

December 10, 2018

L. Francis Cissna
Director
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Ref: DHS Docket No. USCIS-2010-0012: Inadmissibility on Public Charge Grounds

Dear Director Cissna:

Thank you for the opportunity to submit comments on the proposed federal rule “Inadmissibility on Public Charge Grounds.”

On behalf of Cambridge health Alliance (CHA), these comments express our serious concerns about the proposed broadening of the public charge definition and the lasting adverse consequences for health, public health, the health care delivery system for us all, and the economy. For the reasons outlined in this letter, we respectfully request that the proposed rule be withdrawn.

CHA is the only public acute care hospital and health care system in Massachusetts, serving large vulnerable and diverse populations in the Greater Boston region. As a major safety net provider with a mission to serve all, our care is highly concentrated to families and individuals with Medicaid, the Children’s Health Insurance Program (CHIP), Medicare, or who are uninsured (74%). Our patients have diverse backgrounds and ethnicities, with over 38% of our hospital patients speaking a primary language other than English.

Expanding the public charge designation to include Medicaid, Medicare Part D prescription drug coverage low-income subsidies, and other benefits will jeopardize the health of millions of legal residents. Moreover, its ripple effects will impact everyone, including the overall health care system, especially safety net organizations, and our communities.

Deter Vulnerable People from Seeking Health Care and Reverse Progress in Health Care Reform

We are already beginning to see the damaging effects of the proposed rule in causing fear in hard-working immigrant families, including those who are lawfully residing residents, about seeking access to health care for which they are legally eligible. Some of our patients are questioning whether they should apply for health care insurance benefits due to the uncertainty of the proposed rule. Other patients have asked their health care providers whether they should disenroll from their Medicaid coverage and discontinue medically necessary treatment due to the proposal, causing great concern given our responsibility to provide the best available medical care to patients.

Recent experience and research demonstrates many people and families will forgo necessary health care, medications, and coverage due to fear (or the “chilling effect”), driving disenrollment and lack of health care access among people not directly subject to the public charge changes. The proposed rule

fails to take into account the magnitude of its impact on health and health care access precipitated by disenrollment in essential programs like Medicaid (which covered 67 million people in 2018) and Medicare Part D prescription drug subsidies (12 million people in 2017).¹

Across the country, about 14 million people enrolled in Medicaid and CHIP health coverage live in a household with a non-citizen, half of them U.S. citizen children.² In Massachusetts, non-citizens and their families make up 867,000 or 13% of the population.³

According to a recent analysis by Manatt Health, the national population subject to the risk of the chilling effect would be 13.2 million individuals currently enrolled in Medicaid and CHIP. These lawfully-present individuals, either citizens or another legal immigration status, could reconsider remaining covered under Medicaid or CHIP due to fear of immigration-related consequences for themselves or a family member.⁴ Additional published research by the Kaiser Family Foundation examines the estimated disenrollment in Medicaid due to this proposed rule based on past experience, illustrating the proposed rule vastly underestimates Medicaid disenrollment impacts.⁵

According to the Manatt report, \$2.14 billion or 13% of Massachusetts Medicaid and CHIP spending is subject to the chilling effect.⁶ Further, \$365 million or 16% of all Medicaid and CHIP hospital payments is subject to the chilling effect in the Boston-Cambridge-Newton area, in which we serve.

This rule is not needed. Existing laws already place limits and protections on the types of non-citizens who are eligible for public benefit programs. Under the Personal Responsibility and Work Opportunity Reconciliation Act, most federal public benefits were limited to “qualified immigrants” who must wait five years before enrolling in benefits, such as Medicaid. Undocumented immigrants are not eligible for non-emergency Medicaid.

This proposal will result in a reversal of the progress in Massachusetts as a result of expanded health care coverage. It will also disrupt work supported by the Centers for Medicare and Medicaid Services toward value-based innovations, such as Medicare and Medicaid accountable care organizations, advancing better health and containing costs.

