule would potentially permit DHS to deny an immigrant parent's future application for lawful permanent residence based on their past enrollment of an eligible U.S. citizen child in SNAP or CHIP/Medicaid coverage with assistance from CDF-TX. A denied application for adjustment of status could mean deportation for that parent, resulting in family separation or the potential loss of home, jobs, community, and safety for the entire family if they are forced to leave the United States together.

If a family is harmed in the future because they used one of the programs our staff have encouraged and helped them to enroll in, this will be seen as a betrayal—not from the government, but from CDF-TX staff, the people who told them it was safe to apply or use benefits. Camarena notes that word-of-mouth goes a long way in the communities where CDF-TX works, and just as it has built up her team’s reputation over time, it can quickly tear it down.

Camarena recalls that when the 2019 final rule was announced and after it was finalized, it felt as though she and her team were on “a rollercoaster, our stomachs churning from the overflow of misinformation or myths or lies.” Even though many people applying for lawful permanent resident status did not qualify for benefits such as SNAP, Medicaid, or federal housing assistance, Camarena observed the rule functioning as a deterrent in Texas communities to prevent U.S. citizens and eligible Lawful Permanent Residents in mixed-status households from applying for and receiving benefits they needed and qualified for. She states,

“[the 2019 final rule] did cause lots of confusion, fear and misinformation to spread quickly, causing families to disenroll eligible children and family members from benefits and to stop others from applying even if their situations, income, and status allowed them to do so. We had immigration attorneys telling their clients not to enroll or use benefits when in fact some family members had every right to do so. This was because immigration attorneys were knowledgeable in immigration policy but not public benefits. Then during the Biden rule we were able to calm fears and clear up who the [public charge] rule affected, and we are still working on getting families back to enrolling their children that may still qualify for benefits.”

Now, Camarena says, with the new public charge rule that DHS has proposed,

“we are back to uncertainty and fear and anti-immigrant policies hurting families... It is going to take more hard work, persistence, and time to push through all the negativity and barriers about accessing benefits. We need to focus on the eligible children going without health care or nutritious meals—or meals at all, for that matter.”

Deterring eligible U.S. citizens from using public benefits programs is cruel and costly.

DHS estimates that the proposed rule will result in approximately \$8.97 billion of annual savings for the federal government, due to members of mixed-status households—including U.S. citizens—choosing “to disenroll from or forgo enrollment in a public benefits program” due to this policy change.⁵⁰ This language clearly articulates an intent to deter eligible U.S. citizens from accessing the public benefits programs they qualify for.

1. Using fear and uncertainty to intimidate the U.S. citizen spouses and children of immigrants out of using the safety net programs they qualify for is cruel.

⁵⁰ United States, Department of Homeland Security, *supra* note 1 at p. 52,193.

If U.S. citizens in mixed-status families disenroll from or avoid enrolling in programs like CHIP and Medicaid, then lack of access to preventative health services or regular medical care will result in delayed medical attention, worse health outcomes, and medical debt for families already struggling to make ends meet. Lack of health insurance could mean that treatable injuries or preventable illnesses instead result in lifelong disabilities, chronic conditions, or catastrophic health outcomes for children that generate immense physical and psychological suffering, and even loss of life. If a child loses a caregiver due to illness or injury, or if that caregiver loses a job or time at work, then that child will also struggle with increased food insecurity and housing instability. Similarly, children in families who forgo access to critical resources such as SNAP or housing assistance because of the proposed rule will be at greater risk of experiencing hunger or homelessness.

Lack of access to public benefits programs for U.S. citizens in mixed status households would create barriers to children's thriving in all areas of life, compromising their ability to grow into happy, healthy, financially self-sufficient adults who are able to provide a secure, prosperous future for themselves and their future families.

2. Deterring access to public benefits for eligible U.S. citizens will generate significant, long-term financial costs that outweigh any short-term savings

By undermining young people's physical and psychological well-being and their opportunities for economic mobility, the changes DHS proposes to its public charge policy will generate significant costs to society over generations. These costs will eclipse any supposed short-term savings that the federal government hopes to accrue from preventing eligible individuals from accessing public benefits programs.

For example, consider the long-term costs of deterring immigrant parents from enrolling their U.S. citizen children in Head Start programs. Head Start supports the success of all schools, teachers, and students by increasing school readiness among participants. The program also generates a net value of \$1,204 per child and reduces the incidence of poor health in participants 25 years after they leave the program—a significant economic impact considering that the U.S. spends \$144 billion each year on health conditions that limit individuals' ability to work.⁵¹ Moreover, research shows that Head Start participants are 2.7% more likely to complete high school, 8.5% more likely to enroll in college, and 39% more likely to complete college.⁵² Therefore, lowering enrollment in Head Start programs among children in mixed-status families will lead to worse lifelong health outcomes, lower educational attainment, and lower future workforce participation among this population, which means steep economic costs for everyone.

Inadequate food and shelter, untreated medical issues, lack of early childhood education, and unaffordable higher education will result in lower educational attainment for young people in mixed-status families and, eventually, decreased tax revenue and economic contributions for Texas and for the nation as a whole. Poor health will mean more missed

⁵¹ National Head Start Association, "Texas: 2024 Head Start & Early Head Start Profile." 2024. <https://nhsa.org/wp-content/uploads/2024/01/Texas.pdf>. Accessed 11 Dec. 2025.

⁵² *Ibid.*

days of school for children and more missed days of work for their parents, resulting in reduced earnings for families and reduced tax revenue for local, state, and federal governments. In their fall 2025 survey report, KFF researchers concluded that the negative health impacts and “increased barriers to accessing health coverage and care” that immigrants are currently experiencing

“will likely contribute to worse health outcomes for immigrant adults and their children, who are primarily U.S.-born citizens. Negative impacts also may have spillover effects on the U.S. economy and workforce given that immigrants play an outsized role in many occupations including health care, construction, and agriculture.”⁵³

When eligible U.S. citizens in mixed-status households avoid using CHIP/Medicaid to access preventative or regular medical care because of concerns about public charge, this results in higher-cost, uncompensated care at public emergency rooms and Community Health Centers (CHCs). The consequent financial strain on these providers could lead to closures or staff reductions that limit access to care for all Americans, especially in rural communities.⁵⁴ This is a significant concern in Texas, where CHCs “improve access to essential health care services in communities with shortages of other providers” and rely heavily on Medicaid revenue to maintain operations and staffing.⁵⁵ In 2023, CHCs served 1.7 million patients across Texas, 609,800 of whom were Medicaid enrollees.⁵⁶ Closures of these CHCs would also mean the loss of “millions of dollars in positive economic impact” that these clinics generate in local Texas communities.⁵⁷

Deterring eligible U.S. citizens from using public benefits programs is inconsistent with the legislative intent of the public charge ground of inadmissibility.

Deterring eligible citizens from accessing public benefits programs is an unjustified break with the Congressional intent of the public charge ground of inadmissibility, which has nothing to do with promoting economic self-sufficiency among U.S. citizens.

The 2022 final rule that DHS now seeks to rescind reflects more than one hundred years of legislative precedent and case law. The original public charge rule enacted by Congress in 1882 was based on earlier “poor laws” and was designed to prevent newly arrived immigrants from becoming entirely dependent on sources of public support such

⁵³ Pillai, Drishti et al., *supra* note 36 at 4.

⁵⁴ The Geiger Gibson Program in Community Health. “Texas Community Health Centers: The Role of Medicaid.” George Washington University, Jan. 2025. <https://geigergibson.publichealth.gwu.edu/sites/g/files/zaxdzs4421/files/2025-02/chc-medicaid-factsheet-tx-013025.pdf>. Accessed 12 Dec. 2025.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

as poorhouses or almshouses.⁵⁸ Over time, in reviewing public charge determinations, the Board of Immigration Appeals (BIA) has “focused on the non-citizen’s capacity for work, reversing decisions that put too much weight on temporary setbacks” in an immigrant’s life.⁵⁹ In 1976, the BIA ruled that an immigrant having “been on welfare does not, by itself, establish that he or she is likely to become a public charge.”⁶⁰

In 1996, the totality of the circumstances test for the public charge ground of inadmissibility was codified under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), and Congress imposed major restrictions on immigrant eligibility for public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