¹ Centers for Medicare and Medicaid Services August 2018 Medicaid & CHIP Enrollment Highlights

Medicare Payment Advisory Commission. Report to Congress: Medicare Payment Policy, Chapter 14, March 2018

² Samantha Artiga, Rachel Garfield, and Anthony Damico, Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid, (Washington, DC: Kaiser Family Foundation, October 2018).

<http://files.kff.org/attachment/Issue-Brief-Estimated-Impacts-of-the-Proposed-Public-Charge-Rule-on-Immigrants-and-Medicaid>

³ <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>

⁴ Manatt Health. Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule. November 2018. https://www.manatt.com/Manatt/media/Documents/Articles/Medicaid-Payments-at-Risk-for-Hospitals-Under-the-Public-Charge-Proposed-Rule_Manatt-Health_Nov-2018.PDF.

⁵ Samantha Artiga, Rachel Garfield, and Anthony Damico, Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid, (Washington, DC: Kaiser Family Foundation, October 2018).

<http://files.kff.org/attachment/Issue-Brief-Estimated-Impacts-of-the-Proposed-Public-Charge-Rule-on-Immigrants-and-Medicaid>

⁶ Manatt Health. Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule. November 2018. https://www.manatt.com/Manatt/media/Documents/Articles/Medicaid-Payments-at-Risk-for-Hospitals-Under-the-Public-Charge-Proposed-Rule_Manatt-Health_Nov-2018.PDF.

Health Consequences

The health consequences of becoming uninsured due to this proposed rule are significant, particularly when preventable conditions or chronic conditions go undetected or untreated.⁷

As an organization providing over 700,000 ambulatory care and preventive visits per year, we help patients effectively manage their health and to overcome the social factors related to health, like adequate nutrition and housing. Promoting wellness is better for patients. Prevention and outpatient care is more cost-effective. This proposed rule will lead to preventable illness, disease progression, and worse health outcomes.

Vulnerability of Children and Nation's Future

New research by CHA researchers underscores the vulnerability of children due to this proposed rule. One in four children or 19 million children in the United States live in an immigrant family.⁸ Nationally, 4.8 million children in need of medical attention live in households with at least one noncitizen adult and count on Medicaid or CHIP. In the range of 700,000 to 1.7 million of these children are likely to disenroll from Medicaid or CHIP if the rule is finalized.⁹

The Department of Homeland Security requests comments about whether the CHIP program should be included in the expansion of the public charge definition. We strongly oppose the inclusion of CHIP in the rule.

In Massachusetts and other states, a single application and program (called MassHealth) administer both Medicaid and CHIP. These coverage types are not distinguishable to a child, family, or health care provider. Therefore, it is likely that any proposal that includes Medicaid in a public charge expansion will also deter enrollment in CHIP.

Therefore, both Medicaid and CHIP should not be included in the proposed expansion of the public charge definition.

Impacts the Health Care Delivery System for Everyone: Uncompensated Care & Administrative Burden

Anticipated disenrollment from Medicaid and corresponding loss of Medicaid revenue resulting from this rule translates into uncompensated care for hospitals, community health centers, and providers. As individuals defer or delay needed medical care, it can result in more advanced progression of the

⁷ Julia Foutz, Anthony Damico, Ellen Squires, and Rachel Garfield, *The Uninsured: A Primer - Key Facts about Health Insurance and the Uninsured Under the Affordable Care Act*, (Washington, DC: Kaiser Family Foundation, December 2017). <https://www.kff.org/report-section/the-uninsured-a-primer-key-facts-about-health-insurance-and-the-uninsured-under-the-affordable-care-act-how-does-lack-of-insurance-affect-access-to-health-care/>

⁸ <https://www.kff.org/disparities-policy/fact-sheet/proposed-changes-to-public-charge-policies-for-immigrants-implications-for-health-coverage/>

⁹ Leah Zallman and Karen Finnegan, *Changing Public Charge Immigration Rules: The Potential Impact on Children Who Need Care*, (California Health Care Foundation, October 2018). <https://www.chcf.org/wp-content/uploads/2018/10/ChangingPublicChargeImmigrationRules.pdf>

medical condition and costlier emergency or acute care. Uncompensated care affects the health care infrastructure available for everyone.