In 1999, Naturalization Service (INS, then part of the Department of Justice (DOJ)) issued its 1999 field guidance in response to confusion about the meaning of “public charge” and the consequent chilling effect on immigrants’ access to benefits for themselves and their children. The 1999 field guidance did not change policy, but instead sought to provide clear guidance to immigrants, immigrant-serving organizations, immigration officers, and benefit granting agencies about what benefits immigrants could safely access under the current policy without fear of immigration consequences.⁶¹ As INS stated, “according to Federal and State benefit granting agencies, this growing confusion is creating significant, negative public health consequences across the country. This situation is becoming particularly acute with respect to the provision of emergency and other medical assistance, children’s immunizations, and basic nutrition programs, as well as the treatment of communicable diseases.”⁶²

Even if DHS were to continue to administer the public charge policy in a way that is consistent with statutory requirements and case law, the removal of regulatory language would still create confusion for immigrants and service providers, generating a chilling effect that is just as significant as the one that the INS previously sought to remedy by issuing the 1999 field guidance. However, the Notice of Proposed Rulemaking signals the Administration’s intention to depart from existing precedent by including the use of any kind of public benefit in public charge determinations, regardless of when an immigrant accessed the benefit or for how long. In *New York v. U.S. Department of Homeland Security*,⁶³ the Second Circuit Court of Appeals rejected this approach. In its decision to

⁵⁸ Hester, Torrie et al. “Historians’ Comment on DHS Notice of Proposed Rule, Inadmissibility on Public Charge Grounds.” 5 Oct. 2018. <https://www.ilcm.org/wp-content/uploads/2018/10/Historians-comment-FR-2018-21106.pdf>. Accessed 11 Dec. 2025.

⁵⁹ *New York v. United States Dep’t of Homeland Sec.*, Case 19-3595, 55-56, August 4, 2020 (2d Cir. 2020). <https://ccrjustice.org/sites/default/files/attach/2020/08/465-1.pdf>.

⁶⁰ *Matter of Perez*, 15 I&N Dec. 136 (BIA 1974).

⁶¹ United States, Immigration and Naturalization Service. “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds.” 64 Fed. Reg. 28,689 (Mar. 26, 1999). <https://www.govinfo.gov/content/pkg/FR-1999-05-26/pdf/99-13202.pdf>. Accessed 11 Dec. 2025.

⁶² United States, Department of Justice. “Inadmissibility and Deportability on Public Charge Grounds.” 64 Fed. Reg. 28676 (May 26, 1999). <https://www.govinfo.gov/content/pkg/FR-1999-05-26/pdf/99-13188.pdf>. (Note: the content of this proposed rule was the same as the field guidance, but it was never finalized as a rule.)

⁶³ *Supra* note 59.

uphold preliminary injunctions to enjoin implementation of the 2019 final rule the Court stated:

“Congress’s vision of self-sufficiency does *not* anticipate abstention from all benefits use. . . Had Congress thought that any benefits use was incompatible with self-sufficiency, it could have said so, . . . But it did not. We are thus left with an agency justification that is unmoored from the nuanced views of Congress.”⁶⁴

If Congress disagreed with the interpretation of the public charge ground of inadmissibility that was put forward in the 1999 field guidance, then it could have modified this interpretation through legislation at any time. However, Congress has not done so, despite passing other laws that impact immigrants’ access to public benefits.

Denying future adjustment of status based on past receipt of benefits that were excluded from public charge determinations at the time they were received violates the reliance interests of families, advocacy organizations, and service providers.

The Executive Summary of the proposed rule that was published to the Federal Register on November 19, 2025, states that DHS proposes “removing limitations on the types of public resources that are relevant for considering whether an alien is dependent, including the references to public cash assistance for income maintenance or long-term institutionalization at government expense.”⁶⁵

In determining how best to care for their children and which benefits programs to enroll in, countless families have relied on assurances from the federal government about the limited scope of the public benefits programs that are considered under the public charge test. Advocacy organizations and direct service providers across the country, including CDF-TX, have also relied on statements from USCIS and other government agencies in advising our clients, health assisters, and the public about the safety and future consequences of enrollment in programs such as SNAP, Medicaid, and CHIP. For example, in a public-facing Fact Sheet called “How Receiving Public Benefits Might Impact the Public Charge Ground of Inadmissibility,” USCIS has publicly given the following assurances:

- For noncitizens who are exempt from the public charge ground of inadmissibility because they have applied for certain forms of humanitarian immigration benefits, including asylees, refugees, and Violence Against Women Act (VAWA) self-petitioners, “DHS will not consider any public benefits the noncitizen received while they were in the immigration category that is exempt from the public charge ground of inadmissibility.”⁶⁶

⁶⁴ *New York v. United States Dep't of Homeland Sec.*, *supra* note 59 at 89-90.