The costs of caring for Medicaid patients who disenroll would not disappear, but rather shift the burden that cannot be absorbed by hospitals and state governments. Adequate Medicaid reimbursement and access to care for patients and the community at-large are inextricably linked.

Furthermore, the incremental the administrative burden associated with this complex public charge rule is already coming into focus. Hospitals have an obligation to provide financial and eligibility assistance to our patients. This proposal compounds already complex eligibility and application processes, with legal and immigration questions, which are outside of the typical jurisdiction of health care providers. There are significant operational requirements, including training clinical and administrative staff and changes to processes, including those with our state eligibility systems, inherent in complying with this proposed rule.

Harm to Public Health

Access to health care under Medicaid and Medicare Part D is pivotal to prevent, diagnose, and treat infectious diseases to keep individuals, their families and our communities healthy. Therefore, the proposed rule will pose threats to public health for the population as a whole.

The proposed rule will result in decreased immunization rates, as coverage under Medicaid and Medicare Part D is important to recommended immunizations. Discouraging vaccination could escalate highly contagious and transmissible diseases like measles, mumps, and influenza.

While there have been strides to prevent the transmission of and treatment of diseases like HIV, hepatitis, and tuberculosis, our nation and state now face renewed challenges with communicable diseases in light of the opioid epidemic.

This proposed rule will result in an increase in the incidence of vaccine-preventable and other diseases and affect the public health of our entire nation.

Harm to Thriving Communities and Economies

Massachusetts communities and economy thrive based on the contributions of everyone, including over 1.1 million immigrants. The proposed rule would harm entire communities as well as the infrastructure that serves all of us. Immigrants enrich our communities and play a key role at all levels of the Massachusetts economy, where one in five workers in Massachusetts is foreign-born.¹⁰

The Massachusetts health care delivery system and its life sciences economy relies on significant foreign-born staff. Many such staff begin their health careers in entry-level positions and advance their skills, education, and careers over time, while contributing immensely to the workforce and society. For example, 41% of health aides and 13% of nurses in Massachusetts are foreign born. Nearly a quarter of

¹⁰ American Immigration Council, 2018. *Immigrants in Massachusetts*.
<https://americanimmigrationcouncil.org/research/immigrants-in-massachusetts>.

all Massachusetts doctors and psychiatrists are educated abroad. Immigrants in our state comprise over 48% of nursing, psychiatric and home health aides and 59% of medical and life scientists.¹¹

A new report published by the Massachusetts Blue Cross Blue Shield Foundation uncovers the rule's concerning impact on the homecare workforce. As our state and nation ages, the growing state need for home health care workers, comprised largely (50%) by immigrants in our state, is estimated at 93,000 new home care workers over the next 10 years. However, the ability to fill these positions will likely be hindered by the public charge proposal.¹²

Immigrant households in Massachusetts pay an estimated \$8.4 billion per year in federal and \$3.5 billion in local and state taxes.¹³ Immigrants contribute integrally to our state's economy and financial health, and their ongoing participation in the workforce and productivity will be impeded by this proposed rule.

CHA appreciates the opportunity to submit these comments. For the reasons above, we urge that the proposed regulation on public charge is withdrawn and not finalized.

Sincerely,



Patrick Wardell
Chief Executive Officer
Cambridge Health Alliance

¹¹ The Partnership for a New American Economy, 2018. Immigrants in the Economy in Massachusetts. <http://www.newamericaneconomy.org/locations/massachusetts/>.

¹² Massachusetts Blue Cross Blue Shield Foundation. The Proposed Public Charge Rule: An Overview and Implications in Massachusetts, December 2018. <https://bluecrossmafoundation.org/publication/proposed-public-charge-rule-overview-and-implications-massachusetts>

¹³ The Partnership for a New American Economy, 2018. Immigrants in the Economy in Massachusetts. <http://www.newamericaneconomy.org/locations/massachusetts/>.