⁶⁵ United States, Department of Homeland Security, *supra* note 1 at 52,169.

⁶⁶ United States, Citizenship and Immigration Services. “Fact Sheet: How Receiving Public Benefits Might Impact the Public Charge Ground of Inadmissibility,” p. 1.
<https://www.uscis.gov/sites/default/files/document/fact->

- “When making public charge inadmissibility determinations, DHS generally does not consider the receipt of noncash benefits, except for long-term institutionalization at government expense.”⁶⁷
- Specifically, DHS “does not consider cash benefit programs,”⁶⁸ “[h]ome and community-based services,”⁶⁹ “[s]ervices related to domestic violence, sexual assault, and other forms of violence,”⁷⁰ housing benefits, food-based benefits such as SNAP or school lunch programs, healthcare-related benefits such as CHIP or Medicaid, childcare or education benefits, or a list of enumerated federal cash payments and vouchers.⁷¹

Yet under the new rule, it appears that past receipt of any public benefit program—including programs that were explicitly excluded from consideration in public determinations at the time that families were enrolled in these programs—could potentially be used as grounds to deny permanent resident status to individuals. This outcome would violate basic notions of fairness by penalizing immigrants for decisions they made—in reliance on current government policy and guidance—to enroll themselves and their family members in programs for which they were eligible and which they had no reason to believe would prejudice the outcome of any future immigration applications.

Conclusion

Past expansion of the public benefits that could be considered in public charge determinations created significant barriers to children’s healthcare access. Additionally, current immigration policy is already preventing many Texas children from accessing the resources they need to thrive. The proposed rule will only compound these harms, preventing millions of U.S. citizen children, in Texas and across the country, from receiving the medical care they need to grow into healthy adults.

The Department fails to provide a justification for why the current policy should be eliminated. CDF-TX strongly urges the Department to withdraw its current proposal and dedicate its efforts to advancing policies that advance—rather than undermine—the goal of ensuring that all children have access to the nutrition, medical care, and other vital resources they need to thrive, grow up healthy, reach their full potential, and be able to provide for themselves and their families in the future. At a minimum, the Department should immediately clarify that any changes will not be retroactive. The 2022 regulations state that the only programs that may be considered in the public charge assessment are cash assistance for income maintenance or long-term institutionalization at government expense, and countless families have relied on this guidance in making important decisions about how to meet their children’s needs and whether to enroll in public

[sheets/How_Receiving_Public_Benefits_Might_Impact_the_Public_Charge_Ground_of_Inadmissibility_Fact_Sheet.pdf](#). Accessed 11 Dec. 2025.

⁶⁷ *Ibid* at p. 2.

⁶⁸ *Ibid*.

⁶⁹ *Ibid*.

⁷⁰ *Ibid*.

⁷¹ *Ibid* at pp. 2-3.

benefits programs. Therefore, no other benefits should be considered if they were received while these regulations remain in effect.

Further, we ask that our comment, including any articles, studies, or other supporting materials that we have included in our comment as an active link in the text, be included as part of the formal administrative record for the proposed rule for the purposes of the federal Administrative Procedure Act. Please let us know if DHS is unable for any reason to meet our request and include our linked materials, so we will have the chance to otherwise submit copies of the supporting documents into the record.

Thank you for the opportunity to comment on this important matter. If you have any questions about anything in the comments or the materials, please contact Trudy Taylor Smith, senior administrator of Policy and Advocacy, CDF-TX, by email at ttaylorsmith@childrensdefense.org or by phone at 512.333.4961.

Sincerely,

Trudy Taylor Smith, Esq